

Committee on Labor and Civil Service
December 10, 2019

COUNCIL OF THE CITY OF PHILADELPHIA
COMMITTEE ON LABOR AND CIVIL SERVICE

Room 400, City Hall
1400 John F. Kennedy Boulevard
Philadelphia, Pennsylvania 19107
Tuesday, December 10, 2019
1:05 p.m.

PRESENT :

COUNCILWOMAN CHERELLE PARKER, CHAIR
COUNCILMAN BRIAN O'NEILL, VICE-CHAIR
COUNCILWOMAN HELEN GYM
COUNCILMAN ALLAN DOMB
COUNCILMAN AL TAUBENBERGER
COUNCILMAN DEREK GREEN
COUNCILWOMAN MARIA D. QUINONES-SANCHEZ
COUNCILMAN BOBBY HENON

RESOLUTION: 190794

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2 COUNCILWOMAN PARKER: Good
3 afternoon, everyone. This is the
4 public hearing of the City Council on
5 Labor & Civil Service. The purpose of
6 this public hearing is to hear
7 testimony on Resolution No. 190794. I
8 want to recognize that Members of the
9 Committee who are present are
10 Councilman Allan Domb to my right, and
11 Councilwoman Helen Gym to my left.

12 I do have some opening
13 remarks, but before I proceed I want to
14 ask my colleagues if you have any
15 opening remarks.

16 (No response.)

17 COUNCILWOMAN PARKER: With
18 that being said, particularly for the
19 benefit of those of you who are just
20 not seated in the chambers but those of
21 you who are at home, it's very
22 important to me that I give you some
23 context about why we're hosting this
24 hearing in the first place.

25 What seems to have begun as a

1 drip, drip, drip a few years ago has
2 now turned into a flood. What I'm
3 talking about is this new era of
4 outsourcing, mergers, acquisitions and
5 the role of private equity,
6 particularly in the healthcare
7 industry. I know this is happening in
8 other industries, but perhaps the
9 healthcare industry in Philadelphia is
10 so acutely aware of what's happening
11 here because we are a City of Eds and
12 Meds and meds being the operative word.

13 Every representative who
14 we've invited to testify here today has
15 been negatively impacted in this new
16 era. I also want to make it clear that
17 we are having this hearing today
18 because of their activism and because
19 they explicitly reached out to me to
20 request my action. As Chair of City
21 Council's Committee on Labor and Civil
22 Service, I am frequently reached out by
23 various unions and industry
24 representatives about issues that are
25 affecting their workers. So as we give

1 some foundation, I want you to just
2 bear with me for the record.

3 The foundation for this
4 hearing began about a year ago in late
5 2018, early 2019. Constituents of mine
6 who worked at the Somerton Center at
7 Spring Garden Center Nursing Homes
8 stopped by my office to let me know
9 that their new owner had slashed worker
10 wages and had made their healthcare
11 plans unaffordable. At the time, they
12 asked me to write a letter to their new
13 employer asking them to come to the
14 table and settle a fair contract with
15 quality jobs.

16 Now, I'm going to submit a
17 copy of that letter that I wrote at
18 that time as part of the public record
19 for today. The situation for the
20 nursing home workers was thankfully at
21 that time resolved in about a month or
22 two. I had my staff to reach out to
23 SEIU Healthcare for this hearing, with
24 the intent of using it as an example of
25 the satisfactory resolution when a new

1 owner comes in.

2 Now, you're not going to
3 believe this. When my staff reached
4 out to them to testify, I was dismayed
5 to learn that the Somerton Nursing Home
6 had another new owner that quickly,
7 another new owner. And this other new
8 owner was again trying to cut wages and
9 increase healthcare costs again. For
10 Somerton Center and to me, this was
11 just unbelievable.

12 This means that they've had
13 two different owners in this calendar
14 year alone and three different owners
15 in about three years. The next
16 foundation for this hearing is when
17 Chris Woods, the new President of
18 District Council 1199c, sent me a
19 letter over the summer explicitly
20 asking me to hold hearings as the Chair
21 of Labor and Civil Service to examine
22 the fact that Sodexo was a facility's
23 management corporation that lost its
24 contract at Hahnemann in 2018, they
25 refused to pay out paid sick leave and

1 vacation days to their workers. Now,
2 I'm also submitting that letter as a
3 part of the public record today.

4 And then finally, the last
5 foundation for this hearing was when
6 PASNAP reached out to our office in
7 early October. Their request was to
8 discuss the fact that St. Chris' new
9 owners did not intend to recognize
10 their collective bargaining agreement.
11 In particular, their new owners are
12 going after their Safe Staffing
13 Contract language and refusing to
14 recognize their members' accrued paid
15 time off prior to the bankruptcy. When
16 PASNAP reached out with their request
17 for a discussion, I invited them to
18 testify at this hearing since the topic
19 was so relevant to the issues they
20 wanted to discuss.

21 I wanted to provide this
22 background information as to how this
23 hearing came about to demonstrate to
24 those who are watching at home that
25 this hearing really has grassroots

1 origins. It comes directly from the
2 workers themselves and their own
3 advocacy. SEIU, Health Care 1199c and
4 PASNAP all independently reached out to
5 us asking for assistance. There was no
6 coordination amongst these three
7 entities. It was just what their
8 individual respective members were
9 experiencing and they're different
10 industries.

11 What I find so striking is
12 that despite the lack of coordination,
13 they are all dealing with similar
14 issues and workers who are being
15 negatively impacted, all of them worked
16 in the healthcare realm. Again, the
17 fact that they are all healthcare
18 workers, maybe because the medical
19 industry is such a large industry in
20 our city, but there's also a very
21 strong chance that these workers are
22 what we would call the canary and coal
23 mine in Philadelphia, and that the
24 issues that they are facing due to
25 outsourcing, mergers and acquisitions

1 can and do impact other workers in
2 other industries in this City.

3 In conclusion, the purpose of
4 today's hearing is solely
5 investigative. Once we get all of the
6 testimony on the record, we will be
7 working with the City of Philadelphia's
8 Law Department, our technical staff to
9 figure out what legislative remedies we
10 can proffer legally as the local
11 governing body that could assist and
12 protect workers in the future.

13 We're going to hear directly
14 from workers in unions. We're then
15 going to hear today from the Mayor's
16 Office of Labor and a representative
17 from Spear Wilderman, a union-side
18 labor law firm about what can be done,
19 particularly at the local level, so we
20 really thank you for being here and
21 thank you for letting me just take some
22 time to provide some context for this
23 hearing.

24 In the meantime I want to
25 acknowledge the presence of more

1 members of the Committee who are here.
2 To my left, Vice-chair of the Committee
3 of Labor and Civil Service, Brian
4 O'Neill, Councilmember Al Taubenberger.
5 To my right, Councilmember Derek Green.
6 Majority Leader, Councilmember Bobby
7 Henon Councilwoman Maria Quinones-
8 Sanchez. Thank you so very much for
9 your presence.

10 And, Clerk, will you now read
11 the title of the resolution being
12 considered today.

13 THE CLERK: Resolution No.
14 190794, a resolution authorizing the
15 Committee on Labor and Civil Service to
16 hold hearings regarding service
17 providers and employers honoring
18 existing and prior worker contract
19 agreements.

20 COUNCILWOMAN PARKER: Will
21 the Clerk please call the first panel
22 to testify on the resolution. And
23 while they're coming up, the Chair
24 recognizes Councilwoman Gym.

25 COUNCILWOMAN GYM: Thank you

1 very much, Madam Chair, and I really
2 appreciate the ability to listen on
3 these important hearings. Last week
4 City Council passed a pretty historic
5 bill that requires hospitals to work
6 with the City of Philadelphia mandates,
7 advance notice of any closures of any
8 hospital emergency room or maternity
9 ward. And in that plan that they have
10 to deliver, they also have to talk
11 about what they do with collective
12 bargaining.

13 That is a very essential and
14 important part, especially as we know
15 what happened at Hahnemann was an
16 outrage. It was certainly out of
17 character for what we can see with
18 hospital closures, but it may not be
19 the last one that we see. One in five
20 rural hospitals is expected to close in
21 the United States over the next few
22 years.

23 There are 48 other hospitals
24 in the state of Pennsylvania in worse
25 financial position than what Hahnemann

1 was over the summer, so this is an
2 important hearing. It's an important
3 issue. The federal government has
4 largely had hands-off. We really do
5 need partners at the state level to
6 strengthen laws around hospitals,
7 collective bargaining rights.

8 In the event of these kinds
9 of things happening, we want to make
10 sure our folks are protected. We want
11 to make sure that new people who come
12 in don't try to utilize collective
13 bargaining rights, paid sick leave,
14 Medicare or malpractice insurance as a
15 means of trade and bankruptcy
16 agreements to extract the most amount
17 of profit.

18 We want to make sure that the
19 future of our city is strong even as we
20 try to weather some of these situations
21 that are happening across the
22 healthcare economy. But we as a city
23 are going to certainly need to step up
24 to be active in this field. And if we
25 are in partnership with our labor

1 unions, with our communities, with the
2 wide spectrum of folks who are impacted
3 by this, with our patience we can
4 actually see change move from the
5 ground up.

6 What happened to us at
7 Hahnemann must not and will not ever be
8 forgotten, but it is your stories that
9 will help make the change, not only
10 here in Philadelphia, but across the
11 state hopefully and eventually in D.C.
12 Thank you.

13 COUNCILWOMAN PARKER: Thank
14 you, Councilwoman Gym. Will the Clerk
15 please call the first panel to testify
16 on the resolution?

17 THE CLERK: Wendell Royster,
18 Shanrika Nelson, Dionnee Gary and Joy
19 Fleming.

20 (Panel approached
21 Witness Table.)

22 COUNCILWOMAN PARKER: As the
23 first panel is approaching the
24 microphone, I'm going to ask,
25 Ms. Fleming, if you would start first

1 because I know we have some scheduling
2 challenges here today. Good afternoon
3 to each of you and please state your
4 name for the record and then proceed
5 with your testimony.

6 MS. FLEMING: Hi. My name is
7 Joy Fleming and I've been at
8 St. Christopher's Hospital for over 27
9 years. We take care of some of the
10 most vulnerable kids in the area, some
11 of the most poorest families and we
12 have been through such turmoil in the
13 past, I guess, since Tenet brought us.
14 They were a for-profit company, and
15 then we were sold over to AHS. And
16 now, we're being sold over to Tower
17 who's nonprofit, but we have stuck
18 there through all of it because we love
19 the kids. We love taking care of that
20 population of kids and it means a lot.

21 We're really scared because
22 they're not honoring our contract.
23 Tower has said -- we have tried
24 multiple times to meet with them to
25 honor our Contract for the Safe

1 Staffing, which we fought very hard to
2 get into our contract. Prior to the
3 safe staffing, you would be a nurse,
4 you were pulled to other areas of the
5 hospital that you had not been familiar
6 with.

7 I work in the neonatal
8 intensive care unit, but I can be
9 pulled to take care of an 18-year-old
10 kid with sickle cell which I have no
11 knowledge-base. So ever since we got
12 the safe staffing, like the NICU nurses
13 would only take care of 3 and under and
14 the assignments were appropriate, and
15 we kind of felt secure, like you
16 weren't anxious every day going to
17 work.

18 So Tower, they just kind of
19 are ignoring our safe staffing. They
20 won't recognize it. So the nurses at
21 the hospital that have stayed through
22 the bankruptcy, stayed all summer not
23 knowing what's going to happen are
24 really scared, and we're scared too
25 that we're going to lose more nurses

1 and it's going to create more unsafe
2 conditions.

3 The other thing is a lot of
4 us have earned a lot of PTO time. And
5 I have been there for 27 years and I
6 have never not had any time and they
7 have deducted all of our time, so I'm
8 going into a negative 88 balance, and
9 the majority of the nurses have no
10 spare time where even if they were out
11 sick, that they would get paid. So
12 people are really scared about their
13 paychecks and their security, along
14 with the health insurance that the new
15 company has talked about.

16 Once again, the Tier 1 will
17 be either we have to go to Chestnut
18 Hill or Reading, which is like 50 miles
19 from some of us, and if not, then we're
20 Tier 2 and our deductibles and our
21 copays are so high that people are
22 really getting nervous. I'm thinking
23 it's really going to affect the
24 retention and we're just very upset
25 because we really want to take care of

1 the kids.

2 A lot of nurses have been
3 there for years, like 20 years, 30
4 years and they stuck out through all of
5 this. And then they saw Hahnemann
6 close. And so, they're scared that
7 that could happen to us also. So
8 that's basically the most of it.

9 We were hoping that Tower
10 would come in as a nonprofit, accept
11 our staffing language and adopt our
12 contract, because they got us at
13 bargain rate and we did make over the
14 money that they acquired us for. Last
15 year I think it was three-quarters a
16 year, we made \$58 million. They bought
17 us for \$50 million and they won't even
18 value us or honor the nurses.

19 Their attitude to us is
20 you're lucky we bought you, that we
21 saved you and you have a job. They
22 don't even seem to value the nurse's
23 experience or their professionalism or
24 anything, and the nurses are very upset
25 about this.

1 COUNCILWOMAN PARKER: Excuse
2 me, Ms. Fleming. Just for the record,
3 I know you had some scheduling
4 constraint. Will you be able to stay
5 because usually what we like to do is
6 hear testimony from all members of the
7 panel and then we can ask questions.

8 MS. FLEMING: Okay.

9 COUNCILWOMAN PARKER: So we
10 don't want to let you go because we
11 have questions for you.

12 MS. FLEMING: Okay. That's
13 fine.

14 COUNCILWOMAN PARKER: All
15 right.

16 MS. GARY: Good afternoon.
17 My name is Dionnee Gary and I'm proud
18 to be an administrative organizer for
19 District 1199c, a National Union of
20 Healthcare and Hospital Workers. I
21 appreciate the opportunity to testify
22 today. District 1199c is one of the
23 largest healthcare unions in the
24 Commonwealth of Pennsylvania.

25 We have over 13,000 members

1 throughout the Philadelphia region.
2 These workers are mainly employed at
3 hospitals, long-term care facilities
4 and other parts of the growing
5 healthcare industry. I worked closely
6 with our members at Hahnemann
7 University before it was shut down. I
8 also worked at Hahnemann over 16 years
9 before joining the staff of District
10 1199c. I am here today to provide
11 information to City Council about the
12 treatment of our workers by Sodexo, a
13 major facilities management corporation
14 with contracts throughout Philadelphia.

15 Specifically, District 1199c
16 is deeply concerned about Sodexo has
17 treated our workers who were employed
18 at Hahnemann University Hospital prior
19 to being closed. Our members were
20 treated very unfairly by Sodexo and we
21 want to know if what occurred was an
22 isolated incident or part of a pattern
23 of misbehavior by Sodexo that should be
24 informed contracting decisions in the
25 future.

1 Here is what happened, Sodexo
2 had a contract to provide both dietary
3 and environmental services to Hahnemann
4 with members of District 1199c doing
5 the actual work. According to the
6 contract, these workers had the right
7 to earn sick, vacation and personal
8 time. However, Sodexo lost the
9 contract in 2018, they refused to pay
10 out the earned sick time to our
11 members.

12 According to our
13 calculations, former employees at
14 Hahnemann are owed over \$218,000 in
15 compensation from Sodexo in connection
16 to both earned personal and sick time.
17 This is particularly outrageous because
18 many of the same workers who were
19 shortchanged by Sodexo at Hahnemann
20 lost their jobs when the hospital
21 closed and the corporate owners
22 declared bankruptcy. However, it
23 should be noted that Sodexo is not
24 bankrupt.

25 In fact, Sodexo remains a

1 very profitable company with lucrative
2 contracts throughout the Philadelphia
3 region. Sodexo can certainly afford to
4 pay our members the sick and vacation
5 time that they were owed under the
6 previous existing contract, especially
7 as many of them are struggling in the
8 aftermath of losing their job at
9 Hahnemann.

10 We are simply asking that
11 Sodexo pay our members the money that
12 they are owed. This has obviously
13 taken on a new urgency with the closure
14 of Hahnemann which has negatively
15 impacted many of our same workers that
16 Sodexo has refused to pay out for sick
17 and earned time. These employees are
18 currently trapped in limbo and deserve
19 to be treated fairly by all parties
20 involved in the management of
21 Hahnemann, including being paid what
22 they are owed by Sodexo.

23 Again, we want to know if
24 what happened at Hahnemann was an
25 isolated incident or an indication of

1 how they plan to treat all working
2 employees in the future. If so, we
3 hope that our local government
4 officials will hold this company
5 accountable and make sure they do not
6 continue to profit off the backs of
7 workers, especially who have lost their
8 jobs due to corporate greed of
9 Hahnemann owners. Once again, thank
10 you for the opportunity to testify at
11 today's hearing. I welcome any
12 questions.

13 MS. NELSON: Hello. My name
14 is Shanrika Nelson and I'm a certified
15 nursing assistant at Somerton Nursing
16 and Rehabilitation Center here in
17 Philadelphia. Thank you for inviting
18 me to speak to you today. I'm here on
19 behalf of my coworkers and my residents
20 at Somerton Center. I have spent 25
21 years caring for people at my nursing
22 home. Those people are my family. My
23 coworkers are my family. And someone
24 needs to speak for them today.

25 Much like Hahnemann Hospital,

1 our nursing home was recently sold. In
2 fact, it's been sold twice in the last
3 three years. Each time a new owner
4 took over operations at our home, our
5 contract was canceled, our pay and our
6 time off were cut dramatically and our
7 healthcare cost skyrocketed and became
8 unaffordable for most of us. This sort
9 of upheaval and uncertainty was nothing
10 compared to what our residents felt.

11 Each new owner brought new
12 cuts to services and supplies and
13 hardships for the vulnerable people who
14 look to us to provide comfort and care.
15 Residents have gone without ice on the
16 hottest days because our ice machine is
17 broken. Essential supplies like wash
18 cloths and towels are allowed to run
19 out because having more clean linen
20 will cost more money.

21 Broken outdated equipment
22 gets the bare minimum of repairs
23 instead of being replaced. We even
24 heard rumors that our ambulance company
25 was changed because our previous

1 company was owed money and bills went
2 unpaid. Many of my coworkers, myself
3 included, haven't taken a vacation in
4 three years. If we take a sick day or
5 a personal day, it's unpaid because
6 each new owner continues to cut our
7 time off. Thanks to pay cuts and
8 impossible insurance costs, health care
9 has become out of reach for many of our
10 coworkers.

11 One of my coworkers has
12 worked at Somerton for over 20 years
13 and she can't get the important
14 life-saving medication she needs
15 because she can't afford it anymore.
16 How can we be expected to care for
17 residents who badly need us if we can't
18 even take care of ourselves or our
19 families? Those of us who do this job
20 do it because we care. We have
21 compassion for the people who need us.
22 No one is trying to get rich working in
23 the nursing home, but it seems like
24 it's all about company money for the
25 companies that keep buying us. And

1 this is not just happening at my
2 nursing home. It's not just happening
3 here in Philadelphia. It's a story
4 that repeats itself again and again
5 across Pennsylvania and across the
6 country.

7 It's been reported on now in
8 countless stories and newspapers and on
9 TV and yet this keeps happening. No
10 one seems to be doing anything about
11 it. That's why I'm here today to ask
12 for help. Pennsylvania hasn't updated
13 regulations for nursing homes in over
14 20 years. And while they may be
15 talking about it now, we know that
16 Harrisburg moves slowly.

17 You can do something to help
18 people here in Philadelphia. You can
19 make things better. We need laws that
20 protect nursing home residents and
21 those of us who care for them from
22 these companies that want to come and
23 find a way to squeeze money out of our
24 community. We need laws that say you
25 have to continue to invest and direct

1 care for residents.

2 We need laws that say you
3 have to pay a living wage. We need
4 someone to be watching when the nursing
5 home gets sold to some unknown
6 out-of-state company and then follow up
7 and make sure that they are being
8 responsible to the residents and to the
9 workers. And we need someone to hold
10 companies accountable when they aren't
11 living up to those responsibilities.

12 Everyone deserves to age with
13 dignity. I'm asking you to respect
14 that. I'm asking you to protect our
15 most vulnerable communities so that
16 when it comes time for your loved ones,
17 when it comes time for you to look for
18 someone to care for you in your time of
19 need, that you aren't left to the
20 wolves in sheep's clothing. Thank you.

21 MR. ROYSTER: Good afternoon.
22 My name is Wendell Royster. I'm the
23 Vice-president of SEIU Healthcare
24 Pennsylvania and we service 45,000
25 nursing home workers, hospital workers

1 and home healthcare aides across the
2 state of Pennsylvania. I would like to
3 say thank you for giving me the
4 opportunity to speak here today on
5 behalf of thousands -- I would like to
6 say thank you for giving me the
7 opportunity speak here today on behalf
8 of thousands of nursing home workers
9 and the countless people who rely on us
10 to care in passion here in the Greater
11 Philadelphia area.

12 These people need your help.
13 The long-term care industry in this
14 country is failing them. It's failing
15 all of us. Like Hahnemann, nursing
16 homes across the state of Pennsylvania
17 are being sold off to bad actors, to
18 investors that focus on profits and to
19 neglected landlords whose sole goal is
20 to squeeze every last dime out of the
21 workers, out of the residents and their
22 families and out of our communities.

23 Somerton Center is a sad
24 example of a disturbing trend. I would
25 like to take the time to let you know

1 that this is personal for me because I
2 come from the Somerton Center. I was a
3 worker at Somerton Center 25 years ago
4 when this contract came about.

5 Somerton Center holds a special place
6 in my heart and I started off as a
7 housekeeper 26 years ago.

8 It was at Somerton Center
9 that I first learned to use my voice to
10 create change, that I could make things
11 better for the coworkers and my
12 residents. It was Somerton that I
13 learned the power of the union. Now,
14 my union brothers and sisters and
15 residents that they care for are under
16 attack. Somerton has had three
17 different owners in many years, and as
18 many years.

19 And each time it was sold,
20 the workers have much of what they --
21 the workers have much of what they
22 fought for taken away from them. This
23 type of ownership change is extremely
24 disruptive to both the residents and
25 the caregivers and it almost always

1 leads to weakening the standards for
2 everyone. And yet the workers continue
3 to stand up and fight for what's right,
4 and they are workers to protect the
5 residents. They are fighting for each
6 other.

7 These workers and the workers
8 like them in the nursing homes all over
9 Philadelphia need your help. They need
10 you to fight for them. The state is
11 struggling when it comes to oversight
12 enforcement of existing laws. There is
13 a need for more resources and tools to
14 investigate the potential buyers and
15 hold these operators accountable and
16 when they fail to live up to their
17 promise of providing quality care.
18 This lack of need of oversight and
19 enforcement of laws was directly
20 responsible for a catastrophic Skyline
21 fiasco that we seen just happen.

22 Many of you can remember the
23 shocking tales of the nursing home
24 workers gone unpaid for weeks and
25 spending what little money they had to

1 buy food and water for the residents
2 when the owners of the nursing home
3 Skyline Health Care stopped paying
4 their bills to feed, medicate their
5 residents. Skyline was permitted to
6 operate these homes for more than 14
7 months before the negligence of the
8 criminal behavior was brought to light.

9 This is exactly why we need
10 more involvement from the lawmakers
11 like yourselves. What we need is more
12 transparency and effective oversight of
13 potential buyers. Potential buyers
14 should be investigative for financial
15 stability and sustainable financial
16 structures that ensure continuous
17 quality care for our residents.
18 Stakeholders, including workers,
19 residents and their families,
20 taxpayers, lawmakers like yourselves
21 should have the opportunity to weigh in
22 on potential buyers with a public
23 hearing.

24 We need requirements for new
25 owners to freeze the conditions that's

1 on the ground when they take over the
2 control of recent purchased homes.
3 They should agree to maintain existing
4 wages and other staffing standards for
5 the designated period of time to assure
6 a smooth transition.

7 What we need is more
8 involvement at every level from
9 responsible leaders like yourselves.
10 Right now the Department of Health is
11 reviewing Pennsylvania nursing home
12 regulations, including overseeing the
13 changes of ownership. I strongly
14 encourage you to reach out to your
15 colleagues in Philadelphia delegation
16 and I urge them to weigh in with the
17 Governor to strengthen the oversight of
18 the nursing homes and ownership
19 changes.

20 We are counting on you to
21 live up to faith and the trust which
22 have put you in to fight for us and
23 protect us and to lead that time -- I'm
24 sorry, protect them from their time of
25 need. Thank you. And sorry for

1 stuttering. I was a little nervous.

2 COUNCILWOMAN PARKER: Don't
3 worry about it. Thank you all so very
4 much for your testimony. And let me
5 just say for the record specifically to
6 Ms. Nelson and Mr. Royster, the reason
7 why your testimony was so important
8 because you affirmed for us that this
9 is not simply about closure. This is
10 not simply about closure.

11 When we think about how this
12 is overall impacting the industry, this
13 is also about outsourcing. This is
14 about mergers and acquisitions. So we
15 can't just focus solely on the issue of
16 closures. We have to think about when
17 these new owners come in, so thank you
18 for your testimony.

19 We have Councilwoman Sanchez,
20 Councilman Green and Councilman
21 Taubenberger in cue. One quick
22 question for PASNAP because I know you
23 have to go. You said that they're
24 going after your Safe Staffing Contract
25 language. And for the benefit of

1 somebody who is watching at home, if
2 we're talking about patient-nurse
3 ratio, explain what that is on the
4 record.

5 MS. FLEMING: So we have --

6 COUNCILWOMAN PARKER: The
7 microphone and please identify yourself
8 for the record.

9 MS. FLEMING: Okay. My name
10 is Joy Fleming. I'm a nurse at
11 St. Christopher's Hospital in the NICU.
12 So we have staffing grids for every
13 unit in the hospital based on where we
14 work. So I work in the neonatal
15 intensive care unit, so we have two to
16 three patients per nurse. But also in
17 our staffing grids, we have an extra
18 nurse who's like a resource nurse who
19 will help out like if you need to get
20 meds co-signed, retaping, breathing
21 tubes, doing trach changes and stuff
22 like that.

23 Prior to this, we didn't have
24 that. So prior to this, we had a
25 charge nurse who was in charge of

1 maybe -- like we have between 25 to 28
2 patients and had to oversee everything
3 going on, but they were also the
4 resource nurse so they would be stuck
5 in a situation not seeing if a baby was
6 crashing because the babies can
7 actually change over time and see for
8 the next shift, does that baby need
9 just one nurse, does that baby need
10 more intensive care than other babies.

11 So it was like they were also
12 admitting babies, the charge nurse, so
13 they weren't seeing or overseeing and
14 able to do their job prior to having
15 this resource nurse, so this kind of
16 puts that in place. And it also puts
17 in place that nurses that are not
18 critical care-certified, they can't
19 just come to the NICU and take care of
20 a critical care baby or the ICC. So it
21 kind of kept all of the critical care
22 nurses in one section of the hospital.

23 The ER was closed off so they
24 have their own unit, because if you're
25 a nurse on the floor, you're not used

1 to taking care of an ER so how can you
2 possibly function with no training or
3 anything in that situation. So it just
4 put these safeguards in place that you
5 weren't just used wherever they needed
6 you so they can give more people off
7 and save money for staffing.

8 COUNCILWOMAN PARKER:

9 Finally, you said that they are
10 refusing to recognize your members'
11 accrued paid time off prior to the
12 bankruptcy. About how much time do you
13 think we're talking about here?

14 MS. FLEMING: A lot of time.
15 So prior to the bankruptcy, we were
16 told that they would recognize any time
17 accrued between July and December when
18 they bought the hospital. So the staff
19 already had their planned summer
20 vacations and everything and then a lot
21 of us did cash in, which we were
22 allowed to in our contract, our time.
23 So instead of using that money, that
24 was our compensation that we earned for
25 years, they had deducted it from that

1 period of time when they said July 1st
2 when Tower didn't even own us.

3 We're still getting paid
4 checks from AHS. Our paychecks are
5 still showing that everybody has
6 positive balances. Yet they're coming
7 back and saying, no, this is wrong, and
8 nobody has addressed it to us. Nobody
9 has fixed it. Nobody has been truthful
10 about it, so we've been kind of kept in
11 the dark until now when they're talking
12 over on Friday and they're saying,
13 well, they're going to balance
14 everybody out. And since everybody is
15 negative, we'll keep everybody at 0.
16 So they have essentially no time, and
17 this was time earned prior to the
18 bankruptcy that was part of our
19 compensation.

20 COUNCILWOMAN PARKER: Thank
21 you. Chair recognizes Councilwoman
22 Sanchez.

23 COUNCILWOMAN QUINONES-
24 SANCHEZ: Thank you, Madam Chair. And
25 I want to thank the Committee for

1 having this discussion. If we learned
2 anything from the Hahnemann situation
3 is that we do have to be very diligent.
4 Just for the record so my colleagues
5 understand, St. Christopher's Hospital
6 is such an important hospital to the
7 City of Philadelphia.

8 And if you work at St. Chris,
9 you want to be at St. Chris. We have
10 some of the best doctors and best
11 nurses who can work anywhere and make a
12 whole lot more money and they have
13 chosen to be at St. Christopher's.
14 What makes St. Christopher unique is
15 the specialty surgeries in which it
16 conducts.

17 And we want to make sure and
18 we want to commit to both PASNAP, 1199c
19 and all the members over at St. Chris
20 that we are going to make sure that the
21 new owners hear from us about the
22 value. St. Chris cannot just be a
23 traditional hospital or a medical
24 center. It is a specialty hospital and
25 it is those specialties that allow and

1 support all the other community
2 preventive work that happens.

3 St. Chris is one of my
4 largest employers, and I want folks to
5 know that this Council, and I know this
6 Mayor will as he has been in the past
7 are going to keep our eyes on what's
8 going on. We want to thank PASNAP,
9 1199c and the doctors for all being
10 united around that. And we will
11 definitely do our part in sending a
12 message that they have to not only
13 honor the wording, but honor the values
14 by which St. Chris have been created
15 and which we have been successful.

16 We have gone through five
17 owners. From the time I've been
18 selected, I've been through several
19 owners and I have many times been
20 outside in the picket lines and in the
21 protest lines with the unions and we
22 will make sure that your work is valued
23 and the work that is conducted at
24 St. Chris is valued. We do not expect
25 and we completely understand the issue

1 with IBC Health Partners and the
2 referral system, and we know that no
3 one from North Philly is going to
4 Reading to get any surgery.

5 We are very clear about --
6 they don't need to go to Reading. We
7 have all the specialty here, so we
8 thank you for your advocacy and we look
9 forward to working with you through
10 this transition. I know the next few
11 months are going to be bumpy. I know
12 for the doctors and the specialty
13 doctors who are there and want to be
14 there, they're extremely concerned.
15 And it is all of you being together,
16 the nurses supporting 1199 and the
17 doctors supporting the nurses and
18 1199c. You're going to see a very
19 unique grouping and coalition of
20 advocacy to protect St. Christopher's
21 Hospital. Thank you.

22 MS. FLEMING: Thank you.

23 COUNCILWOMAN PARKER: Thank
24 you. Chair recognizes Councilman
25 Green.

1 COUNCILMAN GREEN: Thank you,
2 Madam Chair. I want to thank this
3 panel for your testimony today. To me
4 this is an issue that is not only an
5 important issue, as my colleague
6 Councilwoman Maria Quinones-Sanchez
7 said who represents that District in
8 reference to St. Christopher, but this
9 is an issue for the entire City of
10 Philadelphia, not just from a
11 healthcare perspective but also for
12 economic development perspective in the
13 City of Philadelphia.

14 But for me, it's also a
15 personal issue. Many people in this
16 room know that my son is on the autism
17 spectrum. For over 12 years our
18 developmental pediatrician was at
19 St. Chris, so one of the main
20 motivations for me, not only my role in
21 this body but participating in
22 activity, we had this summer of a
23 personal nature of the great care that
24 my family received from
25 St. Christopher's.

1 But this issue is -- what's
2 interesting is that when I listen to
3 the testimony of the panel, I heard
4 about a lot of different things that
5 were troubling when new owners come in,
6 but what I didn't hear was patient
7 experience. And my wife has worked in
8 health care for about 25 years,
9 actually about 30 years and every
10 hospital talks about we're trying to
11 enhance the patient experience. But
12 when these new owners are coming in,
13 from what I'm gathering from your
14 testimony I'm curious if you can
15 reflect on that. Has there been any
16 discussion of how do we enhance the
17 patient experience?

18 What I've heard is
19 opportunities for new owners to enhance
20 their bottom line on the backs of
21 members of 1199c, PASNAP, SEIU who are
22 working at these hospitals, but nothing
23 really motivating on how to enhance a
24 patient experience because when you're
25 in health care either at a senior

1 facility or a hospital, you're trying
2 to provide the best care and enhance
3 that patient experience because that is
4 your means of business. You're trying
5 to provide health care and patient
6 experience and enhance that.

7 So from your perspective when
8 these new owners have come in, other
9 than trying to reduce expenses and
10 reduce benefits to the people that work
11 there, have you heard any conversation
12 about how do we enhance the patient
13 experience? And the reason I ask that
14 question is because when you're not
15 talking about and they're impacting
16 you, that's going to impact someone
17 like me who has a child that's going to
18 St. Chris.

19 So what has been the
20 conversation from any of the new owners
21 on what they're trying to do to enhance
22 the patient experience, if at all?

23 MS. FLEMING: No, just that
24 they don't like our staffing grids.
25 They want to be able to do what they

1 want. So I mean that would directly
2 affect the patient experience, you know
3 what I mean. You don't want somebody
4 who's taking care of your child who is
5 not trained in that area, you know, but
6 nothing about that, that we've heard
7 of.

8 We haven't heard anything,
9 just really that they don't like our
10 staffing grids, but they're not really
11 explaining why. They're nonprofit, so
12 people were very hopeful and happy that
13 a nonprofit was finally going to take
14 over St. Chris, because prior to this
15 it was for-profit and we saw a lot of
16 stuff happening because of that, so
17 yeah.

18 COUNCILMAN GREEN: The other
19 nonprofit that has come into
20 Philadelphia that has not done the best
21 job, when I think about AHERF, the
22 Allegheny Health System that came in,
23 in reference to Hahnemann some years
24 ago as well.

25 MS. FLEMING: Yeah.

1 COUNCILMAN GREEN: Okay.

2 Thank you all for your testimony.

3 COUNCILWOMAN PARKER: Thank
4 you. Let me just quickly ask 1199c, in
5 your testimony you said that former
6 employees at Hahnemann are owed over
7 \$218,000 in compensation from Sodexo in
8 connection to both earned personal and
9 sick time. About how many former
10 employees are being impacted by this?

11 MS. GARY: At Hahnemann,
12 about 350.

13 COUNCILWOMAN PARKER: About
14 350. And I know that you guys are in
15 court over this, so I know that there's
16 a very limited amount about what you
17 can say. But what kind of response or
18 explanation did the firm give to you
19 all about why they can't afford to pay
20 members even though they did not
21 declare bankruptcy and they're in the
22 black? Did they give you an
23 explanation?

24 MS. GARY: Well, that's part
25 of the problem. No, they didn't. They

1 just figured since the hospital was
2 going bankrupt that they got them off
3 the hook and they wasn't accountable to
4 pay any of the people the time that
5 they accrued working under them. The
6 hospital is bankrupt, but the company
7 is not. They have accounts all over,
8 even at some of our other places. So
9 through efforts of us trying to get
10 them to do some type of collective
11 bargaining or something like that,
12 which we wasn't successful. That's why
13 we ended up in court for their personal
14 time, vacation time and their sick
15 time.

16 COUNCILWOMAN PARKER: Thank
17 you. Chair recognizes Councilman
18 Taubenberger.

19 COUNCILMAN TAUBENBERGER:
20 Madam Chair, thank you very, very much.
21 And, panel, I thank you for your really
22 insightful testimony on issues that we
23 really need to know about. And,
24 Ms. Gary, 1199c, I'm a big admirer of
25 Mr. Woods and your union as a whole

1 because I think you do great work in an
2 area that a lot of people don't realize
3 how important that work is. And
4 educating the public and representing
5 these union members, I think is very,
6 very, very vital. I do have a couple
7 of questions with respect to Sodexo.

8 MS. GARY: Okay.

9 COUNCILMAN TAUBENBERGER: You
10 say it's now in the court system?

11 MS. GARY: Yes.

12 COUNCILMAN TAUBENBERGER: Is
13 that in the federal court or in the
14 state court?

15 MS. GARY: I'm not sure what
16 level it's at.

17 COUNCILMAN TAUBENBERGER: And
18 at Hahnemann, how many union members
19 were working at Hahnemann at the time?

20 MS. GARY: It was about 750,
21 but at least 350 of them were
22 outsourced from dietary, environmental
23 services and the transportation
24 department. Those were all outsourced
25 to Sodexo and Croft, two outsourcing

1 companies --

2 COUNCILMAN TAUBENBERGER:

3 Well, then the members have worked --
4 okay. It was outsourced to Sodexo
5 directly, but they were members of
6 1199c?

7 MS. GARY: Yes, they were
8 members of 1199c.

9 COUNCILMAN TAUBENBERGER:
10 Because that's a sizable amount of
11 money, \$218,000.

12 MS. GARY: Yes.

13 COUNCILMAN TAUBENBERGER:
14 Does Sodexo today operate in any other
15 operations with hospitals in
16 Philadelphia in our region?

17 MS. GARY: Yes. They're at
18 Presbyterian and I'm not sure -- I
19 think out of the hospitals, that's the
20 only one.

21 COUNCILMAN TAUBENBERGER:
22 Presbyterian in the boundaries of City
23 of Philadelphia. And in --

24 MR. ROYSTER: They also
25 operate in some of our nursing homes,

1 Sodexo.

2 COUNCILMAN TAUBENBERGER: I'm
3 sorry?

4 MR. ROYSTER: They also
5 operate in some of our nursing homes.

6 COUNCILMAN TAUBENBERGER: Oh,
7 really. Oh, nursing homes, okay.

8 MR. ROYSTER: They do.
9 They're subcontracted out as well in
10 some of the nursing homes.

11 COUNCILMAN TAUBENBERGER: Do
12 any come to mind directly that you
13 know?

14 MR. ROYSTER: Berkshiem
15 Nursing Home.

16 COUNCILMAN TAUBENBERGER:
17 Berkshiem Nursing Home, okay.

18 MS. GARY: Sodexo was in
19 St. Chris as well.

20 COUNCILMAN TAUBENBERGER: And
21 they're in St. Chris as well?

22 MS. GARY: Yes.

23 COUNCILMAN TAUBENBERGER:
24 Doing similar -- they're essentially a
25 food service --

1 MS. GARY: I believe it's
2 environmental services and possibly
3 food service, but I know environmental
4 services.

5 COUNCILMAN TAUBENBERGER:
6 Environmental services, okay. Any
7 sense -- I know you're not an attorney,
8 but how deep is this? Do you think
9 there will be a resolution soon in the
10 court system or are they just dragging
11 their feet?

12 MS. GARY: We hope it will be
13 because those members that --
14 especially for the members that lost
15 their jobs at Hahnemann.

16 COUNCILMAN TAUBENBERGER:
17 Absolutely. To be owed \$218,000 to a
18 company which it appears to me is
19 solvent, these things should be paid
20 and I'd like to know what their
21 explanation is on why they don't --

22 MS. GARY: And it don't just
23 happen at closures. When they loose
24 the account and maybe another
25 contractor comes in and they go, they

1 won't pay the sick time and the
2 personal time to the employees. So
3 when they start with this new company,
4 they start with 0. Even if they had 5
5 years, 10 years or 30 years of service,
6 they're starting with no sick time, so
7 they can't even get sick even though
8 nothing is changing in their --

9 COUNCILMAN TAUBENBERGER: So
10 that's generally one of their sort of
11 business practices as bad as it is. So
12 if they loose the contract, they're
13 out?

14 MS. GARY: Yes.

15 COUNCILMAN TAUBENBERGER: And
16 they just disappear off the face of the
17 earth?

18 MS. GARY: Yes.

19 COUNCILMAN TAUBENBERGER:
20 That's an awful business practice. And
21 being as though they're still in
22 Philadelphia, I think we as City
23 government should make sure that the
24 world knows about this and certainly
25 our City government knows about it. I

1 thank you all very, very much.

2 MS. GARY: Thank you.

3 COUNCILWOMAN PARKER: Thank
4 you, Councilman Taubenberger, for your
5 line of questioning, very much needed,
6 and do know that we do have our Law
7 Department. Right now Councilwoman Gym
8 and I were just talking, trying to
9 figure out a legal way for us to hold
10 firms that engage in this kind of
11 behavior accountable.

12 Before we hear from my
13 colleague Councilwoman Helen Gym and,
14 PASNAP, I know you're going to have to
15 go so just bear with us for a second.
16 You successfully negotiated
17 successorship language with Temple
18 University Hospital. Now, for those
19 who are not familiar with that
20 successorship language, it's actually a
21 clause in the contract that requires
22 the new owner to honor an existing
23 contract. Tell us how long did that
24 take you, when did you accomplish it.

25 MS. FLEMING: So I wasn't

1 involved in that because --

2 COUNCILWOMAN PARKER: Speak
3 into the microphone.

4 MS. FLEMING: I wasn't
5 involved in that because I'm at
6 St. Chris, but maybe one of the other
7 PASNAP reps that are back there --

8 COUNCILWOMAN PARKER: And
9 we'll have the attorneys who will come
10 and speak later, but that is something
11 that we definitely need you to get on
12 the record here today. Thank you.

13 MS. FLEMING: I guess the
14 other thing was we didn't feel like we
15 didn't do that because they had just
16 bought our company. They were only --
17 they had only bought our company for
18 like 18 months and now they're already
19 bankrupt, so I guess nobody imagined
20 that was going to happen after the
21 negotiation because it was just a short
22 period of time.

23 COUNCILWOMAN PARKER: Thank
24 you. Councilwoman Gym?

25 COUNCILWOMAN GYM: Yes.

1 Thank you, Madam Chair. And I really
2 do also want to acknowledge the groups
3 1199c and SEIU Health Care and PASNAP.
4 You've been at the forefront of some of
5 the most serious issues that are facing
6 our nation right now, but especially
7 coming home and hitting our city. We
8 stood together with you through
9 multiple fights. We certainly are
10 going to be even stronger. What we've
11 lost makes us realize what's at stake,
12 not just simply forgetting about what
13 has happened in the past.

14 I do want to put on the
15 record, Madam Chair, that Sodexo holds
16 a number of different contracts, not
17 only private but also public. They are
18 active with the School District of
19 Philadelphia, for example. And so, it
20 is important to know that as companies
21 seek public contracts with public
22 entities, we as the City should be
23 diligent and vigilant about making sure
24 that companies that in any way
25 potentially violate wage theft

1 ordinances, which I would think that
2 wage theft is a very important issue
3 here in our city or any other
4 collective bargaining rights that are
5 clearly established by the City.

6 We want to put them on notice
7 and it would be a big help for our
8 unions to make us as you did today,
9 make it crystal clear, crystal clear
10 that what we're talking about is simply
11 not a convenience when a company goes
12 under or there happens to be a merger,
13 that there's a new bonus for the
14 company executive but that, in fact,
15 this is people's well-earned wages and
16 the impingement or infringement of
17 people's rights to their earned time, I
18 think should be seen by the City as an
19 issue around wage theft and not simply
20 about a negotiation pattern to be
21 worked out in court, but we're going to
22 have more conversations about that.

23 I also want to thank PASNAP
24 for your incredible work on
25 successorship language, on the staffing

1 ratios. These are really important
2 areas of new rights that we want to see
3 established, not just something that
4 existed and breathes within just one
5 particular contract, but is really a
6 standard that we try to meet.

7 And certainly, I think as
8 folks said bargain basement kinds of
9 buy-outs do not give you the right to
10 abridge the rights of your employees.
11 This is not where we try to make your
12 bottom line or your profits work. I'm
13 really thankful, Ms. Nelson, and sorry
14 that your dedicated years to a
15 profession that has brought comfort,
16 protection, health care to so many
17 needy communities is a matter of
18 starting over and over again, like
19 hitting a reset button every time a
20 company comes in.

21 My colleagues, we know that
22 the healthcare industry is fragile. It
23 is true, it's not just about closures.
24 It is about consolidations and mergers
25 and shifting of resources from here and

1 there. Many of our largest entities
2 own multiple different smaller
3 subsidiaries, and we must remain
4 diligent and hypervigilant about making
5 sure that these things are protected.

6 I also wanted to put on the
7 record that in the Fair Scheduling Law
8 that we were able to work with, which
9 was an Expanded Labor Rights Law for
10 part-time workers, we made sure the
11 collective bargaining units were not
12 eliminated from that protection, and
13 the reason why is because it's a
14 fundamental constitutional right that
15 you cannot actually bargain away rights
16 that have been later established.

17 You can maybe in the future
18 negotiate them, but you should not
19 carve out by law of rights that should
20 be afforded to the broader public. So
21 as we kind of look into 2020 and
22 beyond, I think it is really important
23 to us that if we have a set of labor
24 laws, that we make sure the collective
25 bargaining units are protected. It is

1 an outrage that you are not part of the
2 Paid Sick Leave Law, and I think it is
3 important for us to review that and
4 we'll certainly be talking about that
5 in the future with our City Solicitor's
6 Office, with the City's Labor
7 Department and we would really like to
8 hear from you as well why it does
9 matter, because it is a shock for you
10 to be in the healthcare industry and to
11 not have certain rights around paid
12 sick leave that are given to every
13 worker otherwise in the City of
14 Philadelphia, including part-time
15 workers.

16 And so, I just want to thank
17 all four of you for your testimony and
18 for your push to have us do more and
19 better. Thank you.

20 MS. NELSON: Thank you.

21 MS. FLEMING: Thank you.

22 COUNCILWOMAN PARKER: Thank
23 you. Let me just ask relative to the
24 Somerton Nursing Home, how many workers
25 are currently there? Do we know how

1 many workers currently work at the
2 Somerton Nursing Home?

3 MR. ROYSTER: For Somerton
4 Center it's 125 that we have chartered.

5 COUNCILWOMAN PARKER: 125?

6 MR. ROYSTER: Yes. And just
7 for the record, you said earlier Spring
8 Garden. It's --

9 COUNCILWOMAN PARKER: Garden
10 Springs.

11 MR. ROYSTER: -- Garden
12 Springs. And at Garden Springs, we
13 have about 75 members there, but it's
14 outside of the City limits.

15 COUNCILWOMAN PARKER: How
16 many patients would you say you serve?

17 MS. NELSON: I think it's
18 about 234 residents at Somerton Center.

19 COUNCILWOMAN PARKER: And
20 when Somerton was sold to the Vita
21 Healthcare Group a year ago, do you
22 know how many workers were working
23 there then?

24 MR. ROYSTER: It was more
25 than 125. Folks actually left because

1 they depleted their benefits of going
2 to school, you know, because they had
3 education training fund where the
4 employer put in 1 percent of, you know,
5 their payroll for folks to go to
6 school. So folks were on the hook for
7 that money to finish college and stuff
8 like that, but it was much more than
9 125 at that time.

10 COUNCILWOMAN PARKER: And the
11 reason why I wanted you to make sure
12 that you put that on the record is
13 because we have to assume that there's
14 been a churning with the staff, either
15 you quit, you retire, you leave for
16 better opportunities or you say, now,
17 I'm just going to have to go back to
18 school. But as a result of this
19 transition, people have had to find a
20 way to make ends meet another way. And
21 I wanted to make sure that you put that
22 on the record.

23 For those remaining staff
24 that are left behind, tell me what do
25 they feel relative to their job

1 security and how they're providing for
2 their families. We heard the
3 testimony, but for somebody who is at
4 home who is watching, who is not
5 familiar with the industry I want you
6 to tell me what are people feeling
7 right now who are still there.

8 MS. NELSON: I mean, I'm one
9 of those people so I can tell you how I
10 feel and majority of my coworkers.
11 It's a sad situation. I mean, we
12 just -- we've been there for years and
13 we've been giving our all and to see
14 that it's a different place to work
15 than it was when we were there five
16 years ago, for you not to be able to go
17 on vacation with your family for years
18 and years all because these companies
19 keep taking over.

20 We're trying our best to just
21 stick in there because we love our
22 residents. But the things that's
23 happening and that this company is not
24 honoring our contract and that the
25 company do not care about the residents

1 or the staff, it's hard. It's really
2 hard working there. You never know
3 what's going to happen.

4 After it was sold, this is
5 like the third time that the building
6 was sold, after this contract we don't
7 know if it's going to be sold again
8 because it seems like it just keep
9 happening every year.

10 COUNCILWOMAN PARKER: Right.
11 I just also want to note for the record
12 again when I got engaged with this
13 issue it was about a year ago, and that
14 was when I wrote my support letter to
15 Vita Healthcare Group. And in my
16 letter, I noted that some employees'
17 wages had been slashed about 30
18 percent, about 30 percent, and I don't
19 want anyone to be shocked when I say
20 this, but that workers' healthcare
21 deductibles had gone to \$10,000.

22 I want you think about what
23 that would be like if you're going to
24 work every day and you may get sick or
25 you need access to health care and you

1 realize that you have a \$10,000
2 deductible. It was really just
3 unbelievable. How long did it take at
4 the negotiating table to reach a
5 contract for workers? Tell me for the
6 record, if you can.

7 MS. NELSON: Under Vita, it
8 took us six months. Now, since we're
9 under Imperial it's probably like
10 another six months so that would be a
11 year that it's going to take for us to
12 even settle a contract. But once we
13 settle the contract under Vita, it's
14 like we got one raise and that was it,
15 and then they was sold to Imperial. So
16 now, we're back at the table again
17 trying to negotiate a contract again
18 like we did six months ago.

19 COUNCILWOMAN PARKER: Thank
20 you. Are there any other -- I'm sorry.
21 Go ahead.

22 MR. ROYSTER: I just want to
23 add an injury to insult. The Vita
24 Group that bought the facility a year
25 and a half ago, this gentleman now that

1 owns Imperial was one of the partners
2 of Vita, so he stuck the straw in the
3 ceiling of this place and took people's
4 benefits. Then he broke partners with
5 the Vita Group. Now, he's back
6 sticking another straw in the ceiling
7 to deplete the little bit of things
8 that they were able to keep in Vita.

9 COUNCILWOMAN PARKER: We want
10 to thank you all for your testimony.
11 Are there any other questions or
12 comments from Members of the Committee?

13 (No response.)

14 COUNCILWOMAN PARKER: Again,
15 thank you all so very much. Will the
16 Clerk please call the next panel to
17 testify on the resolution?

18 MS. NELSON: Thank you.

19 MS. GRAY: Thank you.

20 COUNCILWOMAN PARKER: Thank
21 you all so very much.

22 THE CLERK: Amanda Shimko and
23 Samuel Spear.

24 (Panel approached
25 Witness Table.)

1 COUNCILWOMAN PARKER: Good
2 afternoon. Please state your name for
3 the record and then you may proceed
4 with your testimony.

5 MS. SHIMKO: My name is
6 Amanda Shimko. Good afternoon,
7 Chairperson Parker and Members of the
8 Committee. I am the Compliance Manager
9 in the Mayor's Office of Labor,
10 specifically the Office of Benefits and
11 Wage Compliance. I appear before you
12 today to testify on Resolution No.
13 190794. This resolution will authorize
14 the Committee on Labor and Civil
15 Service to hold hearings regarding
16 service providers and employers
17 honoring existing and prior worker
18 contract agreements.

19 This is a very important
20 issue and as highlighted in the
21 resolution, there have been several
22 recent cases in Philadelphia where new
23 ownership has come in and tried to
24 terminate a contract. Workers bargain
25 in good faith and it is simply wrong

1 that hard-working men and women in
2 Philadelphia or anywhere for that
3 matter should have to worry that
4 agreements which were also signed on to
5 by management can become void when a
6 new owner takes over.

7 It is a highly disruptive
8 practice that clearly violates the
9 spirit of collective bargaining rights,
10 and in some cases may also violate the
11 law. This Administration believes that
12 new ownership should always honor
13 pre-existing contractual relationships
14 with their employees. On behalf of
15 Mayor Kenney, I would like to thank you
16 to shine a light on this disruptive
17 practice. I'm happy to answer any
18 questions that you may have.

19 MR. SPEAR: Good afternoon,
20 Madam Chair and Councilmembers. My
21 name is Samuel Spear. I serve as
22 outside counsel for SEIU Local 32BJ.
23 I'm the founding partner of the law
24 firm Spear Wilderman PC and I've been
25 practicing labor and employment law

1 exclusively on behalf of workers and
2 worker unions in Philadelphia for 40
3 years.

4 Local 32BJ has been at the
5 forefront for fighting for justice for
6 all workers for almost 90 years. We
7 know firsthand the injustices workers
8 face from employers who try to skirt
9 the law. The displacement of workers
10 following the transition to a new
11 employer is not anything new. We
12 agree, it's terrible. It's a way that
13 employers try to cut wages and impacts
14 the overall well-being of the worker
15 and the workplace.

16 After working on one job for
17 decades, a worker shouldn't have to
18 start from ground 0 with respect to
19 wages and benefits when a new
20 contractor takes over. As
21 representatives of building service
22 employees, 32BJ confronts this problem
23 all the time among cleaning and
24 security contractors. 32BJ negotiates
25 collective bargaining agreement

1 provisions that prevent this, requiring
2 the new employer not only to hire the
3 incumbent workers but also requiring
4 that they maintain the same wages,
5 benefits and other terms of employment.

6 Thankfully, a number of years
7 ago Philadelphia knocked at the
8 displaced building service worker
9 ordinance providing crucial job
10 protections to vulnerable workers
11 ensuring that buildings are maintained
12 and protected by the most experienced
13 and qualified employees to be sure the
14 law doesn't stop every bad actor.

15 For example, in 2016 CB
16 Richard Ellis purchased the luxury
17 apartment building at 2116 Chestnut
18 Street and hired a new management
19 company Greystar who refused to hire
20 the Local 32BJ members who had
21 maintained that building for years, but
22 the ordinance is nonetheless a crucial
23 protection for building service workers
24 in Philadelphia.

25 There are steps that City

1 Council can take within their authority
2 to further protect wages and benefits.
3 A good first step would be to broaden
4 the displaced worker ordinance to apply
5 to other industries. And the best
6 protection against lowering of
7 standards during an employer transition
8 is to create strong standards across
9 the board like Councilwoman Parker and
10 others did with the paid sick leave and
11 fair scheduling ordinances.

12 In addition, Council could
13 expand the just cause minimum staffing
14 prevailing wage in 21st century minimum
15 wage ordinances and adopt other minimum
16 employment standards such as paid
17 vacation and family leave. The strides
18 of this city has already taken to
19 protect the livelihoods of its citizens
20 proves it is truly the City of
21 Brotherly Love and Sisterly Affection.

22 Local 32BJ is gratified that
23 City Council has been at the forefront
24 in understanding improving the working
25 conditions of all employees benefits,

1 not just the workers, but enhances the
2 City's economic and social climate and
3 improves the lives of all the citizens
4 in Philadelphia.

5 Local 32BJ pledges its full
6 cooperation of efforts by this Council
7 to continue to raise standards for
8 working people and their communities.
9 I appreciate the opportunity to testify
10 on this very important matter.

11 COUNCILWOMAN PARKER: Thank
12 you so very much for your testimony.
13 Mr. Spear, I did not realize that it
14 had been that long, 40 years.

15 MR. SPEAR: For me?

16 COUNCILWOMAN PARKER: 40
17 years.

18 MR. SPEAR: I'm younger than
19 what I look, I hope.

20 COUNCILWOMAN PARKER: We
21 appreciate and value very much the
22 experience that you bring to the table.
23 And as we work with the Administration
24 along with our Law Department, we
25 definitely, because we have a few

1 things that are in the pipeline as we
2 speak, but you know how delicate these
3 situations are and we want to make sure
4 that whatever we're proffering,
5 although anyone can challenge it in
6 court, we want to make sure that we're
7 on sound legal ground and sound legal
8 footing, so we are going to depend on
9 those 40 years to assist us in our
10 efforts as we work on crafting some
11 legislative prescriptions that we think
12 will be very helpful on this issue.

13 MR. SPEAR: I'll do my best.
14 Thank you very much. I can also say
15 the City Solicitor's Office has been
16 very good. As you know, I deal with
17 them about other matters frequently and
18 they really show an openness to try to
19 better people's work lives.

20 COUNCILWOMAN PARKER: They
21 have.

22 MR. SPEAR: We appreciate
23 that.

24 COUNCILWOMAN PARKER: Our Law
25 Department has done an outstanding job

1 and again, we all look forward to
2 everybody's around the table and we're
3 going to try to hammer out the best
4 prescription that we can come up with.
5 With that being said, let me just ask
6 you, Ms. Shimko, relative to the
7 Mayor's Office, for the benefit of
8 somebody who's at home and they're
9 thinking about the Mayor's Office of
10 Labor and they just listened to the
11 testimony coming from these workers,
12 and they'll say, what kind of role does
13 the Mayor's Office of Labor actually
14 play in these types of situations when
15 a new owner or operator comes and loses
16 a contract and then tries not to honor
17 a prior contract, is there any specific
18 role from an enforcement perspective
19 with your office?

20 MS. SHIMKO: Beyond wage
21 theft which potentially does occur when
22 a new contractor comes in and doesn't
23 clearly change the terms of the
24 agreement so workers are now being paid
25 less than what they thought they should

1 have been being paid, there isn't
2 anything specifically beyond that at
3 this point.

4 COUNCILWOMAN PARKER: So we
5 wanted to make sure that we got that on
6 the record again, because sometimes and
7 this has happened quite frequently in
8 this body, the private sector will
9 think that we as a legislative body are
10 simply attempting to recommend the
11 implementation and/or passage of
12 legislation to protect workers,
13 particularly low-wage workers.

14 They talk about this number,
15 Philadelphia is the largest poorest,
16 biggest city in the nation. And when
17 we hear testimony like we just heard
18 from the prior panel, as local elected
19 officials our goal is to find a way to
20 protect the quality of life, of workers
21 because we want them to be homeowners
22 in neighborhoods, we want them to be
23 parents who are going to PTA meetings.

24 And if you can't figure out
25 how you're going to make ends meet

1 because you don't have any economic
2 security, that's just not a problem for
3 you and your household, that becomes a
4 problem for the City so that when we do
5 proffer -- and we're going to make sure
6 again private sector, labor,
7 Administration, Council, everyone is
8 going to be at the table as we work on
9 putting our legislative initiatives
10 together. But I want this record to
11 reflect today that this is not borne
12 or how a knee-jerk reaction of what was
13 going to be proffered, that Council
14 will just engage in. It is a response
15 from the ground up, and I just wanted
16 that noted for the record. The Chair
17 recognizes Councilwoman Gym.

18 COUNCILWOMAN GYM: Thank you
19 very much, Madam Chair. So one of the
20 questions I had was if you could
21 explain a little about how an employee
22 may be told one thing about -- like,
23 for example, they're under collective
24 bargaining agreement, for example, sold
25 to another company. What are the

1 responsibilities on the employer
2 through the conclusion of a merger and,
3 in fact, they should be made aware of
4 how their collective bargaining rights
5 may be changed; is that right? It just
6 seems like that is part of the
7 discussion in play.

8 MS. SHIMKO: It should be if
9 we're talking about good actors. And
10 I'll let sort of the experts answer a
11 little bit more of the technical
12 questions, but without successor
13 language in a contract, there's
14 something called the clear successor
15 doctrine. And if a new buyer comes in
16 and they make it very clear that
17 they're not going to honor the current
18 collective bargaining agreement, that's
19 all they have to do. All they have to
20 do is be very explicit that they're not
21 going to honor it and they don't have
22 to.

23 If they don't make it very
24 clear that they're not going to honor
25 it, there's potentially some wiggle

1 room for unions and workers to fight
2 and mandate that they do honor it, but
3 I defer to some of the experts on the
4 panel.

5 MR. PATCHEN: Good afternoon.
6 My name is Ben Patchen. I'm with the
7 City Law Department in the Labor
8 Employment Unit and again, I will, I
9 guess, expand a little. I'll let
10 Mr. Spear jump in if he wants to. But
11 I think generally speaking, the
12 Successor Doctrine is governed by the
13 Federal National Labor Relations Act
14 and under the National Labor Relations
15 Act, there are -- mostly a new company
16 can come in and not be considered a
17 clear successor. They're very slim and
18 even slimmer in 2019 based on a recent
19 NRB decision. But there are slim
20 occasions where an employer would be
21 deemed a clear successor. But I think
22 absent that, there's no obligation when
23 a new employer comes in to honor the
24 previous employer's terms.

25 And I just want to take a

1 step back and just say on behalf of the
2 Law Department, we are committed and
3 available to work with Council as this
4 process goes on and hopefully reach a
5 solution.

6 COUNCILWOMAN GYM: No, I
7 appreciate that. Traditionally, in any
8 kind of a merger or a purchase of a
9 company, that new owner looks at
10 existing obligations, debt, if you can
11 take a look at it, also assets as well.
12 It just seems surprising that
13 collective bargaining agreements which
14 extend beyond the life of that merger
15 can't be seen in some ways as being
16 part of a responsibility and an
17 obligation that is protected, and that
18 it just becomes something that both the
19 seller and the buyer can unilaterally
20 without collaboration with a union can
21 just abrogate, just it's over, it's
22 done. We're not going to do it now.
23 Obviously, someone can sell and buy and
24 make independent choices, but it seems
25 strange when the two are able to do

1 that. Obviously, that's federal law.
2 That's not what we have the right to
3 do. It's also normal good human
4 behavior and good business practices,
5 also which we are not able to
6 necessarily legislate, but we can set a
7 floor. And what I think what we're
8 looking at is not setting the ceiling
9 like the best and most perfect thing
10 that you can do, but we do need to have
11 floors when it seems that there needs
12 to be -- there are clear abuses that
13 are happening.

14 And if employees are not
15 aware that in the sale of a merger,
16 that they've simply lost retirement
17 benefits, healthcare benefits, wages
18 that had been previously collective
19 bargaining, I'd like to continue that
20 conversation. I'm not a lawyer though
21 and I'm not in federal, but I will
22 leave it to you as an expert.

23 Does the Mayor's Office
24 explain to -- I mean we are just
25 expanding with the Mayor's Office of

1 Labor, and we're really excited to have
2 you there and your team. But has there
3 been discussion about the need to
4 inform employees in mergers and
5 closings of what their labor rights
6 are? I know they are represented as
7 well, but what the City can do or
8 should be doing.

9 MS. SHIMKO: We've recently
10 began expanding on our business
11 resources. So that looks like helping
12 businesses get into compliance with all
13 of the new labor laws. And with that
14 expansion, we've decided that if we're
15 expanding the resources that are
16 available to businesses in order to be
17 in compliance, that we should also be
18 expanding the resources that are
19 available to workers to understand how
20 they can report compliance, but also to
21 workers to understand what their rights
22 are to form a union, what their rights
23 are once they're in a union, and that
24 will be coming available in the next
25 year, so a lot of education around what

1 workers' rights are and around what
2 business responsibility is, so that is
3 a part of our plan.

4 COUNCILWOMAN GYM:

5 Ms. Shimko, I know this preceded you
6 but the decision for the Fair Workweek
7 Law in Philadelphia was changed in a
8 break from previous labor laws that the
9 City had done before, and the biggest
10 one was the decision not to eliminate
11 collective bargaining units from the
12 law, that they were not carved out
13 effectively.

14 And I think the idea around
15 it was something that I spoke to a
16 little bit earlier, which is that it
17 doesn't seem right to unilaterally
18 carve out collective bargaining units
19 from rights that would be granted to
20 others. What they had previously
21 negotiated rights without knowing that
22 the new rights could exist and we
23 thought that there was federal case law
24 that would have defended that. Our
25 City Solicitor was really great and we

1 appreciate that.

2 As we kind of move forward on
3 this and we look at something like our
4 paid sick leave which does carve out
5 collective bargaining units from the
6 Paid Sick Leave Law that is otherwise
7 granted to every other Philadelphian
8 and a requirement of Philadelphian
9 employers, do you think we should be
10 reviewing that law for whether
11 collective bargaining units should be
12 eliminated from that?

13 MS. SHIMKO: We would be in
14 support of that.

15 COUNCILWOMAN GYM: A review
16 of paid sick --

17 MS. SHIMKO: Yes.

18 COUNCILWOMAN GYM: -- and
19 other laws that would carve that out.
20 And from the City Solicitor's Office,
21 did you have any thoughts about a
22 review?

23 MR. PATCHEN: Again, on
24 behalf of the Law Department, we would
25 be happy to work with both parties here

1 and reach some type of resolution.

2 COUNCILWOMAN GYM: As I said,
3 we worked with the City Solicitor's
4 Office pretty carefully around fair
5 workweek to make the case about why
6 collective bargaining units should not
7 be exempt from existing labor laws.
8 They can always opt out. They can't be
9 carved out however. So I would look
10 forward to me working with you on that
11 as well.

12 MR. PATCHEN: Sure.

13 COUNCILWOMAN GYM: Thank you.
14 Thank you, Madam Chair.

15 MR. SPEAR: If I can add a
16 comment to what you've just asked?

17 COUNCILWOMAN GYM: Please.

18 MR. SPEAR: Again, as I said,
19 the City has been very good under this
20 Administration trying to help workers,
21 but the backdrop of course is
22 dramatically different nationwide
23 because we have a current Presidential
24 Administration which is at war with
25 workers and especially at war with

1 unions, and I don't want to preach
2 here. But it's very true that the
3 National Labor Relations Board has made
4 enormous strides in the last two years
5 to really cut back on many workers'
6 rights, and there's no sign that it
7 will stop until there is a new
8 administration, if there is a new
9 administration.

10 So with that backdrop, it's
11 very important, I think, for state and
12 local governments to try to pick up the
13 burden of trying to supply some of
14 these protections that the federal law
15 is simply stripping away from workers.

16 COUNCILWOMAN PARKER: Thank
17 you, Mr. Spear. Chair recognizes
18 Councilman Taubenberger.

19 COUNCILMAN TAUBENBERGER:
20 Madam Chair, thank you very much. In
21 previous testimony given by Ms. Gray --
22 excuse me, Ms. Gary from District
23 1199c, she's an administrator for that
24 union, and she had stated Sodexo at
25 Hahnemann lost the contract and then

1 they refused or reneged on paying over
2 \$218,000 in compensation to employees
3 that worked for them while they had
4 that contract. How can they do that
5 and what can the City do about that in
6 the future? I know there may be some
7 complicating factors in it. I'm not
8 asking specifically on a case. You can
9 actually look at it in a case that
10 might be similar. You don't have to
11 give me --

12 MS. SHIMKO: Yeah. So
13 without all of the facts, it's hard to
14 answer. But, in fact, the workers were
15 not made aware that there were going to
16 be changes to the terms of the
17 agreement and that the owner took over
18 assuming the contract and just didn't
19 follow through, there could potentially
20 be some wage theft that we can look
21 into.

22 COUNCILMAN TAUBENBERGER:
23 Yes.

24 MS. SHIMKO: But it's hard to
25 know what exactly is going on there,

1 and that's the current laws that we
2 have. Obviously, there's potential to
3 expand worker protections beyond that.

4 COUNCILMAN TAUBENBERGER: I
5 mean, kind of the facts were given and
6 it doesn't have to be specific against
7 Sodexo, but there may be other
8 companies like it, they lost the
9 contract but yet Sodexo's a viable
10 company with still having operations in
11 Philadelphia. They owe \$218,000 to
12 employees to the employees which was a
13 part of a contract, and they just walk
14 away. Now, of course they're taking it
15 to court. But are there other things
16 that can be done from the City
17 Administration, particularly when a
18 company like Sodexo, it doesn't have to
19 be Sodexo, continues to operate in the
20 City of Philadelphia?

21 MS. SHIMKO: We can
22 brainstorm some of those ideas and get
23 back to you. I don't have any right
24 now.

25 COUNCILMAN TAUBENBERGER:

1 Okay. Thank you.

2 MS. SHIMKO: You're welcome.

3 COUNCILMAN TAUBENBERGER:

4 Madam Chair, thank you.

5 COUNCILWOMAN PARKER: Sure.

6 Chair recognizes Councilwoman Gym.

7 COUNCILWOMAN GYM: Thank you,
8 Madam Chair. Just one quick question.
9 In the event of a change of ownership,
10 is a new owner required to negotiate
11 with a union before unilaterally just
12 saying your contract is over? Is there
13 any obligation at all around the
14 negotiations?

15 MR. SPEAR: There are some
16 obligations. It depends on how many
17 workers have been hired by the new
18 owner, what proportions. As was said
19 before, current doctrine said that if
20 you hire the majority of the workforce,
21 not to get into detail, but generally
22 there can be some obligation to bargain
23 with the union that represented the
24 workers if a majority has been hired.

25 That having been said, I also

1 come back to what I just said about the
2 Trump Labor Board. The Trump Labor
3 Board is taking aim at certain
4 doctrines and that's one of the
5 doctrines. And so, that doctrine might
6 get weakened in the next year or two.

7 COUNCILWOMAN GYM: That's
8 helpful. I'm sure these are more
9 conversations that will continue --

10 MR. SPEAR: And even though
11 there have been a number of Supreme
12 Court decisions on that doctrine over
13 the decades, but those only depend on
14 the underlying rationale that the NLRB
15 used to use, if they switch gears now
16 and say, you know, we've reconsidered
17 it and we would just rather do
18 something different, that's not to say
19 that this Supreme Court wouldn't say,
20 okay, all of those old cases are kind
21 of irrelevant right now, because now
22 the NLRB are taking a different tact.
23 And in the spirit of just saying new
24 employers have the right to do anything
25 they want, I don't see that that might

1 not be the law in the next few years
2 regardless of what the previous union
3 representation status might have been
4 of the workers.

5 COUNCILWOMAN GYM: Thank you
6 very much. Thank you, Mr. Spear.

7 COUNCILWOMAN PARKER: Thank
8 you. And I just want to note for the
9 record, particularly to the
10 Administration, that Mayor Kenney and
11 your office, they have been awesome as
12 we've gone through some of the growing
13 pains as you are expanding. But I want
14 to note for the record that I think
15 I've been around for a few years
16 between local and state government.
17 And the City of Philadelphia has never
18 taken such an aggressive stance in
19 attempting to protect the rights of
20 workers that we've seen over the last
21 four years from this Administration,
22 and Mayor Kenney and his team are to be
23 commended for that.

24 Are there any more questions
25 for members of this panel?

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1 (No response.)

2 COUNCILWOMAN PARKER: There
3 being none, is there anyone here
4 wishing to testify on this resolution?

5 (No response.)

6 COUNCILWOMAN PARKER: There
7 being no one else here to testify on
8 this resolution, this concludes the
9 business of the Committee on Labor and
10 Civil Service for today. This public
11 hearing on Resolution No. 190794 is
12 recessed to the call of the Chair.
13 Thank you all very much for your
14 testimony.

15 (Committee on Labor and Civil
16 Service concluded at 2:25 p.m.)

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

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

Court Reporter - Notary Public

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