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COUNCIL OF THE CITY OF PHILADELPHIA
PUBLIC HEARING
COMMITTEE ON LICENCES AND INSPECTION

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Room 401, City Hall
Philadelphia, Pennsylvania
Wednesday, June 16, 1999
9:55 a.m.

- - -

BILLS: 980711, 990158, 990182, 990223

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PRESENT:
COUNCILMAN JAMES F. KENNEY, Chairman
COUNCIL PRESIDENT VERA
COUNCILMAN MICHAEL A. NUTTER
COUNCILMAN FRANK RIZZO

- - -

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1 Bill No. 980711

2 THE CHAIRMAN: Good morning, ladies and
3 gentlemen. The Council Committee on License and
4 Inspection is now in session. We have a quorum
5 present. Council President Anna Verna, Councilman
6 Michael Nutter, Councilman Frank Rizzo.

7 First, I want to apologize to all in
8 attendance, both witnesses and guests, for this late
9 start. It is predominately my fault. I was at an
10 event that I could not get away from. I seek your
11 indulgence and apologize for your waiting.

12 The first bill today is Bill No. 980711,
13 which is an Ordinance amending Title 1 of the
14 Philadelphia Code entitled, "General Provisions," by
15 providing a general procedure for the issuance
16 of "notices of violation" and the payment of a
17 specified amount in response to a notice of
18 violation, in lieu of a code enforcement complaint
19 being issued and fines being imposed in the full
20 amount provided by particular sections of the Code
21 or regulations adopted under any provision of the
22 Code; all under certain terms and conditions.

23 Please identify yourself for the record
24 and explain what this means because I have no idea
25 from reading the title what this attempts to do.

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2 MR. CAMPBELL: Good morning, Councilman.

3 I'm John P. Campbell, legislative regulatory affairs
4 manager for the Department of Licenses and
5 Inspections. And I had prepared testimony, but I
6 guess like my old algebra homework, the dog ate it,
7 so I wasn't able to provide it today.

8 What this bill will do, I guess sometime
9 back in the 1950s early 1960s, the City of
10 Philadelphia started issuing sanitation violations
11 primarily police officers would go out if your
12 sidewalk wasn't swept, if there was trash not
13 bundled properly, or if you didn't remove the snow
14 from the sidewalk you would get a ticket for one of
15 -- they refer to them as sanitation violations.

16 In the early 1980s, the city starting
17 with animal nuisance laws, expanded the use of the
18 sanitation tickets. Because they were doing more
19 than sanitation items, they changed them to Code
20 violation notices. So that you would handle the
21 normal sanitation items, but you would also deal
22 with the animal nuisance violations, unleashed dogs,
23 whatever dogs do on the sidewalk, et cetera.

24 In the early 1990s, with the beginning,
25 really, I guess 1992, as we started to make other

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2 Code changes in the regulation of business,
3 individual conduct, health code, et cetera, we
4 started to write in each Code section the provision
5 that in lieu of -- basically what you write in the
6 title, in lieu of a court appearance of code
7 enforcement complaint and appearance in municipal
8 court, we would deal what is basically a negotiated
9 plea. We would hand you the ticket because we
10 caught you for that unique or discrete violation.
11 The scattering of handbills on the sidewalk or
12 selling cigarettes to minors, and in working with
13 about the Bureau of Administration adjudications, we
14 decided -- and this is really a great way to go --
15 to go to the first chapter of the General Code where
16 all the administrative provisions are and say, hey,
17 let's do for the whole General Code so that what
18 this bill in fact does will give us permission to
19 write violations, to write those CVNs, Code
20 Violation Notices, tickets for those one-time-only
21 minor type violations.

22 THE CHAIRMAN: Who is "us"?

23 MR. THOMPSON: "Us" being anybody who is
24 permitted to issue these tickets which would be
25 always police, Licenses and Inspections, Health

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2 Department, Streets Department people.

3 THE CHAIRMAN: Are there specific
4 violations that you're not permitted to write
5 tickets for now?

6 MR. CAMPBELL: We believe that we are --

7 THE CHAIRMAN: Are there violations of
8 these nuisance ordinances that you're not permitted
9 to write tickets for now.

10 MR. CAMPBELL: There are over a number,
11 for example, vendors, the vendor who opens the stop
12 cock on his food truck and lets the greasy water
13 fall, what we do now is we give them a violation
14 notice. They have to go to municipal court.

15 Here, we can cite them, give the ticket
16 right there. It's a negotiated -- if they agree the
17 to pain the money, that takes care of the violation.
18 What we're trying to do with this it is modify
19 behavior, conduct.

20 THE CHAIRMAN: So you're Code
21 enforcement issues into the realm of administrative
22 adjudication issues?

23 MR. CAMPBELL: That's correct. This
24 will be particularly good for us in areas like we
25 have before you start construction activity with

1 Bill No. 980711

2 building permit, you're required to call us to have
3 a pre-inspection. Contractors don't call. We write
4 the violation. By the time it gets to court months
5 later, it's a laborious process. The judge looks at
6 it and it's so minor that nothing ever happens.

7 Here, you can cite them up front. It
8 also deals with those quality of life issues that we
9 all suffer under. There are, when you look through
10 the various sections, repairing cars on sidewalks.
11 This is like a immediate enforcement. And as I had
12 said, to modify behavior to get people to comply
13 with the Code. Ultimately, we want people to comply
14 with the Code.

15 THE CHAIRMAN: Judge Cermele, could you
16 please give your testimony, and then we'll open
17 questions.

18 JUDGE CERMELE: Good morning, Councilman
19 Kenney, Members of the Council I am Dominic Cermele,
20 Deputy Finance Director and Executive Director of
21 the Office of Administrative Review. Unlike John
22 Campbell, I'm not going to retire in two days so I
23 actually prepared testimony and it is before.

24 I appreciate the opportunity to testify
25 on Bill 980711 which would add the Title 1 of the

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2 Philadelphia Code a provision for the issuance of
3 Code Violation Notices in lieu of Code enforcement
4 Complaints.

5 As you know the, units that currently
6 handle the processing, the collection, adjudication
7 and prosecution of unpaid Code Violation Notices are
8 under my jurisdiction. CVNs are simply tickets.
9 They allow the violator the option of paying or
10 requesting an administration hearing at the Bureau
11 of Administrative Adjudication to resolve the
12 violation. We use CVNs now for a variety of Code
13 Enforcements, primarily those violations that are
14 discrete in nature which do not lend themselves as
15 readily to prosecution by Code Enforcement
16 Complaint. We typically they are written for
17 sanitation code, for false burglary alarm
18 violations, tobacco sales, and storage legislation
19 and other prohibited public conduct. Our closure
20 rate for CVNs varies by the type of infraction, but
21 they generally range in the 65 percent closure rate.
22 CVNs for tobacco infractions have a closure rate in
23 excess of 75 percent, and based on studies by TEACH,
24 the Tobacco-free Education and Action Coalition for
25 Health, the City's partner in this enforcement

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2 effort, the issuance of CVNs for tobacco sales to
3 minors has been very successful in deterring vendors
4 from further behavior of that type.

5 There are a number of other advantages
6 to the use of CVNs for the enforcement of quality of
7 life type violations. In many instances a ticket
8 can be issued on the spot to the violator giving him
9 or her immediate notice of the prohibited condition
10 or behavior. Even when these CVNs are mailed, they
11 can readily executed in a moment by a competent
12 enforcement officer. And that prompt notice
13 improves our ability to the get the violation
14 corrected, the behavior changed, and the
15 corresponding fine collected. If the responsible
16 party has an explanation to offer which he or she
17 believes will exonerate them from the fine, they
18 simply check the hearing request box and return the
19 ticket to obtain a hearing date. As you know, we're
20 open from 9:00 a.m. to 8:00 p.m. Monday through
21 Friday and 9:00 a.m. to 12:00 on Saturdays.

22 The use of CVNs can aid in reducing the
23 amount of resources necessary for enforcement and/or
24 allow enforcement resources to be spread further.
25 SEPTA police recently began to write CVNs for the

1 Bill No. 980711

2 enforcement of the smoking prohibition on their
3 trains and stations and other facilities, thereby
4 relieving their officers of the need to leave their
5 patrol duty to cite someone for this infraction.
6 Philadelphia Police use CVNs on parade routes and at
7 the stadium complex or other places of assembly
8 accommodating 2,000 or more for disorderly conduct,
9 public drunkenness, and failure to disperse.

10 THE CHAIRMAN: Excuse me. That's done
11 now, right?

12 JUDGE CERMELE: That's correct, that
13 part's done now, things that we do now. CVNs
14 replace criminal citations on these occasions
15 depending on the nature of the nuisance and it
16 removes if they're minor offenses the criminal
17 stigma and the criminal repercussions which are very
18 unlikely to be invoked in any case. CVNs can be
19 issued by non-police enforcement agents, agents of
20 the Streets Department issue CVNs, as do agents of
21 the Health Department, L & I, and other departments.
22 The Health Department employ CVNs for animal-related
23 violations. L & I uses it for handbill distribution
24 law. Fairmount Park rangers use CVNs to maintain
25 compliance with park rules and regulations.

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2 No enforcement device is a panacea.
3 CVNs not more likely to deter the most uncivilized
4 among us, but we recommend that the infractions
5 which are selected for CVN enforcement be chosen
6 carefully and that the criteria and procedure for
7 CVNs be clearly determined by the enforcing agency
8 in advance. I and my staff pledge to work closely
9 with those agencies interested in using this tool,
10 and I would urge the Council to enact this
11 legislation and to support its implementation.

12 THE CHAIRMAN: Thank you. Let me
13 question about what happens when the person ignores
14 the violation? For example, you have an individual
15 at Veterans Stadium, creates disturbance, foul
16 language, public drunkenness, and exited from the
17 building and given a violation for that misbehavior
18 for disorderly conduct or public drunkenness. And
19 while he's out in the parking lot and on the way
20 home, he rips up the ticket and throws it away.
21 What happens ultimately to that person?

22 JUDGE CERMELE: Initially, we send that
23 person a letter telling him that he an owes us \$25.
24 When he fails --

25 THE CHAIRMAN: Well, actually, it would

1 Bill No. 980711

2 be \$300 in this case.

3 JUDGE CERMELE: Okay. We then add the
4 appropriate penalty to it depending on the
5 violation. And if he chooses to ignore or notices,
6 we via the computer file with the Municipal Court a
7 Code Enforcement Complaint and we take the
8 responsibility of prosecuting those CECs in
9 Municipal Court.

10 THE CHAIRMAN: Give me an example. Walk
11 me through his misbehavior, the issuance of a
12 ticket, his ignoring it. Is there an ultimate
13 penalty in the end? Certainly not jail time, but is
14 there some inconvenience to that individual's credit
15 rating, is there some potential scofflaw status?

16 JUDGE CERMELE: When we bring -- as you
17 know most of the individuals who get that type of
18 violation do not live in the City of Philadelphia.
19 So we serve those people by First Class Mail and by
20 Registered Mail. We then notify them of their
21 responsibility to attend a hearing at our offices,
22 and failing in that, we notify them by Code
23 Enforcement Complaint summoning them to Municipal
24 Court. When they fail to show up at Municipal
25 Court, we move for and receive a default judgment

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2 against the individual, file that judgment of
3 record, and notify the National Credit Bureau of the
4 status of that individual. It's much harsher than
5 our notification of parking violations to the Credit
6 Bureau because these actually result in finality by
7 being actual judgments which are a severe detriment
8 to a person's credit rating.

9 THE CHAIRMAN: What is the length of
10 time between the issuance of the ticket and CVN and
11 the ultimate status as default judgement? Just
12 average.

13 JUDGE CERMELE: About six months.

14 THE CHAIRMAN: On the smaller types of
15 infractions, the vendor who lets his water go or the
16 person that lets their dog go anywhere, what
17 ultimately happens? Is that a \$25 fine for that
18 kind of activity?

19 JUDGE CERMELE: For the --

20 THE CHAIRMAN: For the vendor
21 situation, for the dog.

22 JUDGE CERMELE: Yes, most of these
23 violations start at 25. It's only when Council
24 specifically request in some areas that there's a
25 particular need that there's a higher fine.

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2 THE CHAIRMAN: What happens to the
3 person on the lower end fine who ignores the ticket?

4 JUDGE CERMELE: Typically, they pay.

5 THE CHAIRMAN: The ones who don't pay.

6 JUDGE CERMELE: They end up with a \$300
7 judgment the same as the others. Because of their
8 continued ignoring of the process, they end up
9 becoming a scofflaw just like the other person who
10 may have started at 300, they end up at 300.

11 THE CHAIRMAN: An individual who creates
12 or causes repeated violations, the same vendor, for
13 example -- and I'm not picking on vendors. But the
14 same vendor who is now cited for the fifth time for
15 dumping his greasy down the sewer, down the storm
16 drain, what happens? Is he then moved from there to
17 the Code Enforcement.

18 JUDGE CERMELE: Yes. This is a dual
19 path process. You can go CVN process or the
20 department judges that this is a type of violation
21 or repeated violation that requires judicial
22 intervention, then they have the option of going
23 directly to a Code Enforcement Complaint and have a
24 judge order the person to cease and desist.

25 THE CHAIRMAN: Are there interest

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2 penalties applied to late paid fines or fines that
3 have been disregarded?

4 JUDGE CERMELE: There are penalties,
5 not interest. But once a matter becomes a judgment,
6 then there's interest added on top of the penalty.

7 THE CHAIRMAN: And the judgment limit is
8 300.

9 JUDGE CERMELE: That's correct.

10 THE CHAIRMAN: Based on the Charter
11 requirement.

12 JUDGE CERMELE: In Philadelphia,
13 although state law would allow to us go to a
14 thousand.

15 THE CHAIRMAN: Are there any other out
16 of county sanctions as a result of not paying? Is
17 there intercounty cooperation when it comes to
18 driver's licenses or other types of things that, for
19 example, as we've learned 75 percent or so or more
20 of our miscreants at Veterans Stadium, our
21 suburbanites? Is there any other sanctions that
22 follow them into their county area.

23 JUDGE CERMELE: None that I know of. In
24 Pennsylvania, of course, judgment is state wide and
25 is enforceable state wide, so we actually could have

1 Bill No. 980711

2 the constable execute upon those judgments in the
3 counties. We do not -- we could have the constable
4 execute through the district justice and through the
5 counties surrounding us, but that is an option that
6 we do not do at this stage.

7 THE CHAIRMAN: Thank you very much.
8 Councilman Rizzo.

9 COUNCILMAN RIZZO: Thank you. Could you
10 describe -- I've heard recently of a scenario,
11 underage drinking at Veterans Stadium does not come
12 under what you just described; is that correct?

13 JUDGE CERMELE: Underage drinking is
14 governed by state law. That is an area that is
15 preempted from us. Underage drinking -- now I'm
16 going to recall when I was a traffic court judge --
17 but essentially what it does is impose a fine
18 through the court system and also provides a penalty
19 of denial of the issuance of a driver's license, if
20 you don't already have one, at the time that you do
21 request one. Or if you have one, a suspension of
22 your driver's license privilege even if the underage
23 drinking had nothing to do with driving.

24 COUNCILMAN RIZZO: So this process that
25 we're discussing today --

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2 JUDGE CERMELE: That would not change
3 that.

4 THE CHAIRMAN: I guess the only
5 situation where it would occur is if the an underage
6 drinker was drinking in the parking lot at Veterans
7 Stadium then they can be cited for public
8 drunkenness.

9 JUDGE CERMELE: But it is not mutually
10 exclusive.

11 THE CHAIRMAN: But the potential
12 considering the inebriated state of the individual,
13 could be a penalty that could be issued by us as it
14 relates to alcohol. So what my point is is that
15 alcohol is not totally eliminated from our ability
16 to cite because we do it with the public
17 drunkenness.

18 My question is then since we're not
19 preempted from a public drunkenness issuance of a
20 ticket, why are we preempted from underage?

21 JUDGE CERMELE: Because the state --
22 under the Sterling Act, the State took over that
23 issue.

24 THE CHAIRMAN: The theory is that an
25 adult who is publicly drunk in a public place like

1 Bill No. 980711

2 Veterans Stadium can be issued \$300 fine, and that
3 is not preempted by state statute. Why is then
4 underage drinking --

5 JUDGE CERMELE: Actually, I believe the
6 State sanction is to be more onerous than our
7 sanction would be in that there is a fine and there
8 is a suspension of the driver's license privilege.
9 As you know, a young person values his driver's
10 license considerably. I would really consider their
11 sanction to be more onerous.

12 THE CHAIRMAN: But where I'm leading to
13 in this is that under our current City ordinances,
14 we have parental responsibility in addition, and my
15 argument would be in addition to the driver's
16 license and in addition to the aggravation that that
17 child has to go through, the parents would be likely
18 to be cited and have to pay for --

19 JUDGE CERMELE: Obviously, this would be
20 something you would want to check with the Law
21 Department, but I do not believe that we are
22 preempted from issuing citations to the parents on
23 that basis.

24 THE CHAIRMAN: Could we examine that?

25 JUDGE CERMELE: Yes, we could.

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2 THE CHAIRMAN: Thank you. Who are the
3 people permitted to issue such CVNs? Can you give
4 me the list of those?

5 JUDGE CERMELE: We do have a list. It's
6 by department. It is those individuals in the
7 various departments who are authorized by their
8 commissioners to have enforcement power. They are
9 sworn in. From time to time I've had the privilege
10 of swearing some of the sweep officers in. In fact,
11 I think there's a ceremony next week where a new
12 class of sweep officers are going to be sworn in. L
13 & I, of course inspectors have always have had law
14 enforcement capability. Remember, these are civil
15 matters, so it's really within the department and in
16 an accordance with the City Charter they are granted
17 this. Even Public Property would have the ability.
18 Although I don't think we have Public Property
19 issuing any citations at this point. There actually
20 is a provision in the Charter that would permit
21 Public Property to issue CVNs based on violation of
22 City regulations, like not smoking in City Hall.

23 THE CHAIRMAN: What is your opinion of
24 the cooperate of the Police Department in the
25 issuance of these citations? For example, we've had

1 Bill No. 980711

2 our discussions about Vet Stadium. The Eagles seem
3 to do it on a regular -- the police and the Eagles
4 security seem to do it on a regular basis. The
5 Phillies are a little more lax up until opening day,
6 and I think they've stepped up their enforcement.
7 Do the police view this as more a demeaning process
8 for them? They don't want participate?

9 JUDGE CERMELE: Initially, when we
10 started using CVNs and developed ticket books for
11 CVNs, the police under a prior commissioner decided
12 that they would reserve the use of CVNs to a certain
13 designated group of officers. That is, those
14 officers assigned to each district as the --

15 THE CHAIRMAN: Sanitation or abandoned
16 auto?

17 JUDGE CERMELE: They're usually the
18 same, the sanitation and abandoned vehicle officer.
19 So those were the only ones trained in using CVNs.
20 However, with the advent of the sidewalk behavior
21 bill enforcement, that has been spread out to all
22 police officers now have the ability and the
23 training to write CVNs.

24 Until opening day this year of the
25 Phillies, I would have said, had you asked the

1 Bill No. 990182

2 question before, why tickets are issues at the
3 Eagles games and not the at the Phillies, until
4 opening game this year I would have said it's
5 because the bad behavior occurs at the Eagles and
6 not at Phillies game. But I was at opening day and
7 saw those students from your alma mater.

8 THE CHAIRMAN: They'll find no solace
9 with me, believe me. I will not be defending anyone
10 in that circumstance.

11 Are there any other questions for these
12 witnesses?

13 MR. CAMPBELL: Councilman, I would just
14 ask that the Rules of Council be suspended to permit
15 First Reading.

16 THE CHAIRMAN: It's a blanket request
17 today for the end of our session for the summer.

18 MR. CAMPBELL: Thank you, sir.

19 THE CHAIRMAN: Is there anyone else to
20 testify on this bill?

21 Seeing none, we will now move to Bill
22 No. 990182, which is an Ordinance amending Section
23 9-205 of the Philadelphia Code relating to Sidewalk
24 Sales by adding a new provision prohibiting sidewalk
25 sales on Godfrey Avenue from Fifth Street to Broad

1 Bill No. 990182

2 Street, both sides.

3 Please identify yourself for the record.

4 Before you do that, just for anyone who
5 is here, Bill No. 990223 will be held at the request
6 of the sponsor. So anyone here to testify on Bill
7 No. 990223, there will be no testimony taken today.
8 Thank you.

9 Please identify yourself for record.

10 MR. CAMPBELL: Thank you, Councilman.
11 I'm John P. Campbell, Legislative Regulatory Affairs
12 Manager for the Department of Licenses and
13 Inspections. I'm here to testify on the provisions
14 of Bill No. 990182, which is a sidewalk sales bill
15 that would ban vending and sidewalk sales on Godfrey
16 Avenue on Fifth Street to Broad Street.

17 As always, on the sidewalk issues, the
18 Department has no objection to the enactment of this
19 bill and will enforce its provisions. There are
20 currently two vendors located in the 1200-block of
21 Godfrey Avenue and I believe it's near a school.
22 When this legislation is enacted, we will notify
23 the vendors to move. I guess the discussion
24 Councilman Nutter and I have had over the years is
25 with so many sidewalk prohibitions, how can you

1 Bill No. 990182

2 enforce them all. And really for the most part
3 after the initial legislation -- after the initial
4 movement of the vendors, we rarely get called back.
5 There are areas that I can think of right off the
6 top of my head near where I live where eight years
7 we put in vending prohibition in, like, four or five
8 different areas in my immediate neighborhood, and
9 nobody has ever be back there. Although it's on the
10 books and there are five separate sections, we
11 rarely don't get that much of repetitive call for
12 people vending there illegally. We get calls for,
13 of course, illegal vending actions, other violations
14 of the Code, things that we will now be able to
15 solve with the CVN.

16 THE CHAIRMAN: Thank you. Any questions
17 for Mr. Campbell?

18 I think there's one witness to testify
19 on in favor of this bill.

20 Good morning. Please identify yourself
21 for the record.

22 MS. WATTS: Good morning. My name is
23 Phyllis Watts, W-a-t-t-s.

24 THE CHAIRMAN: Please proceed.

25 MS. WATTS: As a resident of East Oak

1 Bill No. 9901158

2 Lane since 1980 and as an active individual trying
3 to do whatever I can do to increase the quality of
4 life in my community, I'm here to testify on behalf
5 of not having any vending on Godfrey Avenue. It
6 affects our quality of life, our property values.
7 You have noise pollution. You have congestion. You
8 know pedestrians. You have their cars blocking
9 driveways and double parking. So it's something
10 we're fighting because we don't want any vending in
11 East Oak Lane, period.

12 THE CHAIRMAN: Tell us how you really
13 feel.

14 MS. WATTS: That's how I really feel.

15 THE CHAIRMAN: I'm only kidding. Thank
16 you for taking the time to come in and for waiting.

17 Any questions for this witness?

18 Thank you very much.

19 MS. WATTS: You're welcome.

20 THE CHAIRMAN: Anyone else here to
21 testify on this bill?

22 Seeing none, we will now move to Bill
23 No. 990158, which is an Ordinance amending the
24 provisions of Title 4 of the Philadelphia Code ("The
25 Philadelphia Building and Construction Occupancy

1 Bill No. 9901158
2 Code") by revising the fees that must be paid for
3 issuance of licenses for multiple-family dwellings,
4 rooming houses, and residential rental properties,
5 including, among other things, providing that
6 owner-occupied dwelling units in a multiple-family
7 dwelling will now be included in calculating the fee
8 for the multiple-family dwelling license; by
9 exempting from the need to obtain a residential
10 rental property license a dwelling or rooming unit
11 located in a building for which a multiple-family
12 dwelling license has been issued; and by providing
13 that no person may offer a dwelling or dwelling unit
14 for rent unless the person obtains a business
15 privilege license; all under certain terms and
16 conditions.

17 Please identify yourself for record and
18 proceed.

19 MR. FELDGUS: Councilman Kenney, I am
20 Richard Feldgus Administrative Services Director for
21 the Department of Licenses and Inspections. I'm
22 here today to testify in favor of Bill 990158.

23 This legislation will amend the housing
24 license fee charges imposed by the City of
25 Philadelphia on multiple-family dwellings and

Bill No. 9901158

residence rental properties. To be noted that while the Department is not taking any action to change the amount of the base fee that is currently being charged, we are altering the housing license fee for some multiple-family dwellings and some residential rental properties.

Heretofore, based on a decision made by Municipal Court, all owners of residential rental properties wishing to take action in Municipal Court are required to produce a residential rental property license. This included investor/owners of condominiums in multi-family dwelling where the multi-family dwelling was otherwise licensed. Legal action was taken against the City challenging this licensing practice. Judge Levin of Common Pleas Court has now issued an order stating that the City can no longer require investor/owners of condominiums to obtain a residential rental property license in multiple-family dwellings. The judge's order is reflected in Section PM-102.3.

In discussion of this case, Judge Levin made it clear that he believed the City's licensing practice should no longer allow two identical buildings to be charged different license fees based

Bill No. 9901158

1
2 on whether one building is a condominium and a
3 second a rental apartment building. Accordingly, we
4 are now establishing a license schedule we require
5 all multiple-family dwellings to pay for all units.
6 To accomplish this, we propose elimination of
7 provision which granted a waiver of the license fee
8 for owner-occupied dwelling units in multiple-family
9 buildings. We believe that by changing both of
10 these provisions, we will be creating a situation
11 where no one is double charged or exempted from
12 paying for our inspection services and at the time
13 the City will receive all monies needed to cover
14 cost of conducting inspections, licensing, and
15 related housing services for multi-family dwellings.
16 We anticipate this bill will be revenue neutral.

17 Additionally, we are adding a new
18 section PM-102.8 requiring no person shall offer for
19 rent any dwelling or dwelling unit without first
20 obtaining a business privilege license. This
21 provision will enable Municipal Court to ensure that
22 those persons seeking redress before the Court are
23 properly licensed and paying taxes in the City of
24 Philadelphia. The department request a suspension
25 of the Rules.

1 Bill No. 9901158

2 THE CHAIRMAN: I thought that the
3 requirement to have a business privilege license in
4 rental property business was a requirement that's
5 been in existence for quite sometime.

6 MR. FELDGUS: We have not had a specific
7 provision relating to housing licenses. We would
8 agree that, yes, people who are in any business
9 would have to have a business privilege license.
10 This puts it specifically into this license. This
11 was an agreement we reached with Municipal Court so
12 that now when people come into the Municipal Court,
13 instead of asking for the residential rental
14 property license, they will now ask for the business
15 privilege license.

16 THE CHAIRMAN: So what this legislation
17 does is formally place the requirement of the BPL in
18 Title 4.

19 MR. FELDGUS: Yes.

20 THE CHAIRMAN: Does it exist anywhere
21 else?

22 MR. FELDGUS: Yes, sir. It's in Chapter
23 19-2602 dealing with the business privilege license.

24 THE CHAIRMAN: Thank you. Councilman
25 Nutter.

1 Bill No. 9901158

2 COUNCILMAN NUTTER: Mr. Feldgus, can you
3 give us some examples of what the problem is that
4 you think you've solved here?

5 MR. FELDGUS: Well, where this all comes
6 from, there was a suit filed, in fact, I have copies
7 of it if you want it, Allan Dom versus the City of
8 Philadelphia. Allan Domb being the, quote,
9 condominium king. Mr. Domb felt that the City was
10 improper double charging investor-owned condominiums
11 a double fee because the way the legislation was
12 written, in a condominium building, the
13 owner-occupied units were exempted. The
14 investor-occupied units had to pay both the
15 multi-family license fee and the residential rental
16 property fee. They were being charged twice.

17 MR. NUTTER: Which ones?

18 MR. FELDGUS: The investor-owned
19 condominiums.

20 COUNCILMAN NUTTER: Were being charged a
21 rental?

22 MR. FELDGUS: Were being charged twice.
23 Now that had grown up over a period of years. The
24 department never intended that to be the case.

25 COUNCILMAN NUTTER: Why would a

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2 condominium end up in a rental license fee situation
3 in the first place?

4 MR. FELDGUS: Well, condominiums came
5 into being in the mid-seventies. Before that time,
6 basically, multi-family buildings were essentially
7 rental buildings. Condominiums came as a form of
8 ownership at that point in time, and a lot of
9 buildings started converting over to condominiums.
10 Initially, they were owner-occupied. Eventually,
11 people decided, well, we can buy them and rent them
12 out and they and they became investor-owned units.

13 Over that period of time, the Department
14 has maintained that the only thing we want to do is
15 make sure that those buildings pay their fair share
16 of the cost of L & I conducting its business. So
17 that we basically took the position and have taken
18 the position that we just want our money. What has
19 happened is that Municipal Court got involved in
20 this thing and started requiring the residential
21 license which caused the second license to have to
22 be purchased. As a way to redress that problem,
23 Council adopted an exemption provision for certain
24 condominium units, and the situation just got to
25 this point where, quite honestly, we were not

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2 achieving what we wanted to achieve. We got into a
3 much more complex situation than we saw that was
4 necessary. All we wanted do is make sure that these
5 entire buildings are properly licensed, the City is
6 getting its money to provide its housing inspections
7 services in those building.

8 What we're doing with this legislation
9 is bringing us back to that point. As I said, the
10 complicating factor here was a decision handed down
11 by Judge Silverstein in the eighties where now he
12 required everybody to start buying these residential
13 rental property licenses in addition to the
14 multiple-family license and then the exemption that
15 was later granted. By changing that whole thing, by
16 eliminating both of those, going back to the
17 original intent of the Department's legislation, we
18 are now going to simplify the matter. We will
19 collect our money, and as far as we're concerned, we
20 have now come to the point where the judge is happy
21 that we will not be having two buildings side by
22 side, one charged one fee, and an identical building
23 charged a different fee both building charged the
24 same fee. Both buildings will now be charged the
25 same fee, and that will make everybody happy, at

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2 least the courts.

3 COUNCILMAN NUTTER: So one thing the
4 legislation does is you now have to get a
5 multiple-family dwelling license PM-102.3, if you
6 have one of those, you don't have to get a
7 residential rental property license?

8 THE WITNESS: Correct. You always had
9 to get the multiple-family license if you had a
10 multiple-family building. The question was how much
11 of a fee you paid. There was an exemption given to
12 owner-occupied units in lieu of the other amount of
13 money we were collecting for the residential
14 property license. By knocking both of those out,
15 now you just have to pay the one license fee and
16 that will cover the entire building.

17 COUNCILMAN NUTTER: And that's now based
18 on just a pure mathematical number of units times
19 \$25?

20 COUNCILMAN NUTTER: Correct.

21 THE CHAIRMAN: With a maximum of
22 \$10,000?

23 THE WITNESS: Correct. And that
24 simplifies life for us because the way this current
25 system works, every year we send out a bill to these

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2 condominium multi-family buildings. They have to
3 come back to us and tell us how many of the units in
4 that building are owner-occupied, how many are
5 tenant-occupied, and then we have to recalculate
6 license fee and all this is done by hand. It's time
7 consuming, it's expensive, and to be honest, it
8 really is unnecessary. This way we will be able to
9 just do it based on the number of units in the
10 building, send out the bill, they would pay it. It
11 would go through the Revenue Department. We
12 wouldn't have to hand process it. It will be a much
13 more efficient process for the Department.

14 COUNCILMAN NUTTER: Two last questions.
15 What if any impact does this have on colleges and
16 universities with their student housing?

17 MR. FELDGUS: None they're not affected
18 at all. They do have to pay the either rooming
19 house license or the multiple-family license
20 depending on the number of units in their building,
21 and they've been doing that.

22 COUNCILMAN NUTTER: And do I understand
23 PM-102.3 again THAT if a person just -- let's say a
24 person owns their house and they go and buy another
25 house and they decide to, either because they

1 Bill No. 9901158

2 couldn't sell their first house or they just want to
3 keep it but they've kind of moved up into wherever
4 else they want to live. They decide to rent their
5 house out to another family, put it in the newspaper
6 under the homes for rent section. By way of this
7 particular section, that person has to get either a
8 residential rental property license? In the
9 one-family dwelling, they would only have to get
10 that one, I guess.

11 MR. FELDGUS: They would only get that,
12 yes. That part of the law is not changed.

13 Today, before we adopt this legislation,
14 somebody wanting to rent out a single-family home
15 would have to get the residential rental property.
16 What this changes is where you have a
17 multiple-family building and it's a condo. The
18 individual owners heretofore all had to get license.
19 Now they won't have to do that.

20 COUNCILMAN NUTTER: Thank you very much.

21 THE CHAIRMAN: Thank you very much.

22 Are there any other questions for the
23 witnesses?

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

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2 Seeing none, I just want to make one
3 final comment. Mr. John Campbell has pulled the
4 plug on us and his last day Friday with City
5 Government. How many years?

6 MR. CAMPBELL: Thirty-four.

7 THE CHAIRMAN: Only seems like five,
8 doesn't it.

9 MR. CAMPBELL: I was a mere child.

10 THE CHAIRMAN: I want to personally
11 thank you. You've been appearing here at least the
12 length of time I've been Chairman of this Committee.
13 You've always been on time, not to say we are always
14 on time. Very efficient and very pleasant in the
15 way you've dealt with us. You've been pleasure to
16 deal with, and I just want to wish you good luck and
17 put your Phillies hat on and get on that first base
18 line.

19 MR. FELDGUS: Third base.

20 THE CHAIRMAN: Third base, I'm sorry.
21 And enjoy your retirement. We wish you very good
22 health and happiness and success in the future, and
23 we want to thank you for all your service.

24 (Applause.)

25 THE CHAIRMAN: This is your chance for

1 Bill No. 9901158

2 your parting shot.

3 MR. FELDGUS: Thanks. You guys have
4 been great. I mean, the last eight years has been
5 really great. I thank you for your cooperate, the
6 respect, the way you've treated me. And
7 additionally, we've had a lot of fun. And I guess,
8 you know, one of the advantages of sitting here is,
9 you know, we're really government at grass roots.
10 Everybody talks about the government, the federal
11 government is remote, the state government is
12 remote, but we're here every day in the trenches.
13 I've come to admire yourself, Michael, and the other
14 members just the way that you're there for your
15 constituents, and I don't think anybody over the
16 years who have seen it close as I have because I've
17 dealt with you all the time. And thank you.

18 THE CHAIRMAN: Thank you very much.
19 Good luck.

20 COUNCILMAN NUTTER: Mr. Campbell, I
21 would only add that I certainly echo the comments of
22 my colleague, Councilman Kenney. We have gotten to
23 know you well and work with you, and we will miss
24 you tremendously, your advice and good counsel. But
25 as occurs in the Government it really has been a

1 Bill No. 9901158

2 pleasure dealing with you. And who's taking your
3 place?

4 That was actually a joke.

5 MR. FELDGUS: Come on up front, Otis.

6 We'd like to introduce Otis Haigler. He's going to
7 be our new Legislative and Regulatory Affairs
8 Manager beginning on Monday.

9 THE CHAIRMAN: Thank you very much.
10 That will conclude the public hearing for the
11 License and Inspection Committee.

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COUNCIL OF THE CITY OF PHILADELPHIA
PUBLIC MEETING
COMMITTEE ON LICENCES AND INSPECTIONS

- - -

Wednesday, June 16, 1999

- - -

Public Meeting conducted by the
Committee on Licences and Inspections, held in Room
401, City Hall, Philadelphia, Pennsylvania, on the
above date, to consider action on the following:

BILLS 980711, 990158, 990182

- - -

PRESENT:
COUNCILMAN JAMES F. KENNEY, Chairman
COUNCIL PRESIDENT VERA
COUNCILMAN MICHAEL A. NUTTER
COUNCILMAN FRANK RIZZO

- - -

1 PUBLIC MEETING

2 THE CHAIRMAN: We will now convene the
3 public meeting in the License and Inspection
4 Committee. Again, let the record show that Bill No.
5 990223 will be held at the call of the Chair.

6 The Chair recognizes Councilmember
7 Nutter of Bill No. 980711.

8 COUNCILMAN NUTTER: Mr. Chairman, I move
9 the Bill No. 980711 be reported out of this
10 Committee with a favorable recommendation and the
11 further recommendation that the Rules of Council be
12 suspended so as to permit First Reading at our next
13 Session.

14 (Duly seconded.)

15 THE CHAIRMAN: Moved and seconded.

16 All in favor?

17 There are none opposed.

18 Bill No. 980711 will be reported out of
19 this Committee with a favorable recommendation and a
20 request made for the Rules of Suspension to allow
21 for First Reading at our next Council Session.

22 The Chair recognizes Councilmember Rizzo
23 for a motion on Bill No. 990182.

24 COUNCILMAN RIZZO: I move that this bill
25 be reported out of this Committee with a favorable

1 PUBLIC MEETING

2 recommendation and a request for a suspension of the
3 rules.

4 (Duly seconded.)

5 THE CHAIRMAN: Moved and seconded.

6 All in favor?

7 There are none opposed.

8 Bill No. 990182 will be reported out of
9 this Committee with a favorable recommendation and a
10 request will be made for the suspension of Rules to
11 allow for First Reading at our next Council Session.

12 The Chair recognizes Councilman Nutter
13 for a motion on Bill No. 990158.

14 COUNCILMAN NUTTER: Mr. Chairman, I move
15 that Bill No. 990158 be reported out of this
16 Committee with a favorable recommendation and a
17 further recommendation that the Rules of Council be
18 suspended so as to permit First Reading at our next
19 session.

20 (Properly seconded.)

21 THE CHAIRMAN: Moved and second.

22 All in favor?

23 There are none opposed.

24 Bill No. 990158 reported out of the
25 Committee with a favorable recommendation and a

1 PUBLIC MEETING

2 request will be made for Rules suspension to allow
3 First Reading at our next Council Session.

4 That will conclude of the business of
5 the Licenses and Inspections Committee. The Public
6 Property Committee will begin as soon as we obtain a
7 quorum. Thank you very much for your attendance.

8 (Council adjourned at 10:40 a.m.)

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C E R T I F I C A T I O N

I HEREBY CERTIFY that the foregoing
proceedings of the Council of the City of
Philadelphia of June 16, 1999, were reported fully
and accurately by me, and that this is a correct
transcript of the same.

RE: COMMITTEE ON LICENCES AND INSPECTIONS

Lisa C. Bradley, RPR
and Notary Public