

COUNCIL OF THE CITY OF PHILADELPHIA
COMMITTEE ON AGING

Room 400, City Hall
Philadelphia, Pennsylvania
Monday, April 8, 2019
1:10 p.m.

PRESENT:

COUNCILMAN AL TAUBENBERGER, CHAIR
COUNCILMAN ALLAN DOMB
COUNCILMAN DEREK S. GREEN
COUNCILWOMAN HELEN GYM
COUNCILMAN CURTIS JONES, JR.
COUNCILWOMAN BLONDELL REYNOLDS BROWN

RESOLUTIONS 180847 and 190089

- - -

1 4/8/19 - AGING - RES. 180847, ETC.

2 COUNCILMAN TAUBENBERGER: I'd
3 like to call this committee hearing of
4 the Aging Committee to order. My name is
5 Al Taubenberger. I am the Chair. To my
6 left is Councilman Jones, who is also one
7 of the sponsors of the resolution, and to
8 my far left is Councilwoman Reynolds
9 Brown, who is also the sponsor of one of
10 the resolutions we're hearing, and to my
11 right is Councilwoman Gym and Councilman
12 Allan Domb.

13 And so we will be hearing
14 today, public hearing, testimony on
15 Resolution No. 180847 and Resolution
16 190089.

17 I recognize the presence of a
18 quorum, and at this point, Mr. Clerk,
19 would you please read the title of
20 Resolution 180847.

21 THE CLERK: Resolution 180847,
22 a resolution authorizing the Committee on
23 Aging to hold hearings to examine
24 emergency protocols that ensure the
25 safety of senior citizens residing in

1 4/8/19 - AGING - RES. 180847, ETC.
2 traditional community high-rises.

3 COUNCILMAN TAUBENBERGER: Thank
4 you.

5 At this point, Councilwoman
6 Reynolds Brown, if you would like to have
7 any comments, as you are the author of
8 this resolution.

9 COUNCILWOMAN BROWN: I thank
10 you very, very much, Mr. Chairman.

11 Good afternoon to all of those
12 who are in attendance surrounding these
13 issues which impact seniors. Thank you
14 for allowing me to provide brief opening
15 remarks on Resolution 180847, which
16 authorizes this Committee to hold
17 hearings on emergency protocols for
18 senior citizens residing in traditional
19 community high-rises.

20 The resolution was introduced
21 after Councilmembers, including
22 Councilman Jones and myself, where this
23 particular building resides, were alerted
24 to an emergency situation at The Pavilion
25 residences located at 3901 Conshohocken

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2 Avenue. These residences advertise
3 themselves as, I quote, a pet-friendly,
4 Section 8, tax credit community for
5 seniors, end quote. Most of the
6 residents are senior citizens.

7 According to the seniors, based
8 on a number -- several dozen calls to my
9 office, The Pavilion operated without
10 power for at least two days in September
11 2018 due to an owner-related issue.

12 Residents indicated that they were not
13 informed of the severity of the problem
14 nor were they kept up to date about the
15 progress of repairs. They were, quite
16 frankly, left in the dark.

17 Residents told us that they
18 were unable to quickly leave the building
19 due to the outage impact on the elevator.
20 Residents also told us that no
21 comprehensive wellness checks were
22 undertaken to assess the health of
23 residents.

24 Most concerning and most
25 alarming, it appears as if the residents

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2 operated without power for several days
3 before anyone in the City was notified of
4 this issue. That's based on our
5 preliminary homework.

6 Thanks to the quick
7 intervention of a number of City agencies
8 and officers, power was restored and the
9 seniors were supported during this very
10 challenging period. On behalf of the
11 seniors in those offices, I want -- in
12 our offices, we want to take the
13 opportunity to thank the Office of
14 Emergency Management, the Department of
15 License and Inspection, and the Fire
16 Department for your extraordinary public
17 service efforts during this emergency
18 situation impacting one of the two most
19 vulnerable among us, seniors.

20 While it appears that no
21 seniors suffered long-term harm because
22 of this incident, it has caused
23 Councilman Jones, I, and our staff to
24 reexamine the responsibilities of
25 government, the responsibilities of

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2 landlords during an emergency,
3 particularly landlords operating
4 high-rises and landlords serving seniors.

5 We need to know the following:
6 When are owners, based on protocols or
7 regulations, required to notify tenants
8 about a power outage caused by their own
9 systems? Are owners required to notify
10 the City when power outages occur? And
11 when situations like this arise, what
12 resources should be provided to tenants
13 by landlords or by our City government?

14 Councilman Jones and I look
15 forward to hearing the testimony of the
16 Administration and the SeniorLAW Center
17 here today, and we expect that this
18 hearing will give us better insight as to
19 what we should do and must do as a
20 government to protect the most vulnerable
21 among us, seniors.

22 Thank you, Mr. Chairman.

23 COUNCILMAN TAUBENBERGER:

24 Councilwoman, thank you very, very much.

25 Councilmember Jones.

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2 One second. I do want to
3 recognize Councilmember Green being
4 present with us, one of the members of
5 the Aging Committee. So thank you.

6 COUNCILMAN JONES: I just want
7 to thank the author of the bill,
8 Councilwoman Blondell Reynolds Brown, for
9 raising this issue to the point where
10 we're having hearings.

11 In the Fourth District where
12 this occurred, we have the distinction of
13 having some of the highest numbers of
14 assisted living facilities, senior
15 facilities in the City. And this is not
16 an isolated instance. It is a recurring
17 instance where, for one reason or
18 another, owners of buildings who may have
19 financed these buildings decades ago have
20 not kept up with their ability to take
21 care of maintenance. And so on occasion,
22 they kick the maintenance can down the
23 road, to the chagrin of our seniors, to
24 the potential of risking a catastrophe.

25 The Councilwoman does not like

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2 to point out individuals. She made it
3 very clear about that. But Kathy
4 Richardson was one of the individuals who
5 was on site. In my staff I had Ms.
6 Crystal Tann, who is the senior citizen
7 whisperer in our office. And if you want
8 to get under her bad side, you want to
9 get her angry, abuse a senior and see
10 how -- she takes it very personally, and
11 I'm glad she does. So I want to thank
12 them for being on the spot.

13 Allman Brown was a volunteer
14 who took generators over to the facility,
15 ran extension cords so that people on
16 oxygen, people were -- it makes me mad.
17 People that were on walkers,
18 Mr. Chairman, were on 12 flights up and
19 couldn't operate flashlights trying to
20 make their way down. And this is risking
21 a catastrophe.

22 So, again, I want to thank the
23 author of this bill, Councilwoman Brown,
24 and bring to the attention of the public
25 that we need to, not just in the Fourth

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2 District but everywhere, check on our
3 seniors, see how they're living, and make
4 sure that in the fourth quarter of their
5 life they should not be subjected to this
6 kind of hazard.

7 Thank you, Mr. Chairman.

8 COUNCILMAN TAUBENBERGER:

9 Councilmember Jones, thank you very much.
10 And I would have to say just in passing,
11 we can't check on our seniors enough.
12 It's a very good point you made. Because
13 there's always some help that they may
14 need, whether it's an emergency or it's
15 bad weather or whatever. If you're a
16 friend or a relative of a senior citizen,
17 check in on them, because it would mean a
18 lot. And you know what? It might just
19 brighten their day.

20 Some senior recently told me,
21 my day starts if someone just says hello
22 to me. I really appreciate it. So that
23 little hello, that little how you doing
24 can go a great deal in helping someone
25 overcome some difficulties.

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2 At this point, will the Clerk
3 read the first two witnesses on Panel 1.

4 Oh, I'm sorry. I'm a little
5 new at this chairmanship thing.

6 Councilman Domb, I apologize.

7 COUNCILMAN DOMB: That's okay.
8 Thank you, Mr. Chairman.

9 I don't know if we have the
10 answers, but did this failure for two
11 days have anything to do with PECO or was
12 it building failure?

13 COUNCILWOMAN BROWN: Our
14 homework tells us that it had to do with
15 building failure.

16 COUNCILMAN DOMB: And did this
17 building having a back-up generator?

18 COUNCILMAN JONES: Yes. That's
19 what failed. The original generator
20 failed and they ran cables and back-up
21 from another building, which violates all
22 kinds of BOCA codes, and then kicked the
23 can down the road, and then when that one
24 finally failed, were nowhere to be found
25 in the building when the incident

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2 occurred.

3 COUNCILMAN DOMB: So let me
4 just make sure I understand. The
5 building had a source of power. That
6 failed. The building's back-up generator
7 also failed?

8 COUNCILMAN JONES: Correct.

9 COUNCILMAN DOMB: Okay. And
10 that's supposed to be inspected, the
11 back-up generator.

12 COUNCILMAN JONES: Say it
13 again.

14 COUNCILMAN DOMB: I think
15 they're supposed to have inspections on
16 those back-up generators.

17 COUNCILMAN JONES: Which is
18 another part of the reason the
19 Councilwoman held these hearings.

20 COUNCILMAN DOMB: I could be
21 wrong, but I think --

22 COUNCILMAN JONES: There's a
23 failure to go around. There's an owner
24 who should have invested. There's a
25 department that probably should have

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2 caught this before it happened. There is
3 the fact that when we pay these rents or
4 let the seniors pay these rents, there
5 should be a higher, or at least as high,
6 standard of inspection particularly
7 because they're elderly.

8 COUNCILMAN DOMB: This building
9 falls under federal monies?

10 COUNCILMAN JONES: Yes.

11 COUNCILMAN DOMB: And then the
12 other question I have is, most properties
13 like this, the building managers have a
14 list of who has a dog, who has a cat, who
15 is over the age of 60, who needs
16 assistance, who is on oxygen. In every
17 building I'm familiar with there is a
18 list in the manager's office, so when an
19 emergency occurs, those are the people
20 that get the immediate attention.

21 COUNCILMAN JONES: The problem,
22 Councilman, there were no managers on
23 site to find where that list was. So
24 safety checks were done by volunteers.
25 They went door to door. Not only did

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2 they check on people -- and the staff is
3 to be commended for that, because it was
4 absolutely dark. But not only that, we
5 wind up having to feed them lunches,
6 because some people just could not come
7 down the steps. And Emergency Management
8 is to be applauded for being right on
9 that to make sure that the essentials
10 were covered.

11 But all of these things fall
12 under management. All of these things
13 fall under adequate housing being
14 provided, and so there was -- for the
15 most vulnerable.

16 Good point, Councilwoman.

17 COUNCILMAN TAUBENBERGER:
18 Councilmember Brown?

19 COUNCILWOMAN BROWN: No. I
20 thank you.

21 COUNCILMAN TAUBENBERGER: Will
22 the Clerk please call the first two
23 witnesses.

24 THE CLERK: The first panel
25 consists of Cateria McCabe, Sarah Kaiser,

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2 Noelle Foizen, and Charles Johnson.

3 (Witnesses approached witness
4 table.)

5 COUNCILMAN TAUBENBERGER: Okay.

6 Whoever wants to go first. That would
7 be -- which is fine. I thank you.

8 MS. McCABE: Good afternoon.

9 My name is Cateria McCabe. I'm the
10 Director of Veterans, Kinship Care, and
11 Tenant Rights at SeniorLAW Center.
12 Councilman Taubenberger and members of
13 the Committee on Aging, thank you for
14 this opportunity to allow SeniorLAW
15 Center's perspective on the improvement
16 of emergency protocols for units renting
17 primarily or wholly to seniors or the
18 disabled.

19 SeniorLAW Center is an
20 independent non-profit organization that
21 protects the rights of older
22 Pennsylvanians. We are the only
23 non-profit organization dedicated to
24 providing legal protection to
25 Pennsylvania senior citizens, and we're

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2 the primary provider of legal services
3 for older tenants in Philadelphia. We
4 provide free legal assistance to
5 thousands of seniors each year, including
6 elders facing housing crises. We also
7 run the only legal help line geared
8 toward Pennsylvania seniors, reaching all
9 Pennsylvanians in 67 counties on several
10 areas affecting their lives, including
11 landlord-tenant issues.

12 I would like to first briefly
13 discuss a few statistics regarding the
14 senior population in Philadelphia to just
15 give a sense of community that could
16 benefit from improved emergency
17 protocols. Among the ten largest cities
18 in the United States, Philadelphia has
19 one of the highest percentage of seniors
20 and the second highest percentage of
21 seniors in poverty. Thirty-one percent
22 of non-institutionalized seniors in
23 Philadelphia live in rental housing
24 units, and 42 percent are disabled. An
25 estimated 28,259 rental housing units in

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2 Philadelphia are occupied by seniors who
3 are living alone, which amounts to 10
4 percent of all rental housing units in
5 the City.

6 We encourage and fully support
7 the establishment of improved emergency
8 protocols that more adequately ensure the
9 safety of seniors in traditional
10 community high-rises. The unique
11 challenges presented in emergency
12 situations do not require us to accept
13 the increased suffering of groups for
14 which we can anticipate that our current
15 protocols are not sufficient. An
16 electricity outage, for instance, should
17 not prevent seniors from being able to
18 quickly leave a high-rise building to
19 reach safety in an emergency. When such
20 a building caters wholly or predominantly
21 to senior tenants, almost half of whom
22 may be disabled, the inability of at
23 least the majority of tenants to use
24 stairwells or similar ambulatory means to
25 quickly and safely exit the building is

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2 undoubtedly foreseeable. The higher
3 number of rental housing units in
4 Philadelphia in which seniors live alone
5 further demonstrates that many seniors do
6 not live with someone who can assist them
7 during an emergency.

8 Improved emergency protocols
9 instituted by the University of
10 California, Berkeley as part of a recent
11 civil class action settlement may be
12 instructive in this area. Although these
13 measures were meant to better address the
14 emergency needs of the University's
15 students with disabilities, they can
16 provide a template for the development of
17 emergency protocols for all people with
18 disabilities and seniors who may face
19 similar obstacles in these situations.
20 Similar to that required of the
21 University, owners or managers of
22 high-rise buildings that rent primarily
23 to seniors or people with disabilities
24 should, at the very least, be required to
25 develop emergency protocols that formally

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2 and explicitly account for the needs of
3 these groups. For seniors and others
4 that may have mobility impairments, an
5 inventory of evacuation chairs would have
6 significant practicality in an emergency
7 situation. Training building staff on
8 assistance procedures geared to the
9 unique needs of these groups exemplifies
10 another way to improve the efficiency of
11 emergency protocols while maintaining
12 safety.

13 However, improved emergency
14 protocols must go beyond merely
15 addressing the number of individuals
16 unable to use stairs. People with
17 disabilities, such as those who may be
18 blind or deaf, may find it difficult to
19 assess information necessary for a quick
20 and safe exit. Additional signage or
21 maps that point specifically to the
22 evacuation routes for seniors or people
23 with disabilities represents one
24 potential way to address this concern.
25 People with disabilities may also face

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2 communication challenges when their
3 high-rise building provides only
4 traditional means for the reporting of
5 incidents to emergency services.

6 Essential aspects of improved
7 emergency protocols may also be inferred
8 from a recent line of structural reform
9 litigation centered on the adequacy of
10 emergency initiatives cities currently
11 have in place. Protocols should
12 explicitly anticipate the needs of
13 seniors and people with disabilities, and
14 communication with these groups should
15 occur before, during, and after emergency
16 situations. Outside experts may also be
17 helpful in identifying deficiencies in
18 even improved protocols. Along these
19 lines, the participation of seniors and
20 people with disabilities in the
21 development process may help to adapt
22 future protocols and bolster their
23 effectiveness.

24 I think we can all agree that
25 seniors and people with disabilities

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2 represent a huge section of our city's
3 population that not only need but deserve
4 significantly improved emergency
5 protocols.

6 I thank you all for your
7 attention to this important issue and for
8 the opportunity to testify.

9 COUNCILMAN TAUBENBERGER: Thank
10 you very much.

11 Please state your name for the
12 record.

13 MS. KAISER: Good afternoon,
14 Chairman Taubenberger and members of the
15 Committee on Aging. My name is Sarah
16 Kaiser and I'm the Legislative Affairs
17 Manager for the Department of Licenses
18 and Inspections. Today I'm here to
19 provide testimony on Resolution No.
20 180847 regarding emergency protocols that
21 ensure the safety of senior citizens
22 residing in high-rises. I'd like to
23 thank the Committee for their interest in
24 this important issue and for inviting L&I
25 to be part of the discussion.

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2 In December of 2018, the
3 Department was made aware of a power
4 outage at a high-rise structure housing
5 seniors located at 3901 Conshohocken
6 Avenue. L&I, along with other
7 departments, responded to the outage, and
8 ultimately power was restored shortly
9 thereafter.

10 As the City's enforcement
11 agency, the Department of Licenses and
12 Inspections is dedicated to improving the
13 safety of its citizens through the
14 implementation and enforcement of the
15 City's building, maintenance, and safety
16 codes. Adopting modern codes is critical
17 to ensure that structures within the City
18 are constructed and maintained to the
19 highest standards. These codes have been
20 written to provide redundant safety
21 factors within structures, especially
22 within high-rises. Within the last year,
23 legislation has been enacted which allows
24 the Department to adopt the 2018 edition
25 of the International Codes, as published

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2 by the International Code Council, along
3 with previously adopted local amendments.
4 Prior to this legislation, the Department
5 was enforcing the 2009 edition of the
6 International Codes. The adoption of
7 these updated codes is essential in
8 providing necessary safety measures in
9 both new and existing structures.

10 Furthermore, the Philadelphia
11 Fire Code requires that all high-rise
12 structures obtain a license. This
13 license is required to ensure appropriate
14 levels of safety are maintained in
15 existing residential and non-residential
16 high-rise structures. All licensed
17 high-rises are subject to an annual
18 inspection to ensure all required safety
19 measures are in place and are functional.

20 Lastly, it is evident that in
21 the event of a serious incident like the
22 one we saw in September, a
23 multi-departmental response is crucial.
24 The Department of Licenses and
25 Inspections, along with the Office of

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2 Emergency Management and the Philadelphia
3 Fire Department, worked together to
4 ensure that power was restored to the
5 building, and until that was done,
6 wellness checks were performed, food and
7 water was distributed, and a fire watch
8 was established and monitored. The
9 Department realizes that incidents like
10 this are rare, but they create a high
11 risk, especially when the population that
12 is affected includes seniors. The
13 Department is dedicated to continued
14 enforcement of the codes and annual
15 inspections of these structures to
16 minimize the likelihood of a similar
17 event in the future.

18 Thank you for the opportunity
19 to provide the Department's testimony,
20 and I am happy to answer any questions.

21 COUNCILMAN TAUBENBERGER:
22 Councilman Jones.

23 COUNCILMAN JONES: Thank you,
24 Mr. Chairman.

25 First and foremost, thank you

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2 for being responsive to The Pavilion
3 incident, I'll call it. What I would
4 like to know is, what are the salient
5 differences between the '09 version of
6 the code and the current '18 version of
7 the code, and would those changes have
8 caught what happened in the building?

9 MS. KAISER: I believe what
10 would have caught what happened was the
11 annual inspection that -- the building is
12 required to have secondary power, and the
13 annual inspection should catch that. In
14 this case, the building had not obtained
15 a license, and we issued a violation for
16 that, and they're currently in court for
17 that reason. So the license that they're
18 required to obtain would trigger an
19 annual inspection, which would have
20 caught that.

21 COUNCILMAN JONES: Hence has
22 the building been inspected?

23 MS. KAISER: It has since the
24 incident. We had inspectors on site that
25 day, but they're currently in court for

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2 the violation --

3 COUNCILMAN JONES: How many
4 violations were discovered at the
5 building?

6 MS. KAISER: I don't know. I
7 can look into that.

8 COUNCILMAN JONES: Can you
9 provide that to the Chair and members of
10 the Committee?

11 And I'm going to pass the mic,
12 but what is the threshold? So that we
13 walk a tightrope, if you would. When we
14 send you out, our intentions aren't to
15 make people homeless, because that is an
16 unintended consequence when you see
17 egregious violations that have cause for
18 concern to the degree that you want to
19 vacate the property. However, it is
20 important for us not to miss back-up
21 generators that weren't backing up. And
22 so we need to get a list of what those
23 thresholds are, like at what point do you
24 say enough is enough, we're going to
25 close it down? And that would be

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2 important for us to have that kind of
3 understanding. Because I don't mind
4 slaps on the wrist. I don't mind us
5 working with buildings in order to get up
6 to code, Councilman Domb, but there is a
7 point at which we have to say enough is
8 enough if we've given you enough time to
9 correct these and you have not been
10 responsive, where -- I need to know where
11 those lines are.

12 MS. KAISER: Well, after we
13 send the building to Municipal Court,
14 that would be the court's decision of if
15 it was enough or if we would give them a
16 chance to resolve the issue.

17 COUNCILMAN TAUBENBERGER: Ms.
18 Kaiser, point of information. Could we
19 have the actual violations for this
20 particular case so we can see? Because I
21 think what Councilman Jones has said,
22 this would give us a great understanding
23 of where that threshold is. Nobody wants
24 to make anybody homeless, but on the
25 other hand, you don't want to have

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2 someone residing in an area that is
3 totally unsafe.

4 And I do have also one other
5 question. As it indicates, the generator
6 was tested, and how was that tested? I
7 mean, did they actually start it up or
8 did they just look at it and say, well,
9 it looks pretty good, it should start?
10 Or did they start it up as part of the
11 test procedure?

12 (Witness approached witness
13 table.)

14 COUNCILMAN TAUBENBERGER:
15 Please state your name for the record.

16 DEPUTY COMMISSIONER DiPIETRO:
17 Good afternoon. My name is Ralph
18 DiPietro, Deputy Commissioner with the
19 Department of License and Inspection.

20 A couple things I thought, if I
21 can, explain a little bit. The building
22 in question actually was running on
23 emergency power when we got there. So
24 basically high-rise buildings are
25 required to have a standby or an

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2 emergency power source to power necessary
3 life and fire safety systems in the event
4 of a power outage. Now, those are really
5 intended for short term, a couple hours
6 at most. They're typically done by
7 generators on site and most normally
8 diesel-powered generators.

9 In fact, in this particular
10 incident, I believe we became notified of
11 it around 2:30 in the afternoon.
12 Inspectors were dispatched immediately.
13 In fact, Inspector Mark Crawford is with
14 me here today. He was the inspector that
15 responded on behalf of the Department.

16 Inspector Crawford upon
17 arriving did find the building running on
18 emergency power, but as I said, that
19 generator is really only intended for a
20 short period of time.

21 COUNCILMAN TAUBENBERGER:
22 Excuse me. Point of information on this
23 particular matter. Did that generator go
24 on at all or did it not go on?

25 DEPUTY COMMISSIONER DiPIETRO:

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2 It was running. According to the field
3 reports, it was running, but here again,
4 it's -- these are typically equipped with
5 what we call a day tank, which may carry
6 several hundred gallons of diesel fuel.
7 You're only going to get a short period
8 of time. And these are again --

9 COUNCILMAN TAUBENBERGER: How
10 long was it running, approximately?

11 DEPUTY COMMISSIONER DiPIETRO:
12 I don't know because we didn't find
13 out -- now, we found out about it on the
14 14th around 2:30. Our original report
15 was, this was going on for some time,
16 maybe upwards of two days. So I don't
17 really know how long the generator itself
18 was running. That's certainly not the
19 intended operation.

20 Now, these are big giant diesel
21 engines can run for hours, but that's not
22 the intent. The intent is, again, to --

23 COUNCILMAN TAUBENBERGER:
24 Correct, but provided with enough fuel,
25 they can run for hours, if necessary.

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2 And I think in this case because that's,
3 I think, one of the big failures, was the
4 fact that the diesel stopped running or
5 never ran to begin with and -- well, you
6 said it did run. So the question is then
7 how long did it run?

8 DEPUTY COMMISSIONER DiPIETRO:

9 Right. From what -- in fact, we have a
10 very similar incident currently going on
11 right now at Jefferson Hospital. If
12 you've driven down around that area,
13 you'll see some very large tanks, some
14 large generators. There was an accident
15 that caused a temporary power outage, but
16 in those cases, because they're
17 hospitals, the generators are designed
18 far above the --

19 COUNCILMAN TAUBENBERGER: Well,
20 in the case you just brought up, are
21 those generators there now because they
22 were called in or were they on site to
23 back up?

24 DEPUTY COMMISSIONER DiPIETRO:

25 Both. So with respect to both 3901

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2 Conshohocken and actually any high-rise
3 building, they're required to have an
4 on-site emergency power source. Most
5 buildings will do this through a
6 generator, typically a roof-mounted,
7 sometimes it's mounted in the basement,
8 but it's an on-site generator.

9 Now, you can certainly
10 supplement that, and it's smart to do so,
11 especially if there's going to be a
12 long-range outage, because no generator
13 is really intended to run that long. You
14 have to refill it. It's not safe to do
15 that while it's running or hot. So
16 they'll bring it temporary generators,
17 and that's sort of what we're faced with.

18 Now, let me just, if I may,
19 say, between the time the Department was
20 notified and we arrived on site with our
21 partners from OEM and Fire, there were
22 about several hours before temporary
23 power was restored. The building had
24 emergency power and primary power to some
25 extent from the temporary source. So

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2 normally folks will do this -- buildings
3 will do this with an on-site generator.
4 It's tested every year. In fact, as part
5 of our high-rise inspection, we're going
6 to obtain reports to show that it was
7 tested. The code sort of spells out how
8 you do that. There's requirements from
9 the Fire Code and the NFPA standards that
10 say how the loads have to be tested, how
11 the generators have to be tested, and
12 those are given to us as a certification
13 from a qualified entity.

14 COUNCILMAN TAUBENBERGER: Thank
15 you.

16 Councilman Domb.

17 COUNCILMAN DOMB: I had some
18 questions I wanted to ask. I'm trying to
19 understand. It sounds like you responded
20 on a Friday afternoon basically and it
21 was out for 48 hours, two days, before
22 that.

23 DEPUTY COMMISSIONER DiPIETRO:
24 Correct. We were told the generator was
25 running -- the building power went down a

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2 day or two before.

3 COUNCILMAN DOMB: What caused
4 the original outage?

5 DEPUTY COMMISSIONER DiPIETRO:
6 Actually, I don't know. I'm not sure
7 what happened.

8 COUNCILMAN DOMB: Have we done
9 any kind of investigation with the owner
10 to find out what happened? What did they
11 replace in the building to get the power
12 back?

13 DEPUTY COMMISSIONER DiPIETRO:
14 My recollection was that -- at the time
15 and still to this day, I don't know what
16 the actual cause of the incident was.
17 Simply that building power went down and
18 there was a fear that the life safety
19 systems were impacted, the fire alarms.

20 Now, these things, to be fair,
21 the idea is that to Councilman Jones's
22 question, there really is no reporting
23 time when something like this happens.
24 The code doesn't specify that
25 necessarily. If a building loses primary

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2 power, meaning no power, then of course
3 the building is unfit, but there's no
4 time that says, hey, you have to notify
5 the Department of License and Inspection
6 within X amount of hours.

7 Now, if a fire safety system is
8 down, you're to notify the Fire
9 Department right away. So if a sprinkler
10 system goes down, a fire alarm system
11 goes down.

12 In this particular incident,
13 again, as I said, when we arrived there,
14 the building was on emergency power and
15 the generator was powering those loads.
16 So they were technically --

17 COUNCILMAN DOMB: Let me make
18 sure I understand. The power went out
19 two days before we responded. We don't
20 know what occurred or why it happened,
21 and we don't know what equipment was
22 replaced.

23 DEPUTY COMMISSIONER DiPIETRO:
24 Let me be clear. I don't know. I don't
25 know that it isn't known. I don't know.

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2 COUNCILMAN DOMB: And then they
3 had an emergency generator there, but of
4 course it's a smaller capacity generator,
5 maybe just to run the elevators or
6 whatever, and that did work?

7 DEPUTY COMMISSIONER DiPIETRO:
8 Correct. The emergency generator did
9 kick on and it did power the fire and
10 life safety loads.

11 COUNCILMAN DOMB: And is there
12 any requirement from License and
13 Inspection on an inspection of emergency
14 generators, by the way, on an annual
15 basis?

16 DEPUTY COMMISSIONER DiPIETRO:
17 Yeah. So each year, if you have
18 emergency or stand-by power systems, you
19 have to test and certify them every year,
20 same as with your sprinkler system, same
21 as your alarm system.

22 COUNCILMAN DOMB: But most
23 people that have emergency generators
24 test them every month from 30 to 45
25 minutes, to my knowledge. Is that

1 4/8/19 - AGING - RES. 180847, ETC.

2 correct?

3 DEPUTY COMMISSIONER DiPIETRO:

4 Yeah, correct. That's both a functional
5 test -- these are diesel generators,
6 they're diesel engines, so you want to
7 run them.

8 COUNCILMAN DOMB: Because you
9 can hear them. They're pretty loud when
10 they go on.

11 DEPUTY COMMISSIONER DiPIETRO:

12 Yeah. You tend to know if you live
13 anywhere near one that runs and the fumes
14 and such. But the actual certification
15 is a yearly process.

16 COUNCILMAN DOMB: And so in
17 your opinion, is this an isolated
18 situation of an unusual situation or is
19 this happening a lot in the City?

20 DEPUTY COMMISSIONER DiPIETRO:

21 Well, it's funny, I wouldn't go so far as
22 to say it's an isolated situation. It
23 seemed to be a bit of a perfect storm of
24 things going on, but then again, the
25 incident recently at the hospital

1 4/8/19 - AGING - RES. 180847, ETC.
2 couldn't have accounted for that, a steam
3 line being hit and electrical power going
4 down. So these things do happen, as Ms.
5 Kaiser mentioned. We consider these
6 sorts of buildings low incident but high
7 impact. We inspect them every year. The
8 incidents tend to be rare, but if there
9 is one, the potential impact is very
10 high. And particularly one where the
11 occupants are elderly or impaired, they
12 have mobility impairments.

13 COUNCILMAN DOMB: And since
14 this is getting federal funds, is this
15 managed through PHA?

16 COUNCILMAN JONES: HUD.

17 COUNCILMAN DOMB: It's managed
18 through HUD?

19 COUNCILMAN JONES: HUD.

20 COUNCILMAN DOMB: Are they
21 doing their own inspections because
22 they're getting federal money and making
23 sure that money is utilized the right
24 way?

25 DEPUTY COMMISSIONER DiPIETRO:

1 4/8/19 - AGING - RES. 180847, ETC.

2 I don't know, sir. I assume that they
3 are, but I don't know that.

4 COUNCILMAN DOMB: Would it make
5 sense for us to get our legislators, if
6 possible, in the federal government to
7 look at this as a requirement when you do
8 senior housing, that you have back-up
9 generators for senior housing that would
10 accommodate all aspects that seniors
11 need, not just elevators but emergency
12 electric and power for oxygen and so
13 forth and it might require them to
14 increase the amount in order to make sure
15 those requirements are met?

16 DEPUTY COMMISSIONER DiPIETRO:
17 Yeah. I think one of the things you
18 might want to look at, might we consider
19 looking at is the way hospitals are
20 handling it. They have a much higher --
21 you can imagine in a hospital folks are
22 impaired for lots of reasons. They're
23 unconscious. They're under sedation.
24 They're being operated on. So there's a
25 whole different reporting mechanism and

1 4/8/19 - AGING - RES. 180847, ETC.
2 inspection mechanism for those.

3 Now, the interesting thing is,
4 a bunch of seniors can move into a
5 residential high-rise and it's an R-2,
6 Residential 2, right, from the building
7 code perspective, the same as any condo,
8 Rittenhouse Square, anywhere else you've
9 seen. The difference is, those folks can
10 very much be much more impaired by health
11 issues, by mobility issues. So the net
12 effect is even though it's residential
13 and we look at it like residential, these
14 folks are in a little bit of a different
15 position because they can't
16 self-evacuate.

17 Hospitals are constructed with
18 the idea that you can never possibly
19 evacuate them. They're made with what we
20 call fire areas. So you can move
21 residents, patients from one location to
22 another, and they can still be safe in
23 place. The idea of moving folks that are
24 under sedation, under some kind of
25 hospital care is very -- it's unlikely.

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2 So hospitals build that in. We don't do
3 that residences. And I think what you
4 saw here is that sort of hole in the
5 code, if you would, exposed where it's a
6 residence like you or I may live in, but
7 the fact that folks age and today they're
8 perfectly mobile and tomorrow they're
9 bedridden, the code doesn't really
10 account for that in a residential
11 setting.

12 COUNCILMAN DOMB: Is there any
13 way we can find out what actually
14 occurred and why it was down for 48
15 hours?

16 DEPUTY COMMISSIONER DiPIETRO:
17 I'm sure there is, and what I'll do is,
18 when I go back, I'll get that information
19 if someone else doesn't have it.

20 COUNCILMAN JONES: Point of
21 information, if I may.

22 COUNCILMAN TAUBENBERGER: Sure.

23 COUNCILMAN JONES: There was an
24 underground cable that was in disrepair.
25 They used an apartment across the street

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2 to help establish a temporary connection.

3 Greenbriar, I think it is.

4 Temporary patches become
5 permanent solutions if you don't make
6 people do a real fix. It's like riding a
7 doughnut tire is intended to get you to a
8 gas station.

9 COUNCILMAN DOMB: Who is
10 "they"? PECO or who?

11 COUNCILMAN JONES: No. The
12 owners of the building were able to do a
13 temporary repair under an underground
14 cable that went too long and then the
15 generators in question failed. So they
16 patched it. They responded, but then
17 this capital improvement took too long
18 and the other system failed.

19 So what's also important is,
20 they stayed in the dark from
21 approximately 11:00 a.m. to 8:00 p.m.
22 That's a lengthy point of time. And
23 today I would suspect that that
24 underground cable is still only patched.
25 So it's not if it's going to fail again.

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2 It's a question of when will it fail
3 again, and that's -- so I understand you
4 have a city responsibility, but that HUD
5 thing I think is the most important part
6 of your testimony to me, is to make sure
7 we -- because during that time, they
8 never list a rent payment from HUD.

9 I'm sorry.

10 COUNCILMAN TAUBENBERGER: Quick
11 point of information. Is it required on
12 your inspection, I guess, review of this
13 incident that you have to determine what
14 the cause is of the original blackout?

15 DEPUTY COMMISSIONER DiPIETRO:
16 Typically, no. What L&I will do is sort
17 of document the deficiency, and that's
18 the correction. So what will happen --

19 COUNCILMAN TAUBENBERGER: Well,
20 that could be very vague.

21 DEPUTY COMMISSIONER DiPIETRO:
22 Yeah. The idea -- it's much the same
23 with construction accidents. We're
24 really looking to see is the building
25 safe, is there further risk. We don't

1 4/8/19 - AGING - RES. 180847, ETC.
2 necessarily get into the cause of the
3 accident. In this sort of thing, our
4 involvement is to document the condition
5 that's deficient and then have them bring
6 in experts.

7 COUNCILMAN TAUBENBERGER: I can
8 see that in many incidences, but I cannot
9 see it when it's power. Power is very,
10 very important for a whole host of
11 things. Your heat system doesn't work.
12 There's a lot of things that can go
13 wrong. In a hospital of course that's a
14 different situation entirely, but
15 people's lives are literally at stake
16 within moments.

17 So, I mean, having the
18 understanding and having it documented
19 why the power went down to begin with is
20 particularly important in today's
21 society, in today's technology, having
22 power documented why it went off. I see
23 the reasoning for some other things. I
24 get that, but when it comes to power,
25 that's everything.

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2 Councilwoman Reynolds Brown.

3 COUNCILWOMAN BROWN: I would
4 hope that the court action may ultimately
5 reveal the why. So we may have time --
6 there may be a lot of time that lapsed
7 between now and then.

8 First, I want to acknowledge
9 and underscore Councilman Jones'
10 observation. The fact that you three
11 departments worked like an orchestra is
12 commendable. Too often we hear
13 complaints about government. This is an
14 instance where my office, who was heavy
15 on the scene, Councilman Jones' office,
16 who made their presence known, reached
17 out, and you all came together like a
18 song, and that needs to be really,
19 really, really acknowledged and not
20 underplayed.

21 And so our goal is not to point
22 fingers, but to figure out where the gap
23 is so that never does another incident --
24 and I would respectfully disagree with my
25 colleague. This was a crisis. Okay?

1 4/8/19 - AGING - RES. 180847, ETC.

2 Because normal people who have mobility
3 would be freaked out of their minds to go
4 two hours with dark, let alone eight,
5 with seniors and some of those
6 disabilities.

7 So our goal is to not point
8 fingers around this incident, but to fill
9 the gaps, identify the gaps so that we
10 don't have a deja vu of this particular
11 type of incident going forward.

12 So my question is, are building
13 owners required to show their licenses?
14 Is that stipulated in the code that it's
15 a requirement -- like you go in doctors'
16 offices and you go in law offices and
17 dentists' offices, it's required that
18 they show their credentials. Are
19 landlords and property owners required to
20 do that?

21 DEPUTY COMMISSIONER DiPIETRO:
22 Yeah. In essence, the code, the
23 Administrative Code, does require
24 licenses to be displayed and certainly in
25 a large building like that. It would be

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2 more problematic if it was a rental
3 license in a single-family dwelling. You
4 can imagine there's no place to display
5 that.

6 What we do as an alternative
7 is, we make sure we put that information
8 on our website, so folks can actually see
9 it. Because more often than not, when
10 those kinds of, as I said, sort of low
11 incident but high-risk buildings, the
12 reason we require a license, the reason
13 this legislative body required the
14 license initially was because we wanted
15 to do regular programmatic inspections.
16 So we try to tell folks, before you even
17 move into a building like that, make sure
18 they're licensed, because the license is
19 a real good indicator of whether, A,
20 they're compliant, of course, and, B,
21 whether they're getting inspections.

22 COUNCILWOMAN BROWN: So are you
23 at liberty to say or do you know and
24 maybe -- let me not answer with a
25 question. Do you know what the actual

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2 violation is or was that is now sitting
3 in court?

4 DEPUTY COMMISSIONER DiPIETRO:

5 Yeah. The violation in court currently
6 is the failure to obtain the high-rise
7 license.

8 COUNCILWOMAN BROWN: Failure to
9 obtain a high-rise license?

10 DEPUTY COMMISSIONER DiPIETRO:

11 Yes, ma'am.

12 And if I may to answer the
13 question, at the original response on the
14 14th, Inspector Crawford issued 14
15 violations.

16 COUNCILWOMAN BROWN: Is that
17 right?

18 DEPUTY COMMISSIONER DiPIETRO:

19 Yes. Those include providing
20 certifications. And certifications to
21 the point is once a system has been
22 inoperable or down for a period of time,
23 we'll very often require a licensed
24 professional to come in and evaluate to
25 make sure it's working. Now, again, this

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2 doesn't get to the cause of -- the sort
3 of cause of it, but it will get to, yes,
4 it's working now and it's in compliance
5 with the code. So some of those
6 violations were to provide those reports.

7 COUNCILWOMAN BROWN: Okay. And
8 then I also want to underscore that never
9 do we want to put a rope around
10 landlords' necks when it comes to
11 violations and now they have to close
12 down the building; therefore, put out
13 seniors. Providing technical assistance
14 sometimes to help them get to code so
15 that we can keep those seniors in the
16 homes I believe would be a more
17 favorable, attractive remedy, just
18 helping them get it right and get in
19 order with regards to compliance with
20 rules and regulations. So I want that to
21 be on the record as well.

22 Thank you. Thank you very much
23 for your insight.

24 DEPUTY COMMISSIONER DiPIETRO:
25 Thank you, Councilwoman.

1 4/8/19 - AGING - RES. 180847, ETC.

2 COUNCILMAN TAUBENBERGER:

3 Councilmember, thank you very much.

4 I do -- don't disappear yet.

5 One quick question.

6 Well, the gentleman was about
7 to get out of his chair. I can recognize
8 that.

9 Just a real, real quick
10 question. Could this Committee be
11 apprised of the outcome in court how this
12 finally resolves itself?

13 DEPUTY COMMISSIONER DiPIETRO:
14 Absolutely.

15 COUNCILMAN TAUBENBERGER: I
16 think it could be helpful for other
17 things and potential legislation down the
18 lane. I think it's very important.

19 DEPUTY COMMISSIONER DiPIETRO:
20 Yes, sir. We're happy to share whatever
21 information that folks need to consider.

22 COUNCILWOMAN BROWN: Please.

23 COUNCILMAN TAUBENBERGER:
24 Councilmember Domb.

25 COUNCILMAN DOMB: I just want

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2 to make sure -- I don't know if you know
3 the answer. To my knowledge, when you
4 have a problem like this, you call out
5 PECO, and they handle the wires under the
6 street and they bring the power to the
7 building. So you can't even as a
8 building owner touch that. So my
9 question -- I really want to know what
10 happened here, because if it wasn't done
11 properly, I'd like to know the background
12 as to what happened here. Because what I
13 don't want to see happen is us start
14 putting in new laws that affects
15 everybody because we had one bad
16 situation. I'd like to understand what
17 that situation is.

18 DEPUTY COMMISSIONER DiPIETRO:
19 Absolutely. Understood.

20 COUNCILMAN DOMB: Thank you. I
21 can only tell you that because I've had
22 several situations where I've had to
23 wait -- and PECO is good, but I've had to
24 wait four weeks, whatever, for them to
25 take care of the electric in the ground.

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2 And I had a power failure, by the way, in
3 one of our properties, and I was on the
4 phone every half hour, even at midnight,
5 until 6:00 a.m., to get them out there.
6 And they did a good job, but it's
7 technical and it's hard, but it took them
8 about eight hours and they resolved it.
9 But most owners when this happens, they
10 go ballistic trying to help their
11 tenants, because they don't want this to
12 happen.

13 Thank you.

14 DEPUTY COMMISSIONER DiPIETRO:

15 Understood.

16 COUNCILMAN TAUBENBERGER: Thank
17 you.

18 Next witness, please state your
19 name for the record.

20 MS. FOIZEN: Good afternoon,
21 Chair Taubenberger and all members of the
22 Committee on Aging. I'm Noelle Foizen,
23 Deputy Director of the Philadelphia
24 Office of Emergency Management, OEM. I
25 am before you today to provide testimony

1 4/8/19 - AGING - RES. 180847, ETC.
2 for Resolution No. 180847. This
3 resolution authorizes the Committee on
4 Aging to hold public hearings to look at
5 emergency protocols that ensure the
6 safety of vulnerable populations, in this
7 case senior citizens, residing in
8 traditional community high-rise
9 complexes.

10 I want to start by thanking you
11 for your time and recognition of looking
12 towards ways of improving the safety of
13 our residents. This is a principal of
14 OEM, which constantly and consistently
15 seeks ways to improve public safety
16 coordination among City departments and
17 external partners, along with building
18 resilience and increasing the welfare of
19 our neighbors.

20 The response that prompted this
21 resolution is an example of striving
22 towards improvement. Our office is
23 tasked by the City in part to safeguard
24 citizens when emergencies occur. On
25 September 14th, 2018, OEM was notified of

1 4/8/19 - AGING - RES. 180847, ETC.
2 a 12-story apartment building housing
3 several hundred people who were a
4 vulnerable population, senior citizens.
5 Electrical power serving the complex had
6 been out for two days.

7 We reacted responding to the
8 3900 block of Conshohocken Avenue and
9 contacted our partners from the Red
10 Cross, Salvation Army, and SEPTA to help
11 aid and assist with such things as food,
12 comfort, and tending to any medical
13 concerns of residents.

14 The Council resolution for this
15 hearing states the high-rise advertises
16 itself as a pet-friendly, Section 8, tax
17 credit community for adults 62 and the
18 disabled. Not having power to a complex
19 that serves a large population of
20 seniors, pets, and the disabled is a
21 cause for concern alone when an outage
22 affects people's refrigerators, medical
23 equipment, and elevators. If an
24 emergency should cause the structure to
25 be evacuated, the chance for a negative

1 4/8/19 - AGING - RES. 180847, ETC.

2 outcome increases.

3 An example relating to this
4 response is, there was no red flag raised
5 by the property management over the
6 potential issues relating to the outage,
7 which would have prompted earlier
8 attention on safety concerns.

9 If there is a need, OEM opens
10 shelters for displaced residents until
11 they can find shelter, whether that be
12 through their own resources like renter's
13 insurance or with assistance from
14 property management.

15 A temporary shelter is less
16 than ideal for this type of senior
17 population where there are cots on floors
18 of Philadelphia public schools and access
19 to food, medicine, power to medical
20 devices, and travel to doctors'
21 appointments as a concern.

22 Our office appreciates your
23 time and for you allowing us to provide
24 information for this resolution.

25 Thank you. I would be happy to

1 4/8/19 - AGING - RES. 180847, ETC.

2 respond to questions.

3 COUNCILMAN TAUBENBERGER: I do
4 have one question, Ms. Foizen. Is there
5 anywhere in the code that it is required,
6 although not necessary in this case, that
7 there be fire drills every so often, like
8 once a year?

9 MS. FOIZEN: I'm actually less
10 familiar with the code requirements. Our
11 office doesn't handle that.

12 COUNCILMAN TAUBENBERGER: If
13 you don't know, that's all right.

14 All right. We'll let you speak
15 to that when we call on you. So
16 actually, Deputy Chief Johnson, the floor
17 is yours.

18 DEPUTY CHIEF JOHNSON: Thank
19 you, sir. Good afternoon, Chairman
20 Taubenberger, members of Council, members
21 of the Committee and Aging. I'm Deputy
22 Chief Charles W. Johnson within the Fire
23 Prevention Division of the Philadelphia
24 Fire Department. I'm here to testify
25 with regards to Resolution 180847

1 4/8/19 - AGING - RES. 180847, ETC.
2 sponsored by Councilmembers Reynolds
3 Brown and Jones, which authorizes the
4 Committee on Aging to hold public
5 hearings to examine emergency protocols
6 that ensure the safety of senior citizens
7 residing in traditional community
8 high-rises.

9 I want to highlight the
10 incident which brought us to this point
11 now.

12 On Friday, September 14th,
13 2018, at 3:13 p.m., a dispatch for a
14 single engine and ladder company to
15 respond to 3901 Conshohocken Avenue,
16 Pavilion Apartments, for inside wires had
17 occurred. Inside wires response criteria
18 includes sparking outlets, flickering
19 lights, the smell of wires burning or a
20 power outage within a residential
21 dwelling. Upon arriving and during the
22 investigation, the companies were
23 informed that the Pavilion Apartments, a
24 senior living center, had been without
25 power for over 48 hours.

1 4/8/19 - AGING - RES. 180847, ETC.

2 Due to the highly populated
3 nature of the building, 296 units, of
4 which 292 were occupied, the initial
5 companies began requesting additional
6 resources to assist with the mitigation
7 process and to tend to the needs of the
8 occupants. The requested resources
9 included an additional engine and ladder
10 company; a Battalion Chief; Deputy Chief;
11 two Community Action Teams, CAT 1 and CAT
12 2; the Office of Emergency Management;
13 Department of License and Inspections;
14 two members of the Fire Marshal's Office;
15 two Emergency Medical Services officers;
16 six medic units; two second alarm
17 response vehicles; the Red Cross; the
18 Salvation Army; Red Paws; and two SEPTA
19 buses.

20 Three wellness teams consisting
21 of an officer, firefighter, and paramedic
22 were placed in service to check every
23 elevator, floor, and apartment for
24 occupants. The SEPTA buses were used as
25 temporary shelters for occupants to rest

1 4/8/19 - AGING - RES. 180847, ETC.
2 and rehabilitate, as well as to be
3 evaluated and monitored by EMS personnel
4 within. The on-scene electrical
5 contractor reported at 6:36 p.m. that
6 complete power restoration should be
7 accomplished by 9:00 p.m., and at 7:51
8 p.m., full power had been restored to the
9 apartment complex.

10 The Philadelphia Fire
11 Department's protocols for an incident of
12 this magnitude ensures that a complete
13 assessment of the nature and scope is
14 evaluated and addressed. There was a
15 need to account for all occupants,
16 address the EMS needs, evaluate the
17 displacement issues, both short and long
18 term, evaluate the resources needed to
19 mitigate the incident, and reassess until
20 the mitigation process was completed.
21 Due to the large quantity of resources
22 that were needed, appropriate measures
23 were implemented to ensure interagency
24 coordination.

25 I thank you for inviting me to

1 4/8/19 - AGING - RES. 180847, ETC.
2 provide information for this resolution,
3 and I'm happy to answer any questions.

4 COUNCILMAN TAUBENBERGER:
5 Councilman Jones.

6 COUNCILMAN JONES: First of
7 all, I want to reiterate what the author
8 of this bill said. You guys are rock
9 stars, and this is not the first time.
10 There was -- I don't know alarms, but a
11 fire at 63rd and, I'm going to say,
12 Nassau that devastated the building. All
13 of you guys were out there in freezing
14 temperatures assisting residents. So,
15 again, big structure, aging structure. I
16 don't know the investigation post fire,
17 but if we can prevent these things by
18 proper inspections and holding people to
19 reasonable accommodations, and I use
20 those terms specifically. You mentioned
21 that there should be a list of
22 individuals who are infirm or ambulatory
23 so that everybody knows what apartment.
24 And is that the standard for our
25 multi-unit structures today? Like when

1 4/8/19 - AGING - RES. 180847, ETC.
2 you come on the scene, is there a list of
3 apartments that says, these people are
4 able-bodied and they can get down those
5 steps. We have somebody on the 5th floor
6 that has a walker and may not be able to
7 come down and navigate the steps because
8 the elevator is gone. How do we make
9 those determinations? Anyone.

10 MS. FOIZEN: I can't speak to
11 if it's in the code or not, but I will
12 say that as soon as we respond to a
13 scene, that's the first thing that we're
14 looking for from the property management,
15 is a full listing of everyone that lives
16 in that building, if there is any access
17 and functional needs, any certain medical
18 concerns that we need to be aware of.

19 COUNCILMAN JONES: Councilman
20 Domb, may I prevail upon your expertise
21 in this matter and ask, is that
22 commonplace, mandatory or, you know?

23 COUNCILMAN DOMB: It should be
24 commonplace and mandatory among most
25 residential and commercial property

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2 managers, because they know who their
3 residents or tenants are.

4 COUNCILMAN JONES: So we need
5 to make it mandatory. Because you have a
6 responsibility that I couldn't bear,
7 which is to make decisions on the spot
8 about where you're going and to contain,
9 but also to rescue. And if somebody is
10 on oxygen and can't get down a flight of
11 steps or blind, in one case a person was
12 blind and couldn't navigate everything,
13 it's a lot easier if you know of the list
14 of the 200 units, these ten are priority
15 to do a safety check. And I think we
16 might want to consider or have you
17 consider if that is the kind of
18 legislation that might be helpful to you
19 in those kinds of circumstances.

20 DEPUTY CHIEF JOHNSON: So all
21 high-rise buildings have to have an
22 approved evacuation plan, and one of the
23 things that we suggest -- I'm not sure if
24 it's a code violation not to have it, but
25 a list of those occupants that are

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2 disabled and what is the plan for them.
3 So it has to be approved through our Fire
4 Code Unit within the Philadelphia --

5 COUNCILMAN JONES: Okay.

6 DEPUTY CHIEF JOHNSON: Yes,
7 sir. Within our Philadelphia Fire
8 Department, and that approval process is
9 good for ten years.

10 One of the things that was
11 mentioned is the use group. This
12 particular building is an R-2, so it
13 doesn't have all those additional
14 mandatory things that a college or a
15 university or a hospital would have.
16 Pretty much what we're looking at is an
17 apartment building that just so happened
18 to have seniors in it. You understand?
19 So it's an R-2 use group. So if there
20 could be some sort of addendum or
21 adjustment to that where we recognize
22 this as an official senior living area,
23 then maybe we could enhance the use group
24 to include. So currently because it's
25 just a high-rise R-2 use group, annually

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2 it has to complete a fire evacuation
3 drill, but just by the employees, not by
4 the occupants. It's just a high-rise.
5 It's a residential high-rise.

6 COUNCILMAN JONES: Those are
7 called naturally occurring retirement
8 communities that happen just through
9 osmosis of people aging in place.

10 DEPUTY CHIEF JOHNSON: Yes,
11 sir.

12 COUNCILMAN JONES: Got it.

13 COUNCILMAN TAUBENBERGER: Just
14 a point of order real quick. That goes
15 to my question that I had earlier, that
16 you have to have an annual evacuation --
17 first, you have to have an evacuation
18 plan that's approved by the Fire
19 Department; is that correct?

20 DEPUTY CHIEF JOHNSON: That's
21 correct.

22 COUNCILMAN TAUBENBERGER: Okay.

23 DEPUTY CHIEF JOHNSON: No. I'm
24 sorry. You have to have an evacuation
25 plans that's certified through the Fire

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2 Code Unit of the Philadelphia Fire
3 Department and it's good for ten years,
4 or unless the owners change or the use
5 changes, yes.

6 COUNCILMAN TAUBENBERGER:

7 That's understandable. But the actual
8 drill itself is only then for employees
9 and never for the actual residents.

10 DEPUTY CHIEF JOHNSON: Because
11 of the use group, that's affirmative.

12 COUNCILMAN TAUBENBERGER: Is
13 there anywhere in the code where it
14 demands at least one fire evacuation
15 drill be done a year? In fact, I think
16 in this building we do at least two a
17 year, I think.

18 DEPUTY CHIEF JOHNSON: Well, it
19 isn't, again, because of the use group.
20 It's to be done annually by the
21 employees. Now, it is code for every
22 occupant to have a copy of the approved
23 evacuation plan. So all occupants should
24 have a copy of the evacuation plan and
25 know what to do when there is an

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2 emergency.

3 COUNCILMAN TAUBENBERGER:

4 Probably wouldn't be a bad idea from time
5 to time to actually have a plan and
6 implement it, because you could find out
7 things, for the residents themselves. I
8 mean, how difficult can that be to do it
9 once a year just to see if the thing
10 works, if the plan actually works or
11 where is the difficulty or Mrs. Jones on
12 Floor 5 who needs a walker, can someone
13 actually help her out, you know. I mean,
14 that's why you have these drills, so when
15 you really need it, it works and saves
16 lives.

17 Councilwoman Reynolds Brown.

18 COUNCILWOMAN BROWN: Yes, yes,
19 yes. As we go down this road, I am going
20 to lean on Councilman Domb, as Councilman
21 Jones has already done so, to figure out
22 how we can reasonably fill in what look
23 like gaps and do it in a way that's
24 responsible and not onerous to landlords.

25 To the Office of Emergency

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2 Management, can you share some of the
3 emergency protocols that are required for
4 nursing homes but not traditional
5 high-rises? And are apartment buildings
6 required to keep a list of persons with
7 disabilities?

8 MS. FOIZEN: Councilwoman, it's
9 like you read my mind, because I was
10 actually thinking this is actually a huge
11 gap for our office, are these apartment
12 buildings that are not licensed like a
13 personal care home or a nursing home, but
14 they do have a high population of senior
15 citizens living in them. So a nursing
16 home is actually regulated by the state
17 and they have a lot of requirements they
18 have to do around evacuation and having
19 an emergency plan and communicating that
20 to their residents that just an apartment
21 building that's an R-2 does not have to
22 do. And so it's a huge gap for our
23 office.

24 We maintain a lot of data on
25 properties across the City. This just

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2 shows up as just a regular apartment
3 building. There's no additional
4 information for it right now in the
5 dataset that we would have access to.

6 COUNCILWOMAN BROWN: I see.
7 Are traditional high-rises required to
8 communicate with your office in case of
9 an emergency? What might those protocols
10 be, if any? There may not be any, and
11 that's not --

12 MS. FOIZEN: I'm not aware of
13 any, but I can definitely look into that
14 and get back to you on that, but I'm not
15 aware of any.

16 COUNCILWOMAN BROWN: Okay.
17 Because I think part of our -- we're
18 still trying to gather our findings
19 around this type of circumstance, and the
20 findings typically will yield potential
21 remedies or resolution so that we don't
22 have to cross this particular bridge
23 again.

24 MS. FOIZEN: I'll definitely
25 look into that.

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2 COUNCILWOMAN BROWN: That's one
3 of the purposes for the hearing.

4 What special challenges exist
5 for the evacuation of a building with
6 seniors and the disabled? How does the
7 Fire Department manage those challenges?
8 For example, I have here what's called an
9 evacuation chair. I should probably show
10 that. And so shall I assume that
11 evacuation protocols for seniors and the
12 disabled would differ dramatically from
13 those of us not in that circumstance? Is
14 that fair to say?

15 DEPUTY CHIEF JOHNSON: Yes,
16 that's fair to say. You have a variety
17 of incidents that can occur. So you may
18 have a fire scenario versus one like we
19 experienced on Friday, September the 14th
20 where it was a power outage, where we can
21 take our time and assess each individual,
22 get them to the exterior, and get them
23 the EMS care that they need.

24 When there's a fire scenario,
25 we have a process where we may have to

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2 shelter in place, where we can protect
3 individuals on the floor, have full
4 communication while we mitigate the
5 incident. So there's a lot of different
6 things that come into --

7 COUNCILWOMAN BROWN: Options.

8 DEPUTY CHIEF JOHNSON: Yes.

9 COUNCILWOMAN BROWN: The work
10 you all do is amazing. That's all I can
11 say.

12 DEPUTY CHIEF JOHNSON: Thank
13 you.

14 COUNCILWOMAN BROWN: Amazingly
15 important, because you never hope to be
16 in that circumstance.

17 I think that that covers all of
18 the questions I had for this panel.
19 Thank you all very, very much.

20 DEPUTY CHIEF JOHNSON: Thank
21 you very much.

22 COUNCILMAN TAUBENBERGER: Thank
23 you.

24 Councilmember Domb.

25 COUNCILMAN DOMB: Thank you,

1 4/8/19 - AGING - RES. 180847, ETC.

2 Mr. Chairman.

3 I want to echo my colleagues'
4 support of the great work you all did in
5 this situation.

6 I have a question. It sounds
7 to me like the issue here is that the
8 emergency generator for this application
9 didn't have enough power to do what the
10 normal power would do, which is the case
11 in many regular buildings. The emergency
12 generators are put in there just for
13 hallway lights and maybe the elevators
14 and not for the interior apartments. So
15 I guess my question is, and I'm not sure
16 how the money would work on this, but
17 there are emergency generators that could
18 provide the power in the units, could
19 provide the people ability to plug in for
20 oxygen, could do all these things versus
21 having to get them out of the building,
22 which sounds to me like the solution
23 versus having to deal with getting people
24 out of a building. So the question I
25 have is, do we have any information on

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2 buildings that have full-blown emergency
3 generators, right? And there are many
4 buildings that do this. Let me give you
5 an example.

6 If Comcast goes down, don't
7 tell me they don't have a generator to
8 power that building. Okay? It's an
9 issue of cost. And since a lot of this
10 money is coming from, I think -- I'm not
11 sure, but it looks like the federal
12 government subsidizes. We should really
13 get on board with the federal government
14 and say to them, you know what, for
15 senior housing, maybe you reclassify it
16 as a hospital, whatever, and maybe we
17 need a full-blown generator that does all
18 the services so you don't have to deal
19 with the evacuations, you don't have to
20 deal with all those emergencies and
21 people can still stay in their home if
22 there is a power failure. Because there
23 will be another power failure in the
24 future. We know that. So maybe the
25 issue to me is the size of the generator,

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2 a small generator that's not going to do
3 the job versus a large generator that
4 will cover the whole property.

5 So I'm just making that
6 statement, because I think that is the
7 solution. The question is how it gets
8 paid for, and if we can use the federal
9 government to do it, that's great.

10 There was one other thought I
11 had just sitting here and, that is, in
12 these cases sometimes -- I mean, look at
13 what happened on Sansom Street between
14 13th and Broad. The building called 123
15 South Broad has no power. They have a
16 huge generator outside there, huge,
17 powering that building. I'm sure
18 insurance is paying for that. So one of
19 my thoughts was in this case, why
20 wouldn't the owner call in a third-party
21 supplier for a generator that's large
22 enough to power the building and see if
23 his insurance would cover it? I'm just
24 throwing out those ideas for you.

25 So anyway, thank you,

1 4/8/19 - AGING - RES. 180847, ETC.

2 Mr. Chairman.

3 COUNCILMAN TAUBENBERGER:

4 You're quite welcome.

5 And Deputy Chief Johnson,
6 another question. In your testimony you
7 had said that the power was off for about
8 48 hours.

9 DEPUTY CHIEF JOHNSON: That was
10 what was reported to the first companies
11 that arrived at 3:13.

12 COUNCILMAN TAUBENBERGER: And
13 during that time, how long do you think
14 that emergency generator was working?

15 DEPUTY CHIEF JOHNSON: I'm not
16 sure.

17 COUNCILMAN TAUBENBERGER: Or
18 was that fixed, as Councilman Jones had
19 said, through this circuitous way around
20 underneath the street, which is maybe
21 illegal actually.

22 COUNCILMAN JONES: I don't know
23 the legalities of it and wouldn't cop to
24 it if I did, but there were a number of
25 people there, official and not official,

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2 that were just trying to make seniors
3 safe, and that's what happened.

4 DEPUTY CHIEF JOHNSON: And
5 Chairman Taubenberger, and that's what
6 our job was to do, is account for all the
7 occupants, get them to the exterior, get
8 them the EMS requirements that they
9 needed, and ensure that the right
10 individuals were called to deal with the
11 situation.

12 COUNCILMAN TAUBENBERGER: I
13 mean, it's my understanding this happened
14 in September.

15 DEPUTY CHIEF JOHNSON: Yes,
16 sir.

17 COUNCILMAN TAUBENBERGER: Which
18 the temperatures are very tolerable.
19 Might be a little too hot maybe, maybe
20 not, but if you're going to have this
21 kind of a situation, it's really not a
22 bad time. But 48 hours is totally really
23 unacceptable. And suppose it were in the
24 winter when it was really cold out. You
25 couldn't get -- the heat wouldn't work,

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2 because you need electrical power to get
3 the heat to go on, no matter what your
4 source of heat is.

5 DEPUTY CHIEF JOHNSON: With
6 regards to the Philadelphia Fire
7 Department, any time this happens, it's a
8 bad time for it to happen, hot, cold.

9 COUNCILMAN TAUBENBERGER: Now,
10 one last question for you, Deputy Chief,
11 and that would be, was this ever
12 identified before the 48 hours that
13 they're out of power or how did this --
14 how did this get to your attention where
15 eventually they had all the --

16 DEPUTY CHIEF JOHNSON: Well, it
17 got to our attention that they had a
18 full-blown power outage on Friday,
19 September the 14th. When I did my
20 research, the day before there was just a
21 partial outage identified to one
22 unoccupied unit that was handled by --
23 was supposedly being handled by building
24 management. So it wasn't until the next
25 day that they called in to let us know

1 4/8/19 - AGING - RES. 180847, ETC.

2 they had a full power outage.

3 COUNCILMAN TAUBENBERGER: In
4 your opinion, was there any way that the
5 City could have been notified ahead of
6 time that the power is down and we have
7 all these seniors living there?

8 DEPUTY CHIEF JOHNSON: So one
9 of the things that would really enhance
10 this type of situation being mitigated as
11 expeditiously as possible is that all the
12 occupants knew that they don't have to
13 wait for building management. You can
14 call 9-1-1. We'll get out there, and we
15 can heighten it. We can let them know
16 about the emergency nature of having the
17 power out for a half an hour.

18 COUNCILMAN TAUBENBERGER:
19 Right.

20 DEPUTY CHIEF JOHNSON: So once
21 again, once it was identified as such and
22 the Philadelphia Fire Department got out
23 there, we made sure that we called the
24 necessary resources to mitigate and to
25 tend to the care of the occupants. Once

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2 again, the thing that really would have
3 made a difference is if we were just
4 called earlier.

5 COUNCILMAN TAUBENBERGER:

6 Right.

7 Any other questions?

8 COUNCILWOMAN BROWN: For the
9 SeniorLAW Center.

10 COUNCILMAN TAUBENBERGER:

11 SeniorLAW Center.

12 But before this panel goes, I
13 want to say I thank you for the
14 cooperation that you have all showed as
15 City agencies. I think it should be
16 noted that we did things correct on our
17 end at least and we're doing things even
18 better and continue to do better because
19 of our committee and Councilman Jones and
20 Councilwoman Blondell Reynolds Brown. I
21 mean, this is what we do, and from this
22 we can learn. Henceforth, that's why I
23 like to ask how this finally ends up in
24 the court, if you could please let this
25 Committee know how this all works out.

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2 Because this worked out, but it could
3 have been terribly wrong where you could
4 have a blizzard going on. It could have
5 been awful, and to prepare for that is
6 then to deal with saving lives and making
7 lives better.

8 COUNCILWOMAN BROWN: Yes, yes.
9 I'm one to always try to look-see what
10 other municipalities are doing in terms
11 of best practices around any type of
12 situation or circumstance of this type,
13 and you mentioned in your testimony
14 that -- your suggestion or recommendation
15 that we look at the University of
16 California?

17 MS. McCABE: Yes. And what I
18 was planning to do is follow up to get
19 their protocol, if Council would be
20 interested.

21 COUNCILWOMAN BROWN: No, no,
22 no, not if. Yes, we are. We're always
23 looking to see how other cities are
24 doing, particularly when we find ourself
25 in the same circumstance.

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2 MS. McCABE: I'd be happy to
3 follow up with that protocol.

4 COUNCILWOMAN BROWN: So we
5 absolutely would be interested in that
6 material.

7 So one circumstance that always
8 troubles me about seniors is that many of
9 them are isolated and, as Councilman
10 Jones said, just asking about them
11 matters. What does the SeniorLAW Center
12 do with regards to communicating with
13 seniors who don't have a computer? For
14 those of us who say, well, there's the
15 Internet, trash that, because we're
16 talking about folks who are 70, 80, 90,
17 and 100 years old if they're so blessed
18 to get there.

19 How do we stay in touch with
20 seniors? How do we keep them informed?
21 What do we do for those who are in the
22 twilight of their lives and want to feel
23 safe and -- not necessarily taken care,
24 but at least to feel safe in their own
25 circumstances? What does the SeniorLAW

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2 Center along those lines -- for example,
3 is there regular communication with the
4 senior citizen centers in the City where
5 seniors go to have company and that kind
6 of thing? I'm just curious to know what
7 is the level of communication with those
8 who are in that milestone of their lives.

9 MS. McCABE: Certainly, and we,
10 as you're aware, know that a lot of
11 seniors do not have computers and they
12 may not go to the Free Library to access
13 communication through the Internet. So
14 what we do is, we have seven clinics in
15 the community, and then we also provide
16 community education at senior centers and
17 other places where seniors gather so that
18 we can have the word spread about a host
19 of topics.

20 COUNCILWOMAN BROWN: And those
21 clinics are -- there are ten councilmanic
22 districts, so there are three districts
23 that are not so lucky to have a senior
24 citizen clinic. Is that fair to say?

25 MS. McCABE: That's fair to

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2 say, but while we don't have clinics all
3 over, they're in various parts of the
4 City, including North, West, as well as
5 West Oak Lane, and we also do community
6 education throughout the City.

7 COUNCILWOMAN BROWN: Okay. All
8 right. And so what are the linkages with
9 L&I, Office of Emergency Shelter, Fire
10 Department on matters that impact
11 seniors? And so the bigger question is,
12 too often we as general professionals
13 operate in silos, and to the extent that
14 we can create glue and connectedness with
15 entities who are all in the same business
16 of taking care of this particular
17 constituency, they are better served.
18 And so I'm curious to know might there be
19 any existing current, what I call, SOP,
20 standard operating procedures, where you
21 are linking any City departments at all
22 given the important work that you do at
23 the SeniorLAW Center?

24 MS. McCABE: I can't say that
25 we have linked with these departments on

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2 this particular issue, but SeniorLAW
3 Center does sit on a number of task force
4 to give the best practices for our
5 constituents. And I'd be happy certainly
6 to connect with regards to this one and
7 add that to suggested topics when we go
8 out and do community education, as well
9 as potentially posters at the senior
10 centers so that the seniors will be
11 better informed.

12 COUNCILWOMAN BROWN: Okay.
13 That's encouraging. I'm one, though, who
14 wants to standardize practices, and so
15 I'm looking to see how we can make those
16 type of relationships a standard
17 operating procedure that's in place long
18 after we're gone. You follow me? So
19 that's why I'm asking those series of
20 questions.

21 Thank you very much.

22 MS. McCABE: My pleasure.

23 Thank you.

24 COUNCILMAN TAUBENBERGER:

25 Councilwoman, thank you.

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2 One point of clarification from
3 my questioning. I had asked for the
4 report coming back from the Court of
5 Common Pleas as it relates to what
6 happened here, but in thinking about
7 that, the matter before the court is
8 actually whether they had a license or
9 not. Maybe what I would like, if it's
10 possible between your departments, is
11 there going to be some sort of final
12 report on why we got here and what was
13 the cause really of the disruption of
14 power? I mean, is that possible to
15 obtain that from either Fire Department's
16 perspective or L&I's perspective?
17 Because we got here because of something
18 failed, and to understand that failure
19 better, we could make our rules and
20 regulations better so this doesn't ever
21 happen again.

22 MS. KAISER: We would typically
23 have the owner provide documentation
24 about what occurred and the steps that
25 were taken to remedy --

1 4/8/19 - AGING - RES. 180847, ETC.

2 COUNCILMAN TAUBENBERGER: Has
3 that been provided to L&I?

4 MS. KAISER: No.

5 COUNCILMAN TAUBENBERGER: If
6 they don't get the license, they're
7 certainly not going to give you a report.

8 Is that required that they give
9 you the report? I mean, is that in an
10 ordinance that says you must give a
11 report?

12 DEPUTY COMMISSIONER DiPIETRO:
13 Ralph DiPietro, License and Inspection.

14 There's two real requirements.
15 The first is a certification that the
16 system is working, it's operable. That's
17 something that's turned in every year.
18 We pick those up as part of the annual
19 inspection.

20 With respect to cause, that's a
21 little bit unusual. We don't typically
22 ask for that. We want to know what was
23 fixed. So that may require a permit to
24 do repairs. It may be providing some
25 kind of engineering behind that.

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2 COUNCILMAN TAUBENBERGER: Well,
3 because the enormity of the building, I
4 mean, that's a lot of people there. We
5 should learn from it. I mean, because
6 like I had said, it happened in a
7 September night and, yes, it's
8 inconvenient, it's not good, it could
9 threaten certain lives, certain
10 vulnerable lives, but had that happened
11 in January or February in adverse weather
12 conditions, it could have been an
13 absolute calamity of record proportions.

14 DEPUTY COMMISSIONER DiPIETRO:
15 Certainly. And I think the key is -- and
16 I think Councilman Domb sort of
17 referenced this -- part of that is
18 determining what sort of went wrong. If
19 this is really something, for example --
20 and I'm not suggesting it was -- that
21 PECO was sort of responsible for,
22 whatever --

23 COUNCILMAN TAUBENBERGER:
24 Really?

25 DEPUTY COMMISSIONER DiPIETRO:

1 4/8/19 - AGING - RES. 180847, ETC.

2 I mean, if it's underground service lines
3 and PECO is responsible maintaining, it
4 could have been that.

5 I think what we'd need to do is
6 find out exactly what the cause was, and
7 then we can determine -- because
8 typically, for example, if this turned
9 out that they had to replace a
10 generator -- I don't know that that's
11 what happened here, but if they did,
12 there's permits required for that. So
13 what we do in response is say, you need
14 to have an engineer come in, design the
15 system, get a permit, and then we come
16 out and inspect it to make sure it's been
17 installed per the engineer's design.
18 That's all dependent on actually what
19 happened.

20 COUNCILMAN TAUBENBERGER: Okay.
21 When we leave here, it's always been a
22 tradition at the call of the Chair, and
23 there are some open items and maybe we
24 ought to have at least PECO bring
25 information to us, maybe not in a formal

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2 hearing, but certainly by letter,
3 indicating like what went wrong with
4 this. Because I'm one to believe that we
5 learn from these things and we make life
6 better, and if we don't do that, we're
7 shirking our responsibilities as
8 legislators, and as far as the
9 departments are concerned as well,
10 because we want to make things better.

11 When there's an accident of any
12 sort in the federal government, whether
13 it involves trucks or airplanes or ships,
14 it's studied so it doesn't happen again,
15 and I truly believe in many cases as far
16 as safety is concerned on a federal
17 level, it traditionally has averted a lot
18 of real bad situations because we learned
19 from the previous ones. It's an American
20 tradition, I would think. It's something
21 we ought to do as well.

22 No other questions. Is there
23 anyone here -- thank you, panel.

24 COUNCILMAN DOMB: I just have
25 one last question, Mr. Chairman.

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2 Have we spoken to the owner of
3 this property and find out their side of
4 the story?

5 COUNCILMAN JONES: Point of
6 information. Too many times. Ad
7 nauseam. Yeah. He's non-responsive.

8 COUNCILMAN DOMB: Okay. Thank
9 you.

10 COUNCILMAN TAUBENBERGER: Well,
11 I want to thank you again for your
12 cooperation.

13 And if there's anyone else that
14 would like to testify on Resolution
15 180847, please come forward or we will go
16 on to our next resolution.

17 (No response.)

18 MS. McCABE: Thank you.

19 COUNCILMAN TAUBENBERGER: Thank
20 you.

21 Will the Clerk please read the
22 title of the next resolution and call up
23 the people that will testify.

24 THE CLERK: Resolution 190089,
25 a resolution authorizing hearings to be

1 4/8/19 - AGING - RES. 180847, ETC.
2 held on potential for abuse in the
3 guardianship appointment process and the
4 financial burdens that such abuse could
5 have on individuals being placed into
6 guardianship.

7 The first panel is Samuel
8 Brooks and Diane Menio.

9 (Witnesses approached witness
10 table.)

11 COUNCILMAN TAUBENBERGER:
12 Councilman Jones has an opening statement
13 before the panel testifies.

14 COUNCILMAN JONES: Thank you so
15 much, Mr. Chair.

16 As we are, they once were. As
17 they are, we will be. And this is
18 related to our senior population that we
19 talked about in how they live, what kind
20 of structures they will live in. This is
21 more germane to who is authorized to look
22 after their financial affairs, to make
23 determinations about where and how they
24 will live, make guardianship decisions
25 that affect their lives and sometimes in

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2 spite of their best wishes or well
3 wishes. And so we want to take a look at
4 this hearing today for the potential of
5 abuse of guardianships and the
6 appointment process, specifically
7 financial abuse that can happen in that
8 process.

9 The legal definition of a
10 guardian is any qualified individual who
11 is appointed by the court to represent an
12 incapacitated person.

13 An incapacitated person is an
14 adult that the court finds to be unable
15 to manage their financial resources or
16 provide for their own physical health and
17 safety.

18 Guardians are supposed to
19 protect. I'm going to say that again.
20 Guardians are supposed to protect
21 incapacitated people and serving their
22 best interests. There are times when the
23 appointed guardian is trusted by family
24 members or friends, but often times these
25 individuals are lawyers who are awarded

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2 fees in order to take care of
3 incapacitated people, and these
4 incapacitated people must pay.

5 These guardians can make
6 decisions regarding the incapacitated
7 person's financial or receiving federal
8 benefits or on behalf of the individual.
9 While many guardians serve the best
10 interests of the incapacitated person
11 they are appointed to protect, often,
12 sometimes, every now and then people take
13 advantage of vulnerable individuals.

14 According to a report done by
15 the Social Security Administration in
16 2014, approximately 60 percent of the
17 courts do not review the credit history
18 of potential guardians and about 40
19 percent do not conduct criminal
20 background checks for potential
21 guardians.

22 In my office, we have received
23 several complaints from seniors across
24 the years who believe that the guardians
25 that were supposed to -- appointed were

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2 stealing from them or believe that they
3 were deemed incapacitated when they were
4 not incapacitated. Given these
5 statistics and my knowledge of these
6 complaints, it is important that we had
7 this hearing today.

8 The purpose of this hearing is
9 to bring the issue to the public's
10 attention and ensure that systems
11 designed to protect our seniors from
12 abuse and neglect function properly and
13 that the guardianship process in
14 Philadelphia is adequately overseen so
15 that we can correct any defalcations that
16 may come up.

17 In China, children who grow up
18 to be adults are mandated to pay for
19 their parents' care. That is a fact.
20 It's in reverse here.

21 In Italy, because of how
22 seniors are treated by society, they tend
23 to live longer. They can't figure it
24 out, they check the water, they check the
25 food, they even check the weather to see

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2 if it matters. No. It's because they're
3 held in high regard by society.

4 In America and in Philadelphia,
5 all we want to do -- we don't need to
6 make them live longer than God says. We
7 don't want them to necessarily have their
8 children pay for them, but we will
9 protect them from abuse.

10 Thank you, Mr. Chairman.

11 COUNCILMAN TAUBENBERGER:

12 Councilman Jones, thank you for your
13 leadership on this issue and also your
14 opening statement.

15 Will the first witness please
16 identify themselves for the record.

17 MR. BROOKS: Yes. Certainly.
18 Thank you, Chairman Taubenberger, and
19 thank you, Councilman Jones and the rest
20 of the Committee. My name is Samuel
21 Brooks and I'm an attorney in the Aging
22 and Disabilities Unit of Community Legal
23 Services, also known as CLS. I'm
24 grateful to be here today, and I'm
25 grateful that you're bringing this

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2 important issue to light.

3 There is a guardianship crisis
4 in Philadelphia. Although guardianship
5 can be a very helpful tool when a loved
6 one cannot act independently, we are
7 seeing many cases where seniors and
8 people with disabilities are
9 unnecessarily losing the ability to make
10 decisions for themselves and remain
11 independent at home. Every year some of
12 Philadelphia's most vulnerable citizens
13 go through a judicial guardianship
14 process that often results in the loss of
15 their basic civil rights and can lead to
16 unnecessary institutionalization in
17 nursing homes.

18 CLS has represented
19 Philadelphians in every stage of the
20 guardianship process, from representing
21 individuals through the initial judicial
22 process to helping individuals have a
23 guardian removed, and we have witnessed
24 firsthand the problems that pervade the
25 guardianship process.

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2 Recent reporting by the
3 Philadelphia Inquirer and the Reading
4 Eagle revealed that for months in
5 Philadelphia court -- the Philadelphia
6 courts had been appointing a professional
7 guardian with a criminal history of
8 financial fraud. Judicial scrutiny
9 revealed that for some of the individuals
10 for which she was guardian, money was
11 unaccounted for. In another instance,
12 CLS discovered that a guardian who was
13 guardian for dozens of people in
14 Philadelphia and the surrounding counties
15 had permanently moved to South Carolina
16 without informing the court and
17 essentially abandoning dozens of
18 vulnerable senior citizens who were in
19 need of significant support. These
20 stories of exploitative or negligent
21 guardians bring needed attention to the
22 guardianship process. However, bad
23 guardians are just a part of a system
24 that is in need of significant reforms.

25 The stakes in the guardianship

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2 process are extremely high. A person can
3 lose every one of their civil liberties
4 and have their rights, such as where they
5 want to live and how to manage their own
6 finances, given to a stranger. A person
7 can be unnecessarily forced to move into
8 a nursing home and then have their home
9 sold and their money squandered on care
10 they do not need. Unfortunately,
11 Pennsylvania is in the minority of states
12 that does not appoint counsel for all
13 individuals subject to a guardianship
14 petition. Pennsylvania should join the
15 majority of states that recognize that
16 the guardianship process is a complex
17 judicial process in which an individual's
18 basic rights hang in the balance, and
19 require that counsel be appointed for all
20 individuals subject to a guardianship
21 petition. Further, this appointed
22 counsel must be required to zealously
23 advocate on behalf of their client.

24 Additionally, in Philadelphia
25 the courts must take better steps to

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2 ensure that the person subject to a
3 guardianship petition is actually present
4 at the hearing. Unfortunately, it is not
5 uncommon in Philadelphia for an
6 individual to have a guardian appointed
7 without the person being represented by
8 counsel or even being present at that
9 hearing. CLS has represented individuals
10 who had guardians appointed without them
11 even being aware of it.

12 Pennsylvania law requires that
13 guardianship be pursued only after less
14 restrictive means have failed. Where a
15 guardian is needed, priority should be
16 given to allowing family members to serve
17 as guardian rather than individuals
18 acting as professional guardians.
19 Typically family members are more
20 knowledgeable about an individual's
21 needs. Courts should recognize this fact
22 and give preference to family members.

23 Along with preference for
24 family members, training and support
25 should be offered to family members

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2 acting as guardians. Once someone has
3 become a guardian, they have specific
4 legal duties with which they must comply.
5 These rules are complicated and can lead
6 to confusion for lay guardians. There
7 must be supports in place to help ensure
8 that family members are aware of their
9 duties and able to comply with them.

10 Unfortunately, there will be
11 instances where there is no family member
12 to act as guardian for an individual and
13 a professional guardian will need to be
14 appointed. Currently there are few
15 professional or training requirements for
16 someone who wants to serve as a
17 professional guardian. As mentioned
18 before, a simple Google search revealed
19 that one professional guardian had a
20 sordid criminal history involving
21 financial fraud, yet she was appointed
22 dozens of times to oversee the finances
23 of some of Philadelphia's most vulnerable
24 residents.

25 Criminal background checks

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2 should be required for all professional
3 guardians. Additionally, there should be
4 a certification process that ensures
5 professional guardians are properly
6 trained and meet adequate practice
7 standards. Currently the system
8 incentives the institutionalization of
9 individuals with professional guardians.
10 Current Medicaid rules provide that
11 guardians can only be paid for their
12 services if the person under guardianship
13 is in a nursing home, but not if they are
14 receiving care in the community. This
15 creates an incentive to place the person
16 under guardianship in a nursing home and
17 then often results in the liquidation of
18 an individual's estate, including their
19 homes. These monetary incentives to
20 institutionalize individuals must be
21 removed. They are ripe with potential
22 for abuse.

23 Guardians also must be properly
24 monitored. Guardians are required to
25 file reports each year with the court

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2 detailing the care provided for the
3 individual under guardianship and how
4 their funds were handled. However,
5 courts throughout the Commonwealth lack
6 the staff to review these reports. Some
7 of these reports reveal the expenditure
8 of thousands or even hundreds of
9 thousands of dollars by guardians without
10 explanation. If the annual reports
11 aren't reviewed, however, these
12 situations are not detected and no action
13 is taken.

14 To the Philadelphia Orphans'
15 Court credit, it has taken some steps to
16 increase protections for these
17 individuals subject to guardianship.
18 There is a new statewide guardian
19 tracking system in place that promises to
20 better monitor guardians by
21 electronically notifying the courts when
22 reports contain information which needs
23 further investigation. Additionally, the
24 court has dedicated a staff member to
25 monitor these reports and to take action

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2 when a report indicates there may be a
3 potential problem. We hope and believe
4 that the Philadelphia Orphans' Court will
5 continue to institute reforms that ensure
6 better protections for individuals
7 subject to guardianship.

8 Lastly, and we believe
9 foremost, guardianship should only be
10 pursued when all other options have been
11 proven to be ineffective. Instead of a
12 guardian, would increased social or
13 health supports allow a person to
14 maintain their rights and autonomy in the
15 community? Do families need additional
16 support to help a loved one maintain
17 their homes so that they can avoid being
18 placed in a nursing home? Only when all
19 else fails should guardianship be
20 allowed.

21 Fortunately, some of these
22 issues are being addressed on the state
23 level, and we hear today, with potential
24 legislation. State Senator Art Haywood
25 plans on reintroducing a guardianship

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2 bill that would require counsel for all
3 individuals subject to a guardianship
4 petition as well as criminal background
5 checks and certification of professional
6 guardians. However, Philadelphia courts
7 can take immediate action by appointing
8 counsel for all individuals subject to a
9 guardianship petition, ensuring
10 individuals are present at guardianship
11 hearings, appointing family members when
12 possible if guardians are necessary, and
13 increasing scrutiny on all guardians.
14 Most importantly, we must all work
15 together to discover alternatives to
16 guardianship that can preserve the
17 dignity and the rights of our fellow
18 Philadelphians and ensure justice is
19 present for all.

20 Thank you for letting me come
21 today.

22 COUNCILMAN TAUBENBERGER:
23 Councilman Jones.

24 COUNCILMAN JONES: First -- no.
25 I should let you testify. I'm sorry. I

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2 retract my request.

3 COUNCILMAN TAUBENBERGER: So

4 noted.

5 MS. MENIO: Thank you. I'm

6 Diane Menio. I'm the Executive Director

7 of the Center for Advocacy for the Rights

8 and Interests of the Elderly. We like to

9 make it easier for you and we call

10 ourselves CARIE. Thank you for inviting

11 us here today. This is an issue that we

12 are very, very concerned about and we

13 hear about every day.

14 I just want to first say that a

15 lot of my remarks are echoed in Sam's

16 remarks. I'll just kind of cut to the

17 chase here rather than give you the whole

18 testimony. But one of the things that I

19 wanted to mention, in Philadelphia when

20 you were talking about the issue of

21 guardianship and how it affects older

22 Philadelphians, Philadelphia has a very

23 poor -- 24.5 percent of the elders in

24 Philadelphia live under 125 percent of

25 the federal poverty level and 17.4

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2 percent -- that's a pretty big number --
3 live actually below the poverty level,
4 which we all know the federal poverty
5 level is pretty darn low. So some of
6 these things -- when we talk about
7 guardianship, we have to think about who
8 ends up in guardianship as well, and many
9 times we find people who are really
10 neglected throughout the process, the
11 system. And so we need to find more ways
12 to help people who are in need every day.

13 So that's just -- I want to
14 talk a little bit about what we hear in
15 our office. We basically in our
16 office -- we've been around since 1977.
17 We do advocacy at several different
18 levels. We do public policy advocacy.
19 We do education and training, but we also
20 talk to individuals, and they're the ones
21 who teach us about the problems.

22 So our core program, the CARIE
23 Line, is a free comprehensive source of
24 information, guidance, and referral and
25 advocacy for older adults and their

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2 caregivers. We'll really talk to anybody
3 who calls us. And we want to help them
4 navigate this really complex system of
5 aging. We take all the calls that come
6 to us. Over the past ten years or so,
7 calls about guardianship have been
8 increasing. Prior to that, we usually
9 got calls about guardianship from a
10 family member who was concerned and
11 wanted to file a petition for
12 guardianship. It's very difficult for
13 people to get help with that. It costs
14 money to file a petition. It's also --
15 and the guardianship tracking system is
16 great, but it also creates another
17 requirement for family guardians who may
18 not be able to do the reporting in the
19 same way. They need help with that.
20 They definitely need to report. I don't
21 want to argue against that.

22 So we hear from families who
23 are prevented from visiting their loved
24 one by a professional guardian. They
25 have no part in the decision-making and

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2 are often not privy to financial
3 statements. So once a professional
4 guardian is named -- this could be an
5 attorney or somebody who is a guardian,
6 and professional is a loose term for
7 guardian. Once that person is named,
8 they have full control over the person.
9 The court has some discretion to be able
10 to limit certain duties of that person or
11 give them extra duties, but generally
12 they're able to make those decisions.

13 So what we hear from people is
14 family members calling us and saying, my
15 mother had a guardian named and she's in
16 a nursing home now and we wanted to take
17 care of her at home. Now, what the
18 family dynamic was before that, we don't
19 always know, but what we do know is that
20 even in some cases where there may have
21 been abuse or neglect, family members
22 still care. Mom wants to see her
23 daughter or her son, and if they're in a
24 nursing home, they're protected. So even
25 if there had been abuse before, that

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2 family has a right to visit, and mom has
3 a right to have them visit. And so the
4 idea that they can be prevented from
5 visiting is a serious problem.

6 And the other thing -- and
7 you've mentioned this -- no one is
8 overseeing the guardian after they've
9 been named.

10 The other thing I wanted to say
11 is that when you were talking about in
12 your opening statement about people with
13 incapacity needing guardianship, and I
14 want to just make the distinction here,
15 is that, yes, a person needs to be
16 incapacitated in order to have a guardian
17 named, but they also have to be in need
18 of a guardian, which are two different
19 things. You know, it's "and," not "or."
20 So the issue -- some people who get into
21 the system already have a support system
22 around them. They may have -- someone
23 may be agent under the power of attorney.
24 There are many different issues involved
25 here. One of the things that often

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2 triggers the appointment of a
3 professional guardian or an attorney is
4 in-fighting within the family. So one
5 daughter is the agent and another
6 daughter or son doesn't like what she's
7 doing and goes to court, and often times
8 even though one of those family members
9 may be fine to be named as the guardian,
10 it ends up being -- because they're
11 fighting.

12 We support the different
13 interventions, like mediation, for
14 instance. There is very good mediation
15 in the City. We have an organization
16 that does elder mediation. And so we
17 need to do more, and as Sam said, we need
18 to have more alternatives. Let's try to
19 protect people without having them lose
20 all their rights.

21 Another frequent call we get is
22 from that incapacitated person
23 themselves. Sometimes they don't
24 understand what happened to them or even
25 why they went to court. One time I had a

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2 gentleman call me and I asked him -- and
3 he's called me because he was upset
4 because he went into his bank and he
5 didn't have access to his money. And the
6 other thing he told me is that he was
7 upset because his guardian didn't pay his
8 electric bill and he always paid his
9 bills on time. So he -- by the way, he
10 also e-mailed me all of his statements so
11 that I could see what was happening.

12 And so I said to him, I said,
13 well, did you understand why you were in
14 court?

15 He said, because my son was mad
16 at me. You know, he had an argument with
17 his son. This all happened. It was a
18 long story, but nevertheless, no one
19 really gave him the information he needed
20 to process that this is what was going to
21 happen to him. And it's a long story,
22 but it's not a good -- it's not a happy
23 ending in this story.

24 Other times they tell us that
25 the guardian doesn't visit them, doesn't

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2 give them spending money on a regular
3 schedule. And some callers make us
4 wonder why they have a guardian at all,
5 like the gentleman I just mentioned.

6 Sadly, many elders who have
7 been placed under guardianship not only
8 weren't represented by counsel, but they
9 did not even have the benefit of
10 attending the hearing. And when we've
11 looked at transcripts or talked to them,
12 they weren't even questioned. In fact,
13 the guy I just told you about, I asked
14 him, I said, well, did the judge ask you
15 questions, and the answer he gave me was,
16 he said -- well, I won't tell you because
17 now this will name the judge and I don't
18 want to do that. The judge had heard a
19 very -- made a decision on a very public
20 case, and so he started asking him about
21 that, and then he started talking because
22 they both played bridge and they started
23 talking in detail about bridge. But no
24 questions for him to answer in terms of
25 his own capacity.

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2 In 2013, the Pennsylvania
3 Department of Aging funded us to do a
4 study on guardianship. And so we did a
5 study throughout Pennsylvania to see what
6 was happening here, because in large
7 part, we really don't know what's
8 happening. This new tracking system will
9 at least give us some data, but until
10 now, we really haven't even had that.
11 And so we looked at best practices all
12 over the country. One of the things we
13 learned was that that incapacitated
14 person wasn't present at the -- was
15 present at the hearing only 31 percent of
16 the time. That doesn't make sense to me
17 at all. And they don't have legal
18 representation 25 percent of the time.
19 And the lawyers -- we talked to lawyers.
20 Forty-two percent of them said that they
21 were not asked by the court to
22 demonstrate that they had explored
23 alternatives to guardianship, and that's
24 in the statute. They're supposed to make
25 that plea.

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2 Having counsel appointed in
3 each case is important, but it's also
4 important to remember what the role of
5 counsel is. We strongly believe that
6 counsel in all cases should zealously
7 advocate for the expressed wishes of the
8 alleged incapacitated person. With
9 effective counsel, we may be able to
10 prevent guardianships where alternatives
11 are available where the individual,
12 although incapacitated, doesn't need a
13 guardian or help to make sure that that
14 limited -- that there's a limited
15 guardianship is used if it's called for.
16 So we really need to make sure we're
17 doing the right thing by people.

18 And so I'm going to skip over
19 this, and some of my recommendations are
20 the same as Sam's. I've been involved
21 with the Pennsylvania Supreme Court
22 working on these issues for the past, I
23 guess it's been, about five or six years
24 now, and we've made some changes.
25 There's a new rule, Orphans' Court rule,

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2 coming out in June 1st of this year that
3 will require background checks. It won't
4 go as far as the legislation, and that's
5 why we need Senator Haywood's
6 legislation.

7 So we do support that, but the
8 other piece -- the other side of that is,
9 I want to make sure that background
10 checking is not so broad that it impacts
11 the ability of family members who may
12 have something in their background, some
13 criminal background, but still -- but at
14 this point can take care of mom. And so
15 we don't want to take family members out
16 of the equation because they may have
17 some kind of criminal background. We
18 believe very strongly that the judge --
19 there should be judicial discretion when
20 that decision is made, when they see what
21 the background is.

22 And we think that -- I'm going
23 to finish now, but one of the last things
24 I wanted to say is, I left you a
25 document. I believe you have my

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2 testimony, and I left a separate
3 document, and this document is a project
4 that we developed and we tried -- we've
5 been trying to get it funded for a number
6 of years. It's been challenging. But
7 it's modeled after the court-appointed
8 Special Advocates program for children.
9 We believe that if an advocate is
10 appointed at the time the petition is
11 filed, we can make sure that the family
12 members that need to be notified have
13 been notified.

14 By the way, in Pennsylvania,
15 our statute only requires really for
16 people in Pennsylvania to be notified.
17 So, yes, they may notify people out of
18 state, but we've also gotten calls from
19 people out of state who have had a loved
20 one here who was placed in guardian and
21 they had no idea. And so we think that
22 an advocate could be quite helpful
23 throughout the process, even after -- if
24 there is a guardian named, after that
25 guardian is named to make sure that the

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2 abuse is not happening, to make sure
3 they're doing their job.

4 So thank you, and we hope
5 you'll support all these reforms and do
6 whatever you can to help improve this
7 system.

8 COUNCILMAN TAUBENBERGER:
9 Councilman Jones.

10 COUNCILMAN JONES: I'm sad for
11 our seniors. I know of -- in public
12 policy, you may think there's a big book
13 that comes and lands on our desks so that
14 we go and explore issues like this. It
15 is not true. It usually happens through
16 individual constituent service complaints
17 and/or requests.

18 We were literally walking
19 around the hallway, because the Orphans'
20 Court is around the corner, and two
21 people who lived in our district came
22 around the corner in tears, crying and
23 talking about their aunt that was getting
24 ready to be removed from the house
25 because it was deemed that the kids --

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2 and there are generational tangled titles
3 involved -- could no longer, were no
4 longer capable of taking care of auntie.
5 And they're like bewildered, because
6 they've been taking care of auntie for
7 over a decade, so much so that they were
8 going to remove her from the house, put
9 her in one of my senior assisted living
10 facilities, which dare I say is pretty
11 pricey, and then they would take the
12 equity out of the house that the whole
13 family lived in until such time as it was
14 exhausted and then, oh, well. And there
15 was a fund that was established at that
16 senior facility for people who were
17 hardship cases, but everybody in that
18 house was going to be homeless because
19 they were going to sell that property in
20 order to take care of auntie. No one
21 knows whether auntie wanted to leave or
22 not, but that was the ruling of the
23 court, which caught my attention.

24 After that, maybe a couple
25 years later, there was a well-known radio

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2 personality who had amassed a
3 considerable amount of money during the
4 years, kept it under the pillow, I guess,
5 and their grandson was appointed the
6 guardian. They did not know there was
7 financial problems until she received an
8 eviction notice of her condo and an
9 eviction from her storage facility,
10 because these were bills that were not
11 being paid. So that was the tip of the
12 iceberg to know that these problems
13 existed in a big way, and I'm very
14 concerned.

15 So real recap. There is no
16 standard by which you have to go through
17 a license or review to be a guardian,
18 including criminal background and
19 including abuse checks and financial
20 convictions or anything like that?

21 MS. MENIO: Well, in
22 Pennsylvania, there is no certification
23 for guardianship. So I'll say that first
24 of all.

25 Secondly, there is a

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2 certification agency and some people
3 voluntarily get certified. Now, the
4 legislation that's been introduced would
5 require certification, and our Advisory
6 Council for Elder Justice in the courts
7 is working on this issue as well, and we
8 strongly suggest -- and some judges have
9 local rules where they require that.

10 As to the second part of your
11 question was about -- I'm sorry.

12 COUNCILMAN JONES: Background
13 checks.

14 MS. MENIO: Background checks.
15 So the background checks again can happen
16 voluntarily, and I would -- it would be a
17 nice thing if they had a background check
18 even though it's not required, but as I
19 said, they will be required June 1st by
20 the courts. So in Pennsylvania, there
21 will be a requirement. What is not
22 required is any kind of -- there's no
23 list of offenses that would preclude them
24 from being guardian. The legislation
25 that's been introduced would come closer

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2 to giving some guidelines.

3 COUNCILMAN JONES: So you
4 mentioned one guardian that had 12 cases
5 of mismanagement. Was it you?

6 MS. MENIO: No. That was over
7 100 cases.

8 MR. BROOKS: Yeah. That was
9 the Gloria Byars case. She had been --
10 there had been some missing funds, and
11 finally it came to a head when an
12 attorney discovered this and brought it
13 to attention of the court. To the
14 court's credit, the Philadelphia Orphans'
15 Court credit, they immediately removed
16 her from all other cases.

17 And just to speak to the
18 background check, to the court's credit
19 as well, it has itself instituted a
20 background check requirement now, a
21 criminal history check, in response to
22 what happened with the Byars case, and
23 they have unilaterally done that and
24 require new guardians to have that
25 background check. The current

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2 legislation would only apply -- likely
3 will only apply to professional
4 guardians, so as not to prevent family
5 members who are preferable, in our
6 opinion and I think to most people, to
7 prevent them from serving.

8 COUNCILMAN JONES: So Imma keep
9 an eye on my kids, you know, because it
10 can happen that way and --

11 MR. BROOKS: What she would
12 do -- sorry to interrupt you, but what
13 they would do is, they would get
14 appointed a guardian to a senior and they
15 would put them in a nursing home and then
16 they would petition the court to sell
17 their home, and then they would clean out
18 the home and they would hire someone to
19 clean it out. In her case, the person
20 was -- the company that cleaned it out
21 was owned by her husband. And they
22 cleaned out her home, and then they would
23 petition to get \$10,000 to \$15,000 from
24 the proceeds of the sale for the services
25 they provide.

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2 So there's really some
3 distorted incentives there to put
4 individuals in nursing homes. And often
5 times these are folks who don't need
6 guardians. They do have capacity and
7 they've just been stuck into a system
8 that doesn't account for that.

9 COUNCILMAN JONES: What
10 concerns me is how can they not know that
11 someone requested a guardianship? I
12 mean, we could be sitting here and
13 somebody could be around the corner
14 filling out the papers.

15 MS. MENIO: Yeah. One of
16 the -- they must be served with the
17 petition. How it's served is -- one of
18 the things I've heard, sometimes the
19 petitioner has an attorney and the
20 petitioner's attorney serves. It's
21 questionable in some cases whether or not
22 that attorney explained things to them
23 properly, including their right to
24 counsel. Because the way the statute
25 reads currently, they do have access to

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2 counsel, but they have to request
3 counsel. So we're talking about people
4 who are presumed to be incapacitated.
5 And so that's part of the reason that
6 we're advocating for everyone to have
7 counsel. But it is -- and so sometimes I
8 think that's what happens, is whoever is
9 presenting it, sometimes it's a process
10 server, somebody who wouldn't be able to
11 explain it very well, and that's part of
12 the reason that I'd like to have our
13 advocate program, because then we could
14 explain to people what's happening to
15 them and hear their side. And in that
16 case you were talking about is a perfect
17 case for the family -- where the family
18 lived in the home and cared for mom or
19 aunt or whatever it was, but in that kind
20 of situation, a mediator may be able to
21 work some of that out. Maybe somebody in
22 that home was abusing her and shouldn't
23 be in the home. Maybe no one was abusing
24 her, but there was some
25 miscommunications. Whatever it was, you

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2 need to figure those things out, and we
3 don't do enough work before we go to the
4 Orphans' Court.

5 COUNCILMAN JONES: So I'm
6 watching often in the first of the month
7 or whenever those checks come in. Family
8 members -- and I don't mean to typecast
9 anybody, but just don't seem like the
10 caring type, walking grand-mom into the
11 bank, you know, handling her financial
12 transactions, and I just worry that
13 there's no standard to guard her. Her
14 eyesight is failing and instead of that
15 \$100, there might be \$1,000 being taken
16 out.

17 There has to be a better way to
18 guard people who are -- let me ask you
19 this question: When you say guardian in
20 the senior sense, is it the same as
21 guardian for a youth?

22 MS. MENIO: It's the same
23 process, yes. The difference is that
24 young people are generally by definition
25 incapacity -- they do not have the

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2 capacity to make their own decisions
3 because of their age. Older people have
4 capacity until it's proven that they
5 don't.

6 COUNCILMAN JONES: So if I'm a
7 ten-year-old, my parents were in a car
8 accident, the insurance settled and it's
9 in there and there's a guardian guarding
10 those funds and I turn 18 and I don't
11 have it, what happens then?

12 MS. MENIO: When they're 18?

13 COUNCILMAN JONES: Yeah. Or
14 when someone finds out, is there any
15 remedy for that ten-year-old that's now
16 18, is on a college campus and wants to
17 get his tuition paid and there's nothing?
18 How do we --

19 MS. MENIO: Oh, you mean if
20 somebody took that trust?

21 COUNCILMAN JONES: Correct.

22 MS. MENIO: I mean, hopefully
23 it would be set up in that trust that
24 would not be able to be abused, but it
25 is -- that situation is challenging and

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2 somebody should be overseeing that.

3 COUNCILMAN JONES: But some of
4 them are worded for educational purposes,
5 and I can interpret that to mean he needs
6 back-to-school clothing, and each one of
7 those -- the meter is ticking each time.
8 Is there a fee structure that is -- so I
9 can --

10 MS. MENIO: So the judge
11 determines what's permissible. And so,
12 no, there is not a particular -- I mean,
13 one of the things I mentioned is that we
14 do have a lot of low-income people all
15 ages, and in many cases, the guardian
16 gets paid little or nothing to be a
17 guardian.

18 COUNCILMAN JONES: So I'm going
19 to tread on thin ice here and ask
20 conceivably, hypothetically, I know no
21 person like this. If Judge Taubenberger
22 now, right, I worked very hard to get him
23 in office. I did fundraisers for him,
24 because he's prohibited from raising his
25 own funds. I'm a lawyer. And then all

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2 of the sudden he's in Orphan Court and
3 who is his favorite appointee to
4 guardianship? That could be me, right?
5 And so --

6 MS. MENIO: Well, if it were
7 this gentleman who is incapacitated, not
8 Councilmember Al Taubenberger, but if
9 that gentleman were believed to be
10 incapacitated --

11 COUNCILMAN JONES: So I'm
12 representing --

13 MS. MENIO: He wouldn't decide
14 who his guardian is unless he decided
15 that in legal documents before he became
16 incapacitated.

17 COUNCILMAN JONES: So my rich
18 colleague Councilman Domb, I'm getting
19 ready to be his guardian. I'm going
20 around the hallway now, because he looked
21 a little loopy when he was in here. So
22 how do we --

23 MS. MENIO: Well, we try to
24 educate people to have a trusted person,
25 to name an agent under a power of

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2 attorney who is trusted. Unfortunately,
3 a lot of people name their oldest child.
4 They may or may not be the best person to
5 do it. And so we encourage people to
6 have someone that they can trust. Also
7 we encourage people not to put somebody's
8 name on their bank accounts, for
9 instance.

10 COUNCILMAN JONES: So somebody
11 brought this to our attention. We're
12 hearing that Domb was having problems,
13 and he appoints me to oversee his large
14 estate, because he knows me.

15 MS. MENIO: You're saying he's
16 doing a power of attorney that would name
17 you as agent?

18 COUNCILMAN JONES: Yes. So how
19 do we -- who monitors that?

20 MS. MENIO: No one.
21 Is that right, Sam?

22 MR. BROOKS: So he's appointed
23 you as power of attorney. Is he
24 incapacitated or does he have --

25 COUNCILMAN JONES: Domb fell

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2 down and bumped his head, and I drove him
3 around in Uber for a while, and he told
4 me he needed me.

5 MR. BROOKS: And the question
6 is?

7 COUNCILMAN JONES: My question
8 is, who monitors what I do if me and him,
9 we are friends?

10 MR. BROOKS: Well, the law
11 requires that annually you file a report
12 that is twofold, report about the person,
13 which is how he's doing, where he's
14 living, how his -- what his diagnoses
15 are, what his prognosis is, and whether
16 you believe that a guardianship should
17 still continue. In addition to that,
18 there's a report about the estate. And
19 historically, especially in Philadelphia,
20 this was something that you just filed.
21 You put how much money you spent from the
22 principal of that estate, what you spent
23 it on, and you submitted it. But it was
24 well known that those were never
25 reviewed, that the courts just took them,

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2 they were docketed, and no one was
3 reviewing them.

4 To their credit -- and I'm not
5 sure that this was out of spite or
6 negligence or they didn't have the
7 resources to do it, because they
8 certainly instituted some reforms now and
9 are much more -- they're looking at these
10 much more strictly, and we applaud them
11 for that.

12 So if you started expending now
13 all his money and you didn't have a
14 reasonable explanation for what that
15 money was, you would be called in and
16 there would be an accounting made and you
17 could be removed and there could be
18 further repercussions for you. You could
19 be financial liable and arguably you
20 could be criminally.

21 COUNCILMAN JONES: So how many
22 cases has the Philadelphia District
23 Attorney filed on guardianship
24 malfeasance?

25 MS. MENIO: Oh, you're going to

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2 have to ask -- don't we have someone from
3 the District Attorney's Office coming in?

4 COUNCILMAN JONES: Is there
5 someone here?

6 MS. MENIO: They were on the
7 list that I had.

8 COUNCILMAN JONES: So for sure
9 they're going to get this question.

10 MS. MENIO: I don't think
11 there's a lot, but I can't answer that
12 question.

13 COUNCILMAN JONES: So we're
14 going to give them this question during
15 the budget process, because as we grow
16 older and grayer, these protections need
17 to be there. If this lady, for example,
18 had hundreds of cases, where is she now?

19 MR. BROOKS: That's a good
20 question. To our knowledge, she has not
21 suffered any criminal repercussions. I
22 know that -- there probably would need to
23 be a forensic accountant that would have
24 to go through all the documents. And it
25 wasn't just in Philadelphia as well. It

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2 was in the surrounding counties. I'm not
3 sure where she is now.

4 And to be clear, we don't
5 oppose people with criminal records
6 acting as guardians, but where there was
7 smoke, there was fire with her, and that
8 was discovered anecdotally as well from
9 other guardians, how she behaved. So we
10 don't know. We don't know where she is
11 and what's going on with --

12 COUNCILMAN JONES: So how much
13 money are we talking about possibly?

14 MR. BROOKS: In that case, I
15 think it was tens of thousands.

16 MS. MENIO: With people, a lot
17 of the people that she was guardian for
18 were the people that I talked to, the
19 low-income people. They may have owned a
20 property, but they generally qualified
21 for Medicaid when they went into the
22 nursing home, in part because they spent
23 down that estate, but it's hard to know
24 without -- as Sam said, you really need a
25 forensic accountant to dig into all of

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2 that information.

3 COUNCILMAN JONES: Last

4 question, Mr. Chairman, for me.

5 The Supreme Court ruled that,

6 what is it, June 1?

7 MS. MENIO: Yes.

8 COUNCILMAN JONES: That all

9 guardianship rules are gone and that --

10 MS. MENIO: The local rules are

11 gone.

12 COUNCILMAN JONES: So can you

13 elaborate on that for a minute?

14 MS. MENIO: Do you want to do

15 it or should I?

16 MR. BROOKS: Go ahead.

17 MS. MENIO: He's the lawyer.

18 Well, it does supersede the

19 local rules. So if there is something

20 Philadelphia needs to do that's not in

21 the current rules, Orphans' Court rules,

22 they can do it, but they have to get

23 approval by -- and some of them actually

24 have already gotten approval to have

25 their own local rules. So they have to

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2 get approval from the Supreme Court, to
3 my knowledge.

4 MR. BROOKS: That's correct.
5 But I think this is a good thing. I
6 think the rules that are coming now are
7 more robust and will do better to protect
8 seniors and people with disabilities. So
9 it's a good thing. And I think there's
10 still room for innovation locally. I
11 mean, Philadelphia is always going to
12 have the most guardianships because we're
13 an aging population and we have a lot of
14 people here. Philadelphia really needs
15 to --

16 COUNCILMAN JONES: So it's
17 governed by the state rules, correct?
18 What can we do locally to help?

19 MS. MENIO: Well, can I -- I
20 want to just throw in something else here
21 and, that is, that a large number of the
22 older people who end up in Orphans' Court
23 with a guardianship petition come through
24 the Older Adult Protective Services
25 Department, which is at Philadelphia

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2 Corporation for Aging. The Inspector
3 General in Pennsylvania audited
4 protective services across Pennsylvania
5 probably about a year ago. They released
6 an executive summary. We can't get the
7 full report, which may have more specific
8 county information, but it was a damning
9 report and so -- and I don't think we
10 have any reason to believe Philadelphia
11 is any better than any other county in
12 this audit. And so we really need to
13 look at a lot more --

14 COUNCILMAN JONES: Why can't
15 you get the full report?

16 MS. MENIO: Pardon?

17 COUNCILMAN JONES: Why can't
18 you get the full report?

19 MS. MENIO: I don't know. It's
20 not -- I mean, it should be accessible
21 through right to know, but they're
22 refusing.

23 MR. BROOKS: And one thing I
24 think Diane is putting -- the main driver
25 of guardianships in Philadelphia are not

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2 individuals. It's been Older Adult
3 Protective Services and nursing homes.
4 The most common instance of where someone
5 isn't present at a hearing is when it's a
6 nursing home. There's a nursing home
7 attorney. He'll bring in four or five
8 batches of petitions, and all that
9 attorney has to say is, Your Honor, they
10 can't make decisions for themselves, they
11 can't come here because they're in a
12 nursing home. And that's very common,
13 unfortunately. And we have represented
14 those individuals. When they want to go
15 home, they don't have a home, or they
16 want to go somewhere else, they can't,
17 because they have a guardian that they
18 don't know.

19 So that's -- I think those are
20 the two prime movers, are Older Adult
21 Protective Services and nursing homes.
22 Certainly there's families, but families
23 resolve these issues often times. It's
24 where there isn't a family and sometimes
25 it's more complicated where those

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2 guardianships are coming from.

3 COUNCILMAN JONES: What can we
4 do locally?

5 MR. BROOKS: Locally I think we
6 need to support the courts. The courts
7 need resources to make sure that other
8 alternatives to guardianship are
9 explored. Often times why someone is in
10 the guardianship process is that person
11 was in crisis. They needed more
12 supports. They fell and they're isolated
13 at home, and Older Adult Protective
14 Services comes in and they take a sword
15 and just take extreme action when really
16 what that person needs is additional
17 support.

18 So I think guidance -- this
19 hearing today is going to help to bring
20 attention to this matter, because it's
21 flown under the radar. So we need
22 alternatives to guardianship, more
23 support for seniors who are in crisis
24 and, in addition, supporting the court in
25 their efforts to do background checks and

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2 monitor guardians more appropriately.

3 COUNCILMAN JONES:

4 Mr. Chairman, thank you.

5 COUNCILMAN TAUBENBERGER:

6 You're welcome.

7 That kind of surmises what
8 we're doing here, because most of the
9 rules and regulations that you have
10 talked about are part of the state system
11 and we have very little, if no,
12 jurisdiction on it. You did say we could
13 petition the Supreme Court to get
14 greater --

15 MR. BROOKS: There's
16 certainly -- I mean, the rules that
17 govern are state law and then there's the
18 state code, and then underneath that,
19 there are the local rules that have been
20 developed, not uniformly across the
21 Commonwealth, and certainly Philadelphia
22 can create its own rules that might be
23 more innovative, but they would need
24 approval from the state Supreme Court.
25 And I don't think that's a Herculean task

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2 to get that approval, and I think the
3 Supreme Court would understand the
4 uniqueness of Philadelphia.

5 COUNCILMAN TAUBENBERGER: Well,
6 if we were to come up with some rules and
7 regulations that we see fit after
8 reviewing the testimony of today, what
9 would be our step? To pass something as
10 a City ordinance and then have the state
11 Supreme Court weigh in on it?

12 MS. MENIO: I believe that the
13 local Orphans' Court has to adopt local
14 rules. What the process in the City is,
15 I'm not sure.

16 Do you know, Sam?

17 MR. BROOKS: I doubt --

18 COUNCILMAN TAUBENBERGER:
19 Because even just a point of order. As
20 far as I understand, the Orphans' Court
21 is still under the jurisdiction of the
22 state.

23 MR. BROOKS: Right.

24 MS. MENIO: Yes.

25 MR. BROOKS: I don't think

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2 there's anything that prevents the
3 Council from creating additional
4 requirements, say, for professional
5 guardians. I think that the only thing
6 you couldn't do is make them less
7 restrictive.

8 COUNCILMAN TAUBENBERGER: But
9 if you have power of attorney to someone,
10 that kind of negates all this.

11 MS. MENIO: Not necessarily.

12 COUNCILMAN TAUBENBERGER: It
13 might --

14 MS. MENIO: Well, as I
15 mentioned before, there may be someone
16 who is accusing that person who is the
17 agent of abuse in power, if the person
18 they have the power for is incapacitated.

19 COUNCILMAN TAUBENBERGER: Two
20 things. You had mentioned earlier on, I
21 wanted to ask you, is this the proposal
22 that you put in front of us?

23 MS. MENIO: Yes.

24 COUNCILMAN TAUBENBERGER:
25 Because I would like to read it.

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2 And I guess the other thing you
3 said, there's an agency that won't allow
4 us to look at their --

5 COUNCILMAN JONES: Report.

6 COUNCILMAN TAUBENBERGER: --
7 report.

8 MS. MENIO: Oh, that's the
9 Inspector General in Pennsylvania.

10 COUNCILMAN TAUBENBERGER: The
11 Inspector General of the State of
12 Pennsylvania will not allow anyone to
13 look at that report?

14 MS. MENIO: As far as I know, I
15 think the only -- as far as I know, the
16 only group that's seen it, I think, is
17 the Pennsylvania Department of Aging.
18 The local area agencies on aging haven't
19 seen it. The press can't get a hold of
20 it. We can't get a hold of it.

21 COUNCILMAN TAUBENBERGER: Well,
22 maybe you'll help us draft a letter --

23 MS. MENIO: I'll be glad to
24 send the executive summary over to you.

25 COUNCILMAN TAUBENBERGER: But

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2 we cannot see the full report?

3 MS. MENIO: Well, you could
4 request it, as we all have.

5 COUNCILMAN TAUBENBERGER: Well,
6 maybe with your help and support, I as
7 the Chair of the Aging Committee, Al
8 Taubenberger, and my Committee here will
9 ask for that report and see what they
10 tell us.

11 MS. MENIO: Sure. That's what
12 I say, everybody should ask for it.

13 MR. BROOKS: We'd be happy to
14 help you draft a letter.

15 COUNCILMAN TAUBENBERGER: I
16 would very much --

17 MR. BROOKS: I think it's very
18 important, and it's absurd that we can't
19 see that.

20 MS. MENIO: And it is an
21 area --

22 COUNCILMAN TAUBENBERGER: I
23 would agree.

24 MS. MENIO: I have to get back
25 to -- and I don't want to make excuses

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2 for any of this, but there is a cost to a
3 lot of the things that we talk about and
4 we can't ignore that. Now, I do also
5 believe that the --

6 COUNCILMAN TAUBENBERGER: To
7 implement it there is a cost.

8 MS. MENIO: Cost of bringing a
9 petition to court, having attorneys all
10 around, doing evaluations. All of those
11 things cost money. So could we redirect
12 those resources into alternatives, for
13 instance. I think we can.

14 COUNCILMAN TAUBENBERGER: Well,
15 yeah, I'd like to certainly explore that,
16 and I think that's my responsibility as
17 Chair of the Aging Committee.

18 I'm finished with my questions.
19 I can't thank you enough.

20 And will the Clerk please call
21 the next and final panel.

22 Thank you very, very much.

23 MS. MENIO: Thank you very
24 much. We appreciate you --

25 COUNCILMAN TAUBENBERGER: Do

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2 not leave. We'll exchange information so
3 we can get that letter drafted.

4 THE CLERK: The second panel is
5 Nancy Thompson and Jackie Clay.

6 (Witness approached witness
7 table.)

8 COUNCILMAN TAUBENBERGER:
9 Whenever you are set, please state your
10 name for the record.

11 MS. THOMPSON: Good afternoon.
12 My name is Nancy Thompson and I am here
13 today to testify of my personal
14 experience dealing with guardianship and
15 how the Orphan Court is when it comes to
16 appointing a guardian and having
17 oversight on the action of these
18 guardians.

19 You want me to repeat it?

20 COUNCILMAN TAUBENBERGER: Take
21 your time.

22 MS. THOMPSON: First off, in
23 2005, I would like to say my mother's
24 rights were violated, which I heard by
25 PCA, and they were violated when I had a

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2 waiver on file where she was staying at
3 at the Sidney Hill Apartments, Sidney
4 Hill Apartments independent living
5 facility. They were supposed to have
6 contacted the family member when they
7 came in to make her sign documentation,
8 and they were claiming that she didn't
9 know what she was doing or saying. We
10 didn't receive any phone calls with the
11 waiver on file, and they took action in
12 their own hands and took her benefits,
13 made her sign documents. We don't know
14 what was signed. The next thing I know,
15 they were the payee of my mother.

16 In 2005, again, we had -- when
17 I moved my mom into the Sidney Hill
18 Apartment, I requested, me and my mother,
19 to fill out documents for me to become
20 her power of attorney, which Ms.
21 Robertson, which was the social worker
22 there, snatched the documents out of my
23 hands once she gave them to me, claiming
24 that she can't allow me to fill out the
25 documents. And I asked her why, and she

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2 said, you would have to contact PCA,
3 which was Sanford Pfeffer at the time. I
4 didn't understand that, because my mother
5 was not originally under anybody. I was
6 caring for her the whole time.

7 In 2005 again to 2006, mom
8 received an eviction notice to vacate her
9 apartment on 4/15/06. PCA was receiving
10 mom's benefit and hadn't paid the rent
11 there for six months.

12 COUNCILMAN TAUBENBERGER:
13 Excuse me. When you say PCA, that's
14 Philadelphia Corporation for the Aging?

15 MS. THOMPSON: Yes.

16 COUNCILMAN TAUBENBERGER: Thank
17 you.

18 MS. THOMPSON: In 2006, I had
19 to financially support my mother with
20 clothing, clothes, personal items, and
21 food, because she wasn't receiving any of
22 her benefits for her to buy anything off
23 of her income. Since then, in 2007,
24 Howard Solomon had become the guardian
25 for my mother from court.

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2 COUNCILMAN TAUBENBERGER: Who
3 is he?

4 MS. THOMPSON: Howard Solomon
5 is the guardian and he was appointed by
6 the court.

7 COUNCILMAN TAUBENBERGER: Any
8 kind of relation or they just picked his
9 name out of a hat kind of a thing?

10 MS. THOMPSON: Well, I was
11 there and they told me when we went to
12 court when they -- when PCA set this
13 court thing up, that they was going to
14 appoint a guardian for my mother, which I
15 didn't understand why while I'm there
16 taking care of her. So they said that
17 they was supposed to ask me if I wanted
18 to be the guardian, you know, since I'm
19 taking care of her, and that didn't take
20 place. Did nothing take place. They had
21 me come into court just for them to
22 appoint Howard -- what was it? To
23 appoint Howard Solomon as guardian. I
24 don't even know who he was or anything.
25 Like you just said, they picked him out

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2 of a hat.

3 So it went from there, and I
4 was not satisfied and sent a letter
5 complaining that I was not satisfied with
6 the guardian being appointed and why
7 wasn't I appointed, and they tell you to
8 submit that information within that
9 20-day period, which I did, and I didn't
10 get no response.

11 When Howard became the payee,
12 my mother didn't receive any income for
13 about three months. So that led me on to
14 continue on taking care of her
15 financially. And then when Howard
16 Solomon started sending funds out for
17 her, he was only sending \$100 a month,
18 and that's where I had to still continue
19 on taking care of her off of my benefits,
20 because they were not sending her enough
21 money for her to live off of. Now,
22 remind you that she was receiving about
23 700 a month, but she was only receiving
24 100 a month.

25 In 2007, I moved my mother out

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2 of the Sidney Hill Apartment in September
3 of '07. Howard claimed that he would
4 start sending her \$400 a month when she
5 moved in with me. So when she moved in
6 with me in September, he didn't start
7 paying the 400 until November of '07.

8 In 2008, mom's been accused of
9 owing \$13,000 from an overpayment from
10 SSI. My question was, why would she be
11 accused of owing \$13,000 when she hasn't
12 been receiving her income for since 2005
13 but they are claiming she owes the
14 13,000? I contacted Social Security. I
15 even had them do a review, investigate
16 and everything, and they still saying
17 that she owes the 13,000 when Debra
18 Speyer and Howard Solomon were the ones
19 receiving her benefits from '05. And
20 they said this took place in '08 up to
21 2010. They accusing her to pay the
22 13,000 back.

23 And in 2009, Debra Speyer
24 became guardianship of mom's benefits.
25 When she became the guardianship of my

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2 mother, she since then received my
3 mother's benefits. She had cut the
4 payment that Howard Solomon had paid 400,
5 she had cut it down to 200 a month. So
6 that leaves me, like I had a child, I had
7 to keep taking care of her.

8 So from then on in 2010, mom
9 came home from the nursing home with a
10 bed sore. I had to continue taking care
11 of her, treating her with a bed sore. So
12 that's a monitor continuing care that I
13 had to take care of her with, which the
14 bed sore actually closed up, but it took
15 about -- after she came home, it took
16 about six months to heal. While I was
17 doing that, I wasn't receiving enough
18 money to pay for the dressings and
19 Band-Aids and the medical supplies that I
20 needed to treat the sore. So I tried to
21 ask the nurse -- there was a nurse that
22 come out every week to check on the bed
23 sore to make sure it was healing
24 correctly, and I was complaining to her
25 that I'm not getting enough money to pay

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2 for these things and was there anything
3 that she can do, and she said, well, the
4 only thing she was able to bring was not
5 even enough to last for no more than two
6 or three days of the dressings and
7 Band-Aids and stuff that I needed to
8 patch my mother up with. She wasn't able
9 to do anything, even though I had
10 contacted Debra Speyer to let her know
11 that I need more money. These dressings
12 wind up costing me \$25 or \$30 a week,
13 besides all the other things I had to
14 pay.

15 In 2011, mom's other furniture
16 was thrown out from bed bugs. I
17 contacted Debra Speyer and asked could I
18 use some of her money that she had in the
19 bank. Mom had about \$8,000 or \$9,000 in
20 the bank that she hadn't used, and could
21 she use some of that to purchase some of
22 the furniture she needed for her room.
23 And Debra Speyer never got back in touch
24 with me with that. So we never got any
25 furniture from that point.

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2 So in 2011 again, the
3 Norristown office scheduled an
4 appointment for me and mom to come into
5 the office. They wanted us to come into
6 the office because --

7 COUNCILMAN TAUBENBERGER:
8 Excuse me, if I could. The Norristown
9 office?

10 MS. THOMPSON: Yes.

11 COUNCILMAN TAUBENBERGER: Of
12 who?

13 MS. THOMPSON: The Social
14 Security office, Norristown.

15 COUNCILMAN TAUBENBERGER: Oh,
16 okay. Thank you.

17 MS. THOMPSON: They had us come
18 into the office so that they can find out
19 why my mother has four to five banks,
20 which I was not aware of.

21 So she went over the banks.
22 She showed me the banks. Are you
23 familiar with any of these banks? And I
24 said no, because I never seen them. And,
25 two, Debra Speyer doesn't disclose any

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2 information to me about my mother's
3 financial. Even when I asked her about
4 it, she doesn't disclose anything to me.
5 So that's when the lady asked my mother
6 would she like -- would she like to
7 change the guardianship from Debra Speyer
8 to me, and my mother said yes, and that's
9 when she changed it back in -- at the end
10 of the year 2011. And I became the payee
11 in 2012, the first month, January. I
12 became the guardian -- the payee for
13 about one month. That's great. In one
14 month I became the payee. It seemed that
15 Debra Speyer must have been complaining
16 about it and lied and said something to
17 the Social Security Board, making them
18 change the payee back over to her from
19 me, and that's when Social Security had
20 decided in 2012 March -- in February or
21 March that they suspended my mother's
22 benefits from going to anyone. So they
23 suspended the benefit in 2012. She
24 didn't have any income from February or
25 March to December of that year. And my

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2 income when I was working, I was
3 receiving unemployment, and my
4 unemployment exhausted in January of
5 2012. So we both were in zero income.

6 From that point in 2012, the
7 rent -- my mom's income -- okay. In
8 2012, I got an eviction notice for the
9 first time, and living in the Penn Wynn
10 house for about 21 years I lived there
11 and I received an eviction notice after
12 living there for 21 years because Debra
13 Speyer refused to pay my mother's portion
14 of the rent. And there was money in the
15 bank, but she refused to use it. So I
16 had received an eviction notice, but at
17 that time -- let me see.

18 COUNCILMAN JONES: Excuse me.
19 Mom is with you at that time?

20 MS. THOMPSON: Huh?

21 COUNCILMAN JONES: Your mother
22 is with you?

23 MS. THOMPSON: Yes. She's been
24 with me all this time.

25 I'm trying to read this.

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2 COUNCILMAN TAUBENBERGER: Take
3 your time.

4 MS. THOMPSON: My nerves is
5 shot.

6 COUNCILMAN TAUBENBERGER:
7 There's nothing to be nervous about. You
8 have a very understanding panel here.
9 Take your time to collect your thoughts.

10 MS. THOMPSON: In 2012, we had
11 to borrow money from friends for food and
12 personal items. I think in that year,
13 2012, I think that's when everybody's
14 food stamps got cut off, cash got cut
15 off. We didn't have no income, so we
16 couldn't even rely on any food stamps.
17 So we had to borrow money to get by for
18 personal needs and food in 2012. I even
19 borrowed -- not borrowed money, but in
20 order to keep my car running, I had a
21 friend that would fix my car, and he
22 trusted me to pay him, so he kept my car
23 fixed and that I would pay him whenever I
24 came across some more money.

25 So back in 2012 again -- okay.

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2 In 2013, I couldn't hold a job down
3 because I was suffering from depression
4 and diabetes to where I broke out,
5 depression and diabetes to where my
6 stress level had went below and I
7 couldn't handle doing anything. I think
8 I had to go to the hospital or something,
9 because, you know, when you under so much
10 stress and depressed, depression and
11 stuff because of so much stuff happening,
12 you just can't handle it.

13 In 2014, Debra received cash
14 money -- a case money of \$4,700 of my
15 mother when she was in a paratransit
16 accident. My mother was in a paratransit
17 accident, and the case had settled and
18 they sent the money to her. Mom never
19 received not one penny of it.

20 And in 2014, again, we moved to
21 New Jersey October the 1st, because I
22 couldn't handle what was going on over
23 here. Maybe we could find some other
24 solutions. So that was that case. In
25 2014 -- okay. In 2015, Debra received a

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2 hundred and forty-nine two hundred and
3 forty thousand of mom case money.

4 COUNCILMAN JONES: Excuse me.
5 Repeat that figure.

6 MS. THOMPSON: She received at
7 least a hundred and forty-nine two
8 hundred and forty-three thousand dollars
9 in case money. I had to petition the
10 court to get paid and paid an additional
11 monies for mom, because she was only
12 still receiving only \$200 a month.

13 In 2016, the rent increased at
14 the apartment in New Jersey, because I
15 had started working, with her income, so
16 they said that we have to pay -- we was
17 on Section 8. So whatever income I get,
18 they base it on that. So in 2016, my
19 rent had increased up to 415. I wrote a
20 letter to Debra Speyer letting her know
21 that mom has an additional \$200 to pay
22 towards the rent. Can she start paying
23 that towards her rent. And she refused
24 to pay the additional money in 2016.
25 Only thing she was sending was that \$200.

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2 So I was left paying everything.

3 In 2016, I had to pay a U-Haul
4 additional \$200. The only reason I had
5 to pay additional \$200 -- that's when I
6 moved back to Philly. I moved back to
7 Philly. I told Debra Speyer that my
8 mother should pay half of the moving
9 costs and -- because we didn't have
10 money, so we just scrapped, trying to
11 move back to Philly. And I said, well,
12 can you help give her -- I needed at
13 least \$600 towards the moving costs. So
14 Debra Speyer -- this is crazy. Debra
15 Speyer dragged her feet when I had a
16 moving out date to move back here to
17 Philly into the house. She said she
18 would give the money up on -- it was like
19 maybe on the 2nd or 3rd. She took
20 additional three or four more days to
21 give me the money. I couldn't return the
22 U-Haul back to the rental until I had the
23 money in full. So I had to hold on to
24 the U-Haul until I was able to pay them
25 fully. So they charged me additional, I

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2 don't know -- it was about \$200 more,
3 because it was like almost -- it was 349,
4 something like that, for using the
5 U-Haul.

6 Then we in 2011 -- there was
7 something I just left out. I forgot. In
8 2011, mom lost her property through taxes
9 that could have been paid, and Debra
10 Speyer had refused. I even written a
11 letter telling her that she has taxes to
12 pay on her property, and they never
13 bothered -- they never bothered to follow
14 up on that, until someone came and bought
15 it initially, just paid for it and bought
16 it.

17 COUNCILMAN JONES: Can I ask
18 you a question? Did you ever get a
19 lawyer?

20 MS. THOMPSON: Say that again.

21 COUNCILMAN JONES: Did you ever
22 hire a lawyer?

23 MS. THOMPSON: I went through
24 five of them.

25 COUNCILMAN JONES: And they

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2 couldn't do anything?

3 MS. THOMPSON: Most of them
4 wanted \$4,500. I didn't have the money.
5 I went to Subsidize, which was the
6 Salvation Army. I went to them to do an
7 accounting for my mother, and she worked
8 with me in 2013, but never did anything
9 because Debra Speyer kept telling her --
10 they kept convincing her not to do the
11 accounting. So she eventually didn't do
12 it.

13 COUNCILMAN TAUBENBERGER: I do
14 have a question. Actually it's for
15 Mr. Brooks, if you have a second to come
16 to the witness table.

17 MS. THOMPSON: So I went to
18 about four or five --

19 COUNCILMAN TAUBENBERGER: I
20 want to ask a question here for
21 Mr. Brooks, which pertains to you. And
22 Ms. Thompson, your story is compelling.
23 It's difficult. It's not good. I mean,
24 it's a sad situation. And I'll let you
25 finish in a moment, but while I have

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2 Mr. Brooks here, he's an attorney, not to
3 say he should be your attorney, but what
4 can -- if you follow this sad story
5 along, what can Ms. Thompson do to rid
6 herself of this very, it seems to be,
7 very bad guardian?

8 MR. BROOKS: Well, first off,
9 unfortunately, Ms. Thompson's story is
10 something that we hear a lot.

11 COUNCILMAN TAUBENBERGER:
12 Really?

13 MR. BROOKS: Yes. And not to
14 defend Ms. Byars, but there's a dearth of
15 professional guardians. So once --
16 there's maybe three or four now who are
17 dealing dozens and dozens of cases of
18 people just like your mother, and it's
19 impossible. I mean --

20 COUNCILMAN TAUBENBERGER: What
21 is it?

22 MR. BROOKS: It's impossible to
23 manage that amount of people's lives.

24 We would help her. We
25 represent individuals in these cases.

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2 Unfortunately, the courts are very
3 inclined to only dealing with lawyers.
4 So if you had written to the court or
5 asked the court for help, most likely
6 that would have gone unanswered, unless
7 you had an attorney. And there's just
8 not a lot of attorneys that will help
9 individuals who are low income, except
10 for us. We do routinely represent
11 individuals just in these instances where
12 people are being evicted because rents
13 aren't being paid.

14 So I'm sorry she didn't come to
15 us, but this is certainly the type of
16 case that we would have taken.

17 COUNCILMAN TAUBENBERGER: You
18 would have taken this case had --

19 MR. BROOKS: Certainly.

20 COUNCILMAN TAUBENBERGER: --
21 Ms. Thompson, one, knew about it and,
22 two, gone to you?

23 MR. BROOKS: Certainly. And we
24 would have not charged her, of course,
25 because we provide free legal services.

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2 I'm more than willing to talk with her
3 after the hearing today. That's why I
4 stayed, because as soon as she started
5 speaking, this is a story I've heard many
6 times.

7 COUNCILMAN JONES: So can you
8 summarize? Where are you now?

9 MS. THOMPSON: Can I what
10 again?

11 COUNCILMAN JONES: Yes.

12 MS. THOMPSON: Summarize?

13 COUNCILMAN TAUBENBERGER:
14 Summarize your testimony or the story.
15 So like where are you now? That's a good
16 question from my colleague.

17 MS. THOMPSON: Okay. In 2016,
18 we was offered the property. Okay. When
19 I was in court, that's the part I wanted
20 to bring out. I did bring that out.

21 MR. BROOKS: What's going on
22 with you and your mom now?

23 MS. THOMPSON: Same stressful
24 situation.

25 Okay. The part right now is,

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2 my mom don't have a will and we can't get
3 a will unless she has guardian, and if
4 someone else has guardian, we can't
5 obtain the will. And I have a policy
6 and -- life policy for funeral and stuff,
7 but I was able to get the policy started
8 back in 2018. What's this, '19? Yeah.
9 So I've been paying on that for about two
10 years. And I was only able to pay on
11 that consistently because I wasn't able
12 to hold a payment -- a complete full job
13 to pay on her policy in case something
14 happens, because she's about 83 years
15 old. She's 83. And it's just -- it's
16 like talking to a brick wall when I'm
17 talking to her. Oh, and I did go to
18 other attorneys. I went to CARIE. I
19 went to Philadelphia Legal Service,
20 Community Legal Services, Elderly Law. I
21 went to a lot to them, and they all
22 turned me down flat.

23 MR. BROOKS: Well, I'm sorry to
24 hear that. I mean, if you had come to
25 our -- this is a very discrete issue, and

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2 we only represent individuals who are
3 subject to guardianship or have a
4 guardian and don't want them or having a
5 guardian that's not doing what they do.
6 So I'm certainly willing to talk with you
7 after, because that's why I stayed.

8 COUNCILMAN TAUBENBERGER: Well,
9 that's very good. Mr. Brooks, I
10 appreciate this. I appreciate you coming
11 back again, and I think this may be
12 helpful.

13 And, Mr. Brooks, a case similar
14 to this, where would you appeal that to?

15 MR. BROOKS: Well, I mean,
16 first of all, I would meet with mom and
17 make sure that she does lack capacity,
18 because sometimes people don't. But what
19 you would do in a case like that, you
20 would intervene in the court. You'd have
21 to go to Orphans' Court and file --

22 COUNCILMAN TAUBENBERGER: That
23 was actually my question.

24 MR. BROOKS: -- file a
25 petition, right.

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2 Often times we're able to reach
3 out to the guardian and try to adjust and
4 fix the problem, but if that problem is
5 not fixable, we will file a petition with
6 the court and ask for the guardian to be
7 removed.

8 The court is very -- the court
9 resolves conflict by often appointing
10 guardians over the estate. You're
11 guardian, I suspect, of the person, and
12 then there's a guardian of the estate,
13 and that's just not tenable, especially
14 with loved ones. But they'd prefer that
15 rather than deal with mediation or deal
16 with complex familial situations, and
17 that's one of the things that needs to be
18 addressed.

19 And so we would be more than
20 willing to talk to Ms. Thompson about
21 this. Unfortunately, she's not alone.
22 We speak with people like this often.

23 MS. THOMPSON: I have a
24 question. Now, she didn't need a
25 guardian, but they forced her into

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2 signing documents that she wasn't aware
3 of. Now, back in '05, my mother might
4 have been -- like she wasn't probably
5 taking her medicine, and that might have
6 made them think she was incapacitated.
7 But she has schizophrenia, and that can
8 easily make you think that she's
9 somewhere else. So when she's not taking
10 her medication, she can be, you know,
11 delusional and stuff like that. So she
12 was not incapacitated. I do know that,
13 because I have -- I'm with her 24 hours,
14 even when I was working. The reason why
15 I moved her in the Sidney Hill Apartments
16 right there at 22nd and Market is because
17 I was working at 36th and Market at
18 Children's and I was able to reach her
19 every day I got off of work. Whatever
20 she needed, I was right there. So now
21 while I'm working, they over here forcing
22 her to sign documents. She called me and
23 told me, but I couldn't get off from
24 work. I can't just jump when they say
25 they doing this, they doing that to her.

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2 It's like a child at a facility, and they
3 doing stuff that, you know, a mother
4 would have went off, but by her being a
5 senior, they figured they can do whatever
6 they want. And then when I call PCA to
7 ask them about this, they said everything
8 is confidential, we can't talk to you
9 about nothing. But y'all signed
10 documents -- you had her sign
11 documentation, and she didn't even need a
12 guardian. That's why I'm here.

13 MR. BROOKS: Unfortunately,
14 that's what occurs, is that PCA will get
15 involved when someone is in crisis.
16 Maybe they're not on their meds or
17 something is not going on and this is
18 what happens.

19 So I'm more than willing to
20 speak with her -- speak with you after
21 and give you my number.

22 MS. THOMPSON: It will take a
23 lot of pressure off of me, because I'm
24 depressed so bad.

25 MR. BROOKS: This is very hard

1 4/8/19 - AGING - RES. 180847, ETC.
2 stuff.

3 COUNCILMAN TAUBENBERGER: Well,
4 thank you all for testifying, and
5 hopefully some good can come out of all
6 of this. I am certainly walking away
7 very, very enlightened.

8 And just one last call, if
9 there's anyone else that would like to
10 testify on behalf of 190089. And if
11 not --

12 MS. THOMPSON: Well, I really
13 appreciate you listening to my story.

14 COUNCILMAN JONES: Thank you.

15 COUNCILMAN TAUBENBERGER: Thank
16 you very, very much.

17 MR. BROOKS: Thank you both.

18 COUNCILMAN TAUBENBERGER:
19 You're welcome.

20 (Witnesses approached witness
21 table.)

22 MS. TANN: Good afternoon,
23 Councilman Taubenberger and Councilman
24 Jones. This is very --

25 COUNCILMAN TAUBENBERGER: State

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2 your name for the record. We have some
3 formality even though I know who you are.

4 MS. TANN: My name is Crystal
5 Tann, and I just want to for the record
6 just point out a couple of general cases
7 that have come to Councilman Jones's
8 office.

9 I'm going to start by saying
10 last year the Councilman came in this
11 building on a Thursday and he was on the
12 elevator and, as he often does, he sees
13 people and, you know, welcome to City
14 Hall, and these two gentlemen who were
15 brothers explained to the Councilman that
16 they were here about their mother. Long
17 story short, this guardianship thing once
18 is signed over by the court, they seem to
19 have just a bit too much power.

20 While those gentlemen were
21 sitting here asking for help to find out
22 what this guardian had written them to do
23 with their mother, they literally called
24 the police and had the mother removed and
25 was placed in North Philadelphia Nursing

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2 Home, and there was nothing that these
3 two gentlemen could do about that,
4 because the court had given the guardian
5 the right to do that.

6 I petition you guys to look
7 into that. I mean, I'm scared to death.
8 I'm like the Councilman. You know, I
9 want to keep my kids happy. I don't want
10 nobody calling.

11 It seems like when you call the
12 help line -- and this is what happened in
13 this case. Two years prior to them
14 running into the Councilman, their
15 sister, who lives in North Carolina,
16 called our office. She simply said to
17 me, you know, can you share the
18 Philadelphia Corporation of Aging's
19 number with me? I did. She wouldn't
20 give me any detail. Two years later, we
21 find out the detail. And what's ironic
22 is, the mother lived in a house with one
23 of her sons. The house next door
24 belonged to her oldest son. So that
25 family was there together. They owned

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2 two adjoining homes.

3 But that one phone call messed
4 that entire family up. The guardian was
5 appointed. There wasn't any family find,
6 is what I'm thinking, because she had a
7 son next door that owned his own
8 construction business, and that one phone
9 call, as Nancy said, once you call the
10 help line, you're cut off. You don't
11 know what's going to happen.

12 Jackie Clay, who was on the
13 list to testify today, got sick this
14 morning. Jackie is the manager of one of
15 our senior buildings in our district, and
16 she e-mailed me her statement. I'm not
17 going to read the whole statement, but
18 the gist of the statement is, there was a
19 senior in her building who was appointed
20 a guardian. Once he got the
21 guardianship, he came to her and said to
22 her, I will pay her rent, but I need you
23 to go do her errands and her shopping and
24 see that she gets to the doctor. She's a
25 building manager. Not her

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2 responsibility.

3 So what Jackie told us happened
4 was, once management refused to assist
5 this guardian with that, he had someone
6 come and tell the lady she was going to
7 the doctor. They've never seen the
8 senior citizen again.

9 I can't make these things up.
10 I just can't. And, I mean, I have at
11 least six or seven cases where guardians
12 have been appointed and there are family
13 members that care about their mothers,
14 fathers, uncles, and aunts, and I just
15 think there's not enough family find.

16 Now, it's encouraging to see,
17 number one, that the state and the
18 federal government are looking into rules
19 and regulations about guardianship. The
20 one common thing that I think we should
21 look at is that they claim that there's
22 an audit report done on how money is
23 spent yearly. We need to make sure that
24 happens to our courts. Because too many
25 of the families are saying -- here's the

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2 other common denominator I found in my
3 five years of being with the Councilman.
4 At least four families have widowers who
5 have six-digit bank accounts that winded
6 up with guardians, but the family -- they
7 want the family to take care of the
8 person on a daily basis, but the courts
9 have appointed somebody else to oversee
10 their finances. And that's pretty scary,
11 you know.

12 Last month a family came to us
13 because they won \$3.2 million in a
14 lawsuit concerning their sister who lives
15 in a nursing home. Everybody in the
16 family agreed that they wanted a guardian
17 over the sister because all of the
18 siblings were in their 80's, but these
19 are sharp girls. They came down here --
20 well, they came to Wynnefield. Then they
21 came down here. And when the guardian
22 found out that the family was awarded
23 \$3.2 million, he then created a
24 three-page detailed financial report
25 saying that they owed him like \$10,000 to

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2 \$15,000. And he petitioned the court two
3 days after Christmas. The family was
4 made aware of it, and then he turned
5 around and took the petition away, but
6 yet filed another one on January 4th,
7 which meant that the family would not
8 have had time -- if they had not been on
9 top of things, he would have gotten to
10 her money.

11 COUNCILMAN TAUBENBERGER:
12 That's very sad.

13 MS. TANN: I'm just going to
14 share that little bit with you, because
15 it's indicative of case after case after
16 case, and it's very frustrating. I think
17 that help line at PCA, it's a good thing
18 when it's needed, but we need to look
19 into what their procedures are.

20 Thank you very much.

21 COUNCILMAN TAUBENBERGER: Thank
22 you very much. Thank you.

23 MS. MILLER: Hi. Good
24 afternoon. My name is Felicia Miller.
25 But just to touch on a few things that

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2 Ms. Crystal said. We need to have some
3 type of oversight and monitoring system
4 locally, but especially in determining
5 what makes someone incapacitated.
6 Because of the cases that we've heard, we
7 have people that said, well, I had a
8 doctor who has never met me before and he
9 interviewed me for an hour and I'm
10 incapacitated, when she has a primary
11 doctor that she's had for 24, 30 years
12 that they're not consulting with. So
13 there needs to be something that's in
14 place to incorporate their primary
15 doctors to also be involved with the
16 hearing and then however they're choosing
17 these guardians, as it was touched on
18 before, you can have a friend, and who
19 knows if that friend is giving that judge
20 a kickback or whoever is appointing them
21 guardians. We're hearing a lot of
22 stories of the same names being involved,
23 the same guardians, the same judges, and
24 that's becoming an issue with us, and we
25 need to have something in place to be

1 4/8/19 - AGING - RES. 180847, ETC.

2 able to monitor this.

3 MS. TANN: I'm glad she brought
4 that up. It does seem as though the
5 abuse, the same type names come up.

6 I think you asked a question
7 earlier, Councilman Jones, where was the
8 other lady. She's in Ireland. She moved
9 to Ireland.

10 The other thing -- I don't know
11 if you guys remember. Last year a woman
12 who was under guardianship passed away,
13 was buried, and her family was never
14 informed until her son or grandson went
15 to the nursing home looking for his
16 grandmother and she wasn't there, and
17 they told her she passed away. The
18 guardian buried her without even
19 contacting the family. These type of
20 things have to stop.

21 COUNCILMAN TAUBENBERGER:
22 That's terrible.

23 MS. MILLER: Thank you.

24 COUNCILMAN TAUBENBERGER: Thank
25 you both very, very much.

1 4/8/19 - AGING - RES. 180847, ETC.

2 COUNCILMAN JONES: Thank you.

3 I want to thank you for being our canary
4 in the coal mine when it comes to our
5 seniors.

6 When Crystal hears it, says it,
7 we act on it.

8 So thank you both for your
9 testimony.

10 MS. TANN: Thank you.

11 COUNCILMAN TAUBENBERGER: Thank
12 you all very much.

13 Seeing no further witnesses or
14 discussion, I will adjourn this meeting
15 to the call -- this hearing to the call
16 of the Chair.

17 Thank you all very much.

18 (Committee on Aging concluded
19 at 3:55 p.m.)

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CERTIFICATE

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

MICHELE L. MURPHY
RPR-Notary Public

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direct control and/or supervision of the
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vacate	walkers	wasn't	we've	winded	works	years	15,000
vague	walking	wasn't	we've	winter	works	years	15,000
variety			we've	wires	works	years	15,000
various	wall		we've	wishes	works	years	15,000
vehicles	want		we've	witness	worry	years	15,000
version			we've	witness	worry	years	15,000
versus			we've	witness	worry	years	15,000
Veterans			we've	witness	worry	years	15,000
violated			we've	witness	worry	years	15,000
violates			we've	witness	worry	years	15,000
violation			we've	witness	worry	years	15,000
violations			we've	witness	worry	years	15,000
visit			we've	witness	worry	years	15,000
visiting			we've	witness	worry	years	15,000
voluntarily			we've	witness	worry	years	15,000
volunteer			we've	witness	worry	years	15,000
volunteers			we've	witness	worry	years	15,000
vu			we've	witness	worry	years	15,000
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