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COUNCIL OF THE CITY OF PHILADELPHIA

3

COMMITTEE ON LABOR AND CIVIL SERVICE

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Room 400, City Hall
Philadelphia, Pennsylvania
Monday, October 23, 2006
10:20 a.m.

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PRESENT:

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COUNCILMAN JUAN RAMOS

COUNCILMAN W. WILSON GOODE, JR.

11

COUNCILMAN FRANK DiCICCO

COUNCILMAN JACK KELLY

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COUNCILWOMAN JOAN KRAJEWSKI

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BILL 060695 - An ordinance amending Section
22-310 of The Philadelphia Code, entitled
"Deferred Retirement Option Plan (DROP)," by
defining the employees to whom an
extraordinary extension for participants in
the DROP program may apply...

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RESOLUTION 060738 - Resolution authorizing the
Committee on Labor and Civil Service to
conduct hearings on worker safety and health
at construction sites in the City of
Philadelphia.

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Philadelphia, Pennsylvania 19103

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COUNCILMAN RAMOS: Good

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morning, everyone. I'm Councilman Juan

4

Ramos, Chair of the Committee on Labor

5

and Civil Service. Also in attendance

6

are members of this Committee. To my

7

left, Councilman Kelly. To my right,

8

Councilman DiCicco and Councilman Goode.

9

And I know that Councilwoman Blondell

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Reynolds Brown is also around here

11

somewhere.

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We have a quorum, and I would

13

like to start this hearing. We will hear

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first Bill No. 060695. After we hear

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from witnesses on this bill, we will then

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go into a public meeting to report the

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bill out and then go back into the public

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hearing to hear testimony regarding

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Resolution No. 060738 on worker safety.

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I will please ask the Clerk to

21

read the title of the bill.

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THE CLERK: Bill No. 060695,

23

amending Section 22-310 of The

24

Philadelphia Code, entitled "Deferred

25

Retirement Option Plan (DROP)," by

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2 defining the employees to whom an
3 extraordinary extension for participants
4 in the DROP program may apply, under
5 certain terms and conditions.

6 COUNCILMAN RAMOS: Thank you.

7 The first witness on this bill
8 is Mr. Tom Cronin, President of AFSCME
9 District Council 47. Please come up and
10 state your name for the record and begin
11 your testimony.

12 MR. CRONIN: My name is Thomas
13 Paine Cronin. I'm President of AFSCME
14 District Council 47.

15 Good morning, Mr. Chairman and
16 members of the Committee. This is a
17 horrible way to start, but I'd like to
18 apologize for having the wrong number for
19 the bill. So I will send over a
20 corrected copy, and I appreciate you
21 allowing me to testify on this bill.

22 This amended bill expands the
23 description of the circumstances which
24 would allow the Mayor to determine that
25 conditions exist which allow participants

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2 in the DROP to remain employees of the
3 City of Philadelphia for up to one year
4 beyond the four-year limit.

5 The language of this bill
6 recognizes that any circumstance which
7 diminishes the ability to provide City
8 services to the residents of Philadelphia
9 constitutes a threat to the well-being of
10 our citizens. Such a threat surely
11 requires that City workers be able to
12 continue their service to the City.

13 Since many of the people in the
14 DROP have served the City for so long,
15 they are a valuable resource that the
16 City must be able to employ if faced with
17 a circumstance that affects the delivery
18 of services. These people have the
19 institutional memory which would allow
20 them to quickly respond to extraordinary
21 conditions and immediate dangers.

22 Further, these men and women
23 will have the firsthand knowledge to
24 address the consequences, both
25 anticipated and unforeseen, which would

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2 impede the City's ability to deliver the
3 services which are so vital to our
4 citizens.

5 Therefore, we strongly support
6 this amended version of the bill and urge
7 all of our Councilpeople to vote in the
8 affirmative.

9 Thank you.

10 COUNCILMAN RAMOS: Thank you,
11 Mr. Cronin, for your testimony.

12 Does this Committee have any
13 questions for the first witness?

14 (No response.)

15 COUNCILMAN RAMOS: Mr. Cronin,
16 can you, in one sentence, sum up what
17 this amendment does, in your view?

18 MR. CRONIN: Well, essentially
19 what we're saying is that there are folks
20 that we represent, and although I'm not
21 here to speak for District Council 33,
22 but I'm sure this is true with 33 as
23 well, that serve in the public health and
24 safety. I mean, I can think of all kinds
25 of folks, for example, in the Health

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2 Department where if there were an
3 emergency situation where they would be
4 required, and certainly the City's
5 Emergency Preparedness program indicates
6 that there are people across City
7 departments that are involved in addition
8 to police and fire.

9 So what we're saying is that
10 these folks really should be eligible for
11 the fifth year, again, if the Mayor says
12 that there are extraordinary
13 circumstances and if he or she says that
14 there's an emergency, period.

15 That's more than one sentence,
16 but...

17 COUNCILMAN RAMOS: I would
18 consider from my point of view that an
19 issue of public safety as it was well
20 defined in the original bill, a very good
21 bill, that the issue of our water
22 treatment plant, if in the event there
23 are workers at that plant that are in
24 this retirement program referred to as
25 DROP and then you are trying to fill

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2 those vacancies and we need that water
3 treatment plant and because of the
4 environment that we live in in this
5 country, our water supply and our water
6 systems need our safety issues as well
7 nowadays, not just for the consumption of
8 water, the use of water, but because of
9 public safety concerns.

10 So I think it's proper, at
11 least in my view, that this extension be
12 given to all City employees, but that it
13 will be considered only an extraordinary
14 extension as the example that I used,
15 that you wouldn't be able to fill this
16 position at that water treatment plant
17 expeditiously and, therefore, give an
18 opportunity for someone that has moved
19 out of employment with the City to be
20 able to -- for that person to be able to
21 reenter so that we can safeguard our
22 water treatment plant and so forth. Do
23 you see it in the same light?

24 MR. CRONIN: Yes, I do, sir.

25 COUNCILMAN RAMOS: And this

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2 will be determined by the Mayor. How do
3 you see that?

4 MR. CRONIN: I see that the
5 same way, sir.

6 COUNCILMAN RAMOS: Thank you,
7 Mr. Cronin.

8 Any questions from this
9 Committee?

10 Councilwoman Joan Krajewski has
11 joined us. Thank you for joining us this
12 morning.

13 Thank you, Mr. Cronin.

14 MR. CRONIN: Thank you, sir.

15 Good morning, Councilwoman.

16 COUNCILWOMAN KRAJEWSKI: Good
17 morning.

18 COUNCILMAN RAMOS: Is there
19 anyone here that cares to testify in
20 favor or against this amendment of this
21 bill? Can you please come forward at
22 this time.

23 (No response.)

24 COUNCILMAN RAMOS: Anything
25 that the members of this Committee would

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2 like to add?

3 (No response.)

4 COUNCILMAN RAMOS: Seeing none,
5 this will conclude this portion of the
6 hearing, and I would like to move from
7 the public hearing into our public
8 meeting, and I would ask Councilman Goode
9 to make a motion on Bill No. 060695 with
10 a suspension.

11 COUNCILMAN DiCICCO: Excuse me,
12 Mr. Chairman. Is the Administration
13 testifying?

14 COUNCILMAN RAMOS: I see the
15 Administration here, but they have not
16 come forward.

17 COUNCILMAN GOODE: Thank you,
18 Mr. Chairman. I move that Bill 060695 be
19 reported out of Committee with a
20 favorable recommendation, that the rules
21 of Council be suspended so as to permit
22 first reading at our next Council
23 session.

24 (Duly seconded.)

25 COUNCILMAN RAMOS: All those in

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2 favor signify by saying aye.

3 (Aye.)

4 COUNCILMAN RAMOS: Any nays?

5 (No response.)

6 COUNCILMAN RAMOS: The ayes

7 have it. It has been moved and properly

8 seconded that Bill No. 060695 be reported

9 out of Committee with a favorable

10 recommendation and further moved that the

11 rules of Council be suspended to permit

12 first reading of this bill at our next

13 Council session.

14 I think I already did all this,

15 right? All in favor signify by saying

16 aye.

17 (Aye.)

18 COUNCILMAN RAMOS: I got ahead

19 of my own script.

20 I would ask the Clerk to please

21 read the title of Resolution No. 060738.

22 Now we will go back into the

23 public hearing, and I would ask the Clerk

24 to please read the title of Resolution

25 No. 060738.

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2 THE CLERK: A resolution
3 authorizing the Committee on Labor and
4 Civil Service to conduct hearings on
5 worker safety and health at construction
6 sites in the City of Philadelphia.

7 COUNCILMAN RAMOS: At this
8 time, before we get started with the
9 hearing, I would like to make a very
10 brief statement.

11 Good morning. We're conducting
12 hearings today on worker safety and
13 health on construction sites in the City
14 of Philadelphia. On September 20th of
15 this year, Jeffrey Martin was killed in
16 Philadelphia. However, he was not
17 murdered in the violent epidemic that has
18 scourged our City. The 23-year-old was
19 killed while doing clean-up on a
20 construction site on South Broad Street
21 in Center City. He fell six stories
22 through a steel cable barrier and down
23 several floors through a garage area.

24 According to published reports,
25 the subcontractor on the project has a

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2 history over the past ten years of
3 numerous safety violations. Under the
4 Occupational Safety and Health Act,
5 employers are responsible for providing a
6 safe and healthful workplace for their
7 employees.

8 I would like to note for the
9 record that in the fourth "whereas" in
10 the original resolution, it is stated "in
11 OSHA's Philadelphia District, which
12 includes Delaware County, there have been
13 15 fatal construction accidents in the
14 past 12 months, and about half have been
15 the result of falls."

16 I have been notified by OSHA,
17 and OSHA is here present, that that
18 number is incorrect. There have actually
19 been 15 workplace fatalities in the past
20 year in the Philadelphia area and four of
21 those have been in construction and seven
22 of those 15 have been falls.

23 OSHA has also reported nearly
24 1,300 construction workers died
25 nationwide last year, and 39 percent were

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2 the results of falls.

3 To have 15 fatal workplace
4 accidents in the past 12 months in
5 Philadelphia, half of them from falls, is
6 extremely alarming to me. According to
7 OSHA, nearly 6.5 million people work at
8 approximately 252,000 construction sites
9 across the nation on any given day. The
10 fatal injury rate for the construction
11 industry is higher than the national
12 average in this category for all
13 industries. So it is timely for this
14 body to examine this growing problem of
15 worker safety on construction sites in
16 the City of Philadelphia. I will be
17 reading and studying carefully your
18 testimony at this hearing to determine
19 legislative action.

20 At this time, I would call to
21 the witness table Marie Cassady, the
22 Regional Administrator for OSHA, Region
23 3, and I believe she's accompanied by a
24 couple people from her staff. Can you
25 please come to the witness table.

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2 MS. CASSADY: Good morning,
3 ladies and gentlemen. I would like to
4 thank Chairman Ramos and members of the
5 Philadelphia City Council's Committee on
6 Labor and Civil Service for inviting me
7 here today. Thank you for allowing me to
8 testify about the safety and health of
9 workers in Philadelphia.

10 My name is Marie Cassady and I
11 am the Acting Regional Administrator of
12 the U.S. Labor Department's Occupational
13 Safety and Health Administration. My
14 region covers Pennsylvania, Delaware,
15 Maryland, Virginia, West Virginia and the
16 District of Columbia.

17 Our regional office is located
18 in Philadelphia and we have ten area
19 offices spread throughout our region.
20 The area office here in Philadelphia
21 covers the City and Chester and Delaware
22 Counties.

23 Before I tell you about my
24 agency, let me address several items in
25 Councilman Ramos's resolution. There

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2 have been 16 workplace fatalities in
3 Philadelphia during the past year, but
4 only four of them in construction. I
5 will give you more details on the other
6 fatalities later in my testimony.

7 The resolution states that
8 employers must provide a six-foot-high
9 perimeter around dangerous areas to
10 prevent falls. That is incorrect.
11 Employers must evaluate a work site and
12 then implement a fall protection system
13 that is appropriate to that site under
14 existing OSHA construction regulations.

15 Let me give you one example of
16 fall protection. OSHA has regulations
17 requiring that each employee on a walking
18 or working surface with an unprotected
19 side or edge, which is six feet or more
20 above a lower level, must be protected
21 from falling by the use of guardrail
22 systems, safety net systems or personal
23 fall arrest systems, such as a safety
24 harness and lanyard. The requirements
25 are activity-based. The bottom line is

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2 that the employer needs to provide
3 protection to workers from fall hazards.

4 Let me begin by explaining my
5 agency and our mission. The Occupational
6 Safety and Health Act became law in 1970.
7 Under the Act, employers are responsible
8 for providing a safe and healthy
9 workplace for their employees. Congress
10 charged OSHA with a very important
11 mission, to assure the safety and health
12 of America's workers by setting and
13 enforcing standards; providing training,
14 outreach and education; establishing
15 partnerships; and encouraging continual
16 improvement in workplace safety and
17 health.

18 Nearly every man and woman in
19 the nation comes under OSHA's
20 jurisdiction. There are some exceptions
21 such as miners, transportation workers,
22 some public employees and the
23 self-employed.

24 Since its inception in 1971,
25 OSHA has helped to cut workplace

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2 fatalities by more than 60 percent and
3 occupational injuries and illnesses by 40
4 percent. We believe those statistics are
5 impressive because the workforce has
6 doubled since then.

7 However, I know you are most
8 interested in the workplace fatalities
9 that have occurred in your City. Our
10 Philadelphia area office has documented
11 16 workplace fatalities during the past
12 year. Seven of these fatalities resulted
13 from falls, four of which occurred in the
14 construction industry. The other
15 workplace fatalities have been in our
16 general industry area, outside of
17 construction. They include several
18 electrocutions, contact with objects and
19 equipment, and a drowning.

20 I am sure you realize that in
21 order to protect the integrity of our
22 investigations, we cannot talk about
23 specifics, and, therefore, I cannot give
24 you any details on these inspections.

25 What needs to be said is this

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2 number of fatalities is too high. One
3 fatality is too high. We also need to
4 reduce job-related injuries and
5 illnesses. Our goal is zero, and we
6 continually try to find the best means to
7 reach it.

8 In the Philadelphia office we
9 have five health and seven safety
10 inspectors who respond to fatalities,
11 catastrophes, complaints, referrals, as
12 well as our targeted inspection goals.

13 Last year, the Philadelphia
14 office conducted 476 inspections and
15 issued 771 violations. Sixty-five
16 percent of those violations were
17 classified as serious, nine were willful
18 and 33 were repeat violations. Of those
19 771 violations, 392 were for fall hazards
20 and fall hazard-related violations in
21 construction, or, in other words, 50
22 percent of all of the violations issued
23 by the Philadelphia area office related
24 to fall hazards in construction. These
25 include citations for fall hazards which

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2 occurred on general walking/working
3 surfaces, scaffolds, ladders, stairs,
4 roofs and fall hazards that occurred
5 during steel erection and residential
6 construction. We also issued citations
7 associated with fall protection training
8 requirements.

9 During the past year, we have
10 conducted two local emphasis programs
11 concerning fall hazards in our
12 jurisdiction, one in residential
13 construction and one that was
14 specifically targeted towards any fall
15 hazards. The goal of an LEP is to
16 conduct inspections where serious hazards
17 exist.

18 The Philadelphia office
19 conducted 60 inspections for fall hazards
20 in residential construction and issued
21 citations for all of these inspections.
22 As a result of this program, 451 workers
23 were removed from hazards, 100 serious
24 hazards were eliminated and 100 serious
25 citations totalling a little over \$92,000

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2 were proposed.

3 There were 34 inspections
4 conducted under the LEP targeting falls,
5 and we again issued citations for all of
6 these inspections. During this program,
7 56 serious hazards were eliminated and
8 133 workers were removed from fall
9 hazards. Sixty serious citations
10 totalling almost \$26,000 were proposed.

11 Since October 1, 2005, the
12 Philadelphia office has conducted
13 approximately 30 accident investigations,
14 half of those in construction.

15 We are disappointed that some
16 contractors working in this City do not
17 take safety and health seriously.
18 Recently our Philadelphia area Director
19 reached out to 100 contractors working in
20 the steel erection industry in and around
21 Philadelphia. Only eight of those
22 contractors responded to our invitation
23 to discuss safety and health. We need
24 these contractors to believe in safety
25 and health and the benefits that come

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2 from having a safe workplace.

3 We do not want employers to
4 think of OSHA as just another four-letter
5 word. OSHA's goal is to encourage a
6 culture of safety and health in the
7 workplace. We have learned many lessons
8 since the law was enacted. A safety and
9 health environment is good for business.
10 Why?

11 In 2005, Liberty Mutual
12 Insurance Company in its Workplace Safety
13 Index estimated that employers pay almost
14 \$1 billion per week to injured employees
15 and their medical care providers. Even
16 one serious workplace injury may affect
17 the bottom line of a small company.

18 Employers that implement
19 effective safety and health programs may
20 expect to significantly reduce injuries
21 and illnesses and reduce the costs
22 associated with them, including workers'
23 compensation payments, medical expenses
24 and lost productivity. In addition,
25 employers often find that higher employee

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2 morale and increased productivity
3 translates into profit dollars, while
4 ensuring that workers go home in one
5 piece at the end of the day. For every
6 dollar employers invest in safety and
7 health, they will find it pays back four
8 times over.

9 Since October 2005, our
10 Compliance Assistance Specialist in the
11 Philadelphia office has conducted 75
12 construction cooperative program outreach
13 and training activities. The
14 Neighborhood Transformation Initiative
15 Partnership that was signed last year
16 between OSHA and the City of Philadelphia
17 is an extraordinary example of how
18 working together helps reduce injuries.
19 The participating demolition contractors
20 working on the project have a DART rate;
21 that is, days away, restricted or
22 transferred rate, which is days away from
23 work basically, below the national
24 average for demolition contractors. The
25 evidence is in. We know that alliances

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2 and partnerships work.

3 At this point, we want to say
4 we are very pleased with the referrals we
5 receive from the Fire Department and
6 would like to encourage the Department of
7 Licenses and Inspections to follow suit.
8 They are on the ground at numerous
9 construction sites and have a good handle
10 on projects in the City and can help us
11 prevent accidents and fatalities.

12 Thank you for allowing me to
13 testify today on this very important
14 issue. OSHA's goal has always been to
15 ensure that each worker goes home in one
16 piece at the end of the workday, and we
17 welcome City Council's interest in
18 helping us achieve that goal.

19 Thank you.

20 COUNCILMAN RAMOS: Thank you,
21 ma'am, for your testimony.

22 Does anyone else on your panel
23 care to testify?

24 MS. CASSADY: No. That's all.

25 COUNCILMAN RAMOS: Any

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2 questions for this panelist?

3 COUNCILMAN KELLY: I do.

4 COUNCILMAN RAMOS: Councilman
5 Kelly.

6 COUNCILMAN KELLY: Yes.

7 Ms. Cassady, you mention in your
8 testimony that you gave numerous
9 inspections on developing sites. You
10 also mention that many citations were
11 proposed.

12 Could you give me an idea of
13 what "proposed" means? Are these
14 citations given to the developers?

15 MS. CASSADY: Yes, they were.
16 When we issue a citation, everything that
17 is on the citation is listed as a
18 proposed violation, and the employer has
19 15 days in which to come in, present
20 additional evidence as to why a citation
21 may or may not be valid, and then after
22 15 days, it becomes a final order. There
23 may be adjustments made to the citation
24 based upon evidence presented at the
25 informal conference. So that is what we

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2 issued or proposed. It's not
3 necessarily --

4 COUNCILMAN KELLY: In other
5 words, they have 15 days to comply, and
6 is there reinspection at that point?

7 MS. CASSADY: If we do not have
8 evidence that the employer has -- the
9 employer is required to provide abatement
10 evidence to us, and if they do not, then
11 we would reinspect.

12 COUNCILMAN KELLY: I see.
13 Do you feel that the citations
14 or the amount of the citations are enough
15 that's going to force a developer to put
16 in proper safety standards?

17 MS. CASSADY: We have a very
18 elaborate penalty scheme, and penalty
19 amounts for violations can range up to
20 \$70,000 per violation. That is usually
21 the type of penalty that we start with
22 when we are looking at either willful or
23 repeat violations.

24 COUNCILMAN KELLY: Well, I'm
25 looking at your testimony here and it has

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2 60 serious citations totalling almost
3 \$26,000 were proposed. That's over 60
4 violations.

5 MS. CASSADY: Right. Serious
6 violations have a penalty up to a maximum
7 of \$70,000 -- \$7,000. I'm sorry. And we
8 take several factors into account when we
9 assess a penalty for a violation. The
10 first is the gravity of the violation,
11 the likelihood that that violation will
12 in fact result in a serious injury, and
13 then the size of the employer, the
14 employer's history and the amount of good
15 faith that they may have demonstrated
16 during the inspection are all considered
17 when we assess the final penalty.

18 What happens with a lot of
19 small contractors is, there is a very
20 sizable adjustment for size. So if you
21 have a contractor that only has between
22 five and ten employees, the penalty
23 reduction is very, very significant.
24 It's 80 percent.

25 COUNCILMAN KELLY: Can you stop

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2 the construction from taking progress?

3 MS. CASSADY: If we document
4 what we consider to be an imminent danger
5 and the employer fails to take immediate
6 action, then we can post an imminent
7 danger notice. We can go to the courts
8 to get a restraining order until the
9 violation is fixed.

10 COUNCILMAN KELLY: Because it
11 seems to me that with all this
12 development that's going on in the City
13 of Philadelphia, especially Center City,
14 you have a lot of developers and they're
15 putting up these large buildings and
16 condos and everything else, and they're
17 worth millions upon millions of dollars.
18 If they're looking at it to rather stop
19 the pace that they're building this
20 thing, they would gladly pay a small fine
21 and keep on going without making any
22 changes to their --

23 MS. CASSADY: That's very true,
24 but our penalty system is progressive.
25 So if in fact -- take fall protection,

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2 for instance. If we go out and we
3 document a fall protection --

4 COUNCILMAN KELLY: But you do
5 have reinspections, in other words?

6 MS. CASSADY: We do have
7 reinspections. And if we document that a
8 violation continues to exist or that a
9 violation has recurred after we've cited
10 it once or twice, that's when these much,
11 much higher penalties come into play and
12 it's also when we can start to ignore
13 things like the size of the employer.
14 For serious violations, we are bound by
15 the law to consider those factors. Once
16 we get to a willful violation, we can
17 issue the \$70,000 penalty without taking
18 into account the employer size.

19 COUNCILMAN KELLY: And you also
20 can stop the further construction.

21 MS. CASSADY: As I say, if we
22 have something that we call an imminent
23 danger where we feel the likelihood of
24 death or serious physical harm is
25 imminent unless that violation is

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2 corrected immediately, we can post an
3 imminent danger notice and we can pursue
4 a restraining order from the courts. I
5 can tell you that it is a very rare
6 occurrence that we will go out and find
7 something like that that an employer does
8 not abate immediately.

9 COUNCILMAN KELLY: Okay.

10 MS. CASSADY: They will usually
11 remove their employees from the site and
12 if it's fall protection that needs to be
13 installed or a trench that needs to be
14 shored, that usually happens while we are
15 on the site.

16 COUNCILMAN KELLY: Okay. Thank
17 you.

18 Thank you, Mr. Chairman.

19 COUNCILMAN RAMOS: Thank you,
20 Councilman Kelly.

21 Any other questions from
22 members of this Committee?

23 (No response.)

24 COUNCILMAN RAMOS: I have a few
25 questions.

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2 When I received or when I read
3 a quote from OSHA I guess about five or
4 six weeks ago, you used the word
5 "alarming," and your testimony today does
6 in fact sound alarming. Although it
7 seems as though OSHA is out there and I
8 know that you are and that you've gotten
9 such cooperation from the City through
10 its demolition program, through the NTI
11 program.

12 MS. CASSADY: Yes.

13 COUNCILMAN RAMOS: You state in
14 Page 3 that you're disappointed that some
15 contractors working in this City do not
16 take safety and health seriously. You go
17 on to state that you reached out to 100
18 contractors working in the steel erection
19 industry and only eight of those
20 contractors responded to your invitation.
21 You state here that "some contractors."
22 I think that might have been more
23 appropriate if your statement is in fact
24 correct, -and I assume that you've done
25 your homework and that you consider it

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2 correct, -that it's probably more
3 appropriate to say "most contractors"
4 here instead of "some," because you have
5 eight out of only 100. But not to get
6 into all of that. That can take us all
7 day, which I'm willing to be here all
8 day, but why do you think you had such a
9 poor response?

10 MS. CASSADY: I think that
11 there are still a number of contractors
12 out there that regard injuries and
13 illnesses and problems on construction
14 sites or even in general industry as the
15 cost of doing business. I personally had
16 discussions with contractors along those
17 lines and --

18 COUNCILMAN RAMOS: So it's okay
19 to get a couple guys hurt on a job once
20 in a while because --

21 MS. CASSADY: And the workers'
22 compensation costs are built right into
23 their bids for the job. As crazy as that
24 sounds to me, who has spent a lifetime
25 working in safety and health, that is

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2 nevertheless the way a tremendous amount
3 of businesses regard that.

4 I am happy to report that we
5 are seeing a turnaround in participation
6 with partnerships, with cooperative
7 agreements that we formed, for instance,
8 with some of the contractors associations
9 where this realization that this is the
10 cost of doing business is not necessarily
11 the best way to do business, and as a
12 result of that, we have formed some very,
13 very positive partnerships. We've done
14 training and we have industry groups out
15 there working with us to get their
16 members as well pushing the issue of
17 workplace safety and health is the way of
18 doing business. It is a long, slow
19 learning curve and we really were
20 disappointed at this turnout, but --

21 COUNCILMAN RAMOS: What did
22 they say? Did you call back and ask
23 them, How come you didn't come to this
24 important meeting of contractors on the
25 issue of safety?

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2 MS. CASSADY: I think we
3 extended the invitation. I don't know
4 that we -- we extended the invitation
5 through the unions. It was my
6 Philadelphia area office, and that's how
7 the invitation was extended. My
8 understanding is, we did not follow up
9 and call them and ask them why they did
10 not attend.

11 COUNCILMAN RAMOS: I sure hope
12 that that's not the mindset, that it's
13 the cost of doing business. I was a
14 construction worker before I was elected
15 to this body and I am glad I didn't have
16 any of those contractors that I worked
17 for over the years that just saw me as
18 something that might come up in an
19 insurance policy, but that in fact these
20 contractors that I worked for I think for
21 all those years, about 20-some years,
22 most of those contractors had us going to
23 safety meetings in the morning, wearing
24 your hard hat properly, not backwards,
25 and boots and safety gear and protective

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2 clothing and everything else. I sure
3 hope that that's not the mindset, because
4 that's a horrible mindset for a worker to
5 go and for them just to be discarded as
6 just part of doing business.

7 MS. CASSADY: As I say --

8 COUNCILMAN RAMOS: I'm quite
9 sure the Martin family will not
10 appreciate that after the husband fell to
11 his death on a construction site. That
12 was the father and the husband of someone
13 back home. Every single worker is human
14 valuable, precious human worth. But
15 we'll get into that.

16 How do you compare the average
17 yearly fatal rate in Philadelphia to
18 cities like New York, LA, Chicago? These
19 are cities that have a construction boom
20 going on as well. How do we compare to
21 this fatality rate that you refer to as
22 alarming?

23 MS. CASSADY: That's somewhat
24 difficult because it's clearly dependent
25 upon the number of work sites you have,

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2 the amount of construction, the size of
3 the population. New York and Los Angeles
4 are much larger cities than Philadelphia.

5 In looking at my region, which
6 is something that I can more easily
7 address, I would have to say that
8 probably the next largest city that we
9 have is Washington, DC. I would say the
10 safety and health experience in
11 Washington, DC is similar to what we're
12 seeing in Philadelphia. New York and Los
13 Angeles, number one, are both out of my
14 region, so my experience with those
15 are -- I just don't have it. I can't
16 respond to that.

17 COUNCILMAN RAMOS: So you're
18 saying that Philadelphia might just be an
19 example of what's happening in other big
20 cities, that New York and Washington are
21 going through a similar cycle because of
22 the construction boom?

23 MS. CASSADY: Certainly because
24 of the construction boom there are a lot
25 of the issues. If you look at national

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2 statistics, which I will mention a little
3 bit, overall you're seeing a reduction in
4 construction fatalities. It is not a
5 significant reduction, but it is a small
6 percentage. It's maybe two or
7 three-tenths of a percent from last year,
8 and last year it was pretty much a static
9 level from the year before. But those
10 levels are going down gradually.

11 Probably the thing that is most
12 disturbing, however, is that there is a
13 significant increase in the number of
14 fatalities that are occurring for
15 non-English-speaking workers in the
16 construction industry. The increase is
17 particularly noticeable in the Hispanic
18 community where you do have a significant
19 increase in the number of fatalities for
20 Hispanic workers. Even though the
21 overall level of construction fatalities
22 is decreasing, for that group of people
23 it is increasing, and it is an area that
24 we are targeting very carefully and we
25 are spending a lot of time working with

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2 various Hispanic groups to, number one,
3 get the word out to the workers that they
4 have the right to demand safe and
5 healthful working conditions.

6 There are a lot of factors that
7 make Hispanic workers somewhat reluctant
8 to report problems to OSHA if they're
9 working on an unsafe work site, but as I
10 say, we are spending a lot of time and
11 energy reaching out to that community in
12 general and to leaders of that community
13 so that these workers realize that they
14 do have the protection of the federal
15 government in terms of their working
16 conditions.

17 COUNCILMAN RAMOS: Are you
18 doing that locally here in Philadelphia
19 proper?

20 MS. CASSADY: Yes, we are.

21 COUNCILMAN RAMOS: You
22 mentioned in your statement, you refer to
23 residential construction.

24 Do you see the problem being
25 bigger in the residential construction

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2 versus the commercial construction?

3 MS. CASSADY: Yes, we do at
4 this point, and I think the reason --

5 COUNCILMAN RAMOS: That
6 Hispanic stuff is tied into residential?

7 MS. CASSADY: Absolutely.
8 Absolutely. That is one of the factors.
9 The other factor is that for many years,
10 clearly what we looked at was large
11 construction sites, and larger employers
12 at this point for lots of reasons
13 frequently have gotten a much better grip
14 on safety and health and have come to
15 regard it as the way to do business. The
16 problem is with smaller contractors, and
17 that's typically what you have on
18 residential construction sites, are
19 smaller contractors that are frequently
20 hiring minorities. And the situation is
21 an area that clearly needed to be
22 addressed. We're having much more
23 injuries than illnesses on those types of
24 work sites.

25 COUNCILMAN RAMOS: In this

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2 business a lot of it is union, non-union.

3 This residential, is this mostly union or

4 non-union?

5 MS. CASSADY: Mostly non-union.

6 COUNCILMAN RAMOS: Mostly

7 non-union. Are a lot of these falls

8 happening in non-union -- are you saying

9 that some of these fatalities are higher

10 in non-union sites than union sites?

11 MS. CASSADY: I don't think

12 that we can say that, because a lot of

13 times with residential construction, what

14 we're seeing are workers getting injured

15 and seriously injured, not necessarily

16 fatals on residential sites, although

17 there are some.

18 It seems to be a mix of union

19 and non-union. Some residential sites

20 are unionized, but the workforce, for the

21 most part, is the same.

22 COUNCILMAN RAMOS: In your

23 organization's opinion, in OSHA's

24 opinion, what items do you think need to

25 be done on a City level to make

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2 construction sites safer? If you have
3 any recommendations, you can give them to
4 me now.

5 Your testimony has been quite
6 impacting, at least for me. A bunch of
7 my colleagues feel the same way, because
8 you have given us some very alarming
9 information and you have made some very
10 matter-of-fact statements at the witness
11 table, and I appreciate your candor and
12 your honesty. Since you guys are the
13 experts in this, I take it to be truth.

14 MS. CASSADY: What I would
15 point to is the Neighborhood Transition
16 project, which we have partnered with the
17 City on. That has worked out extremely
18 well, and we are finding at times our
19 cooperative programs working with
20 contractors that really do want to work
21 with us, which has been the case with the
22 Neighborhood Transition project, produces
23 much better results because the safety
24 and health attitude gets ingrained in
25 what's happening. We can't be there all

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2 the time, but once you have contractors
3 buying into that theory and working with
4 us, the safety and health at the sites
5 remains good whether or not we're there
6 to watch it all the time, which is really
7 what we are looking for in the end, that
8 companies in many ways become
9 self-policing in making sure that their
10 workers are safe, because 12 inspectors
11 for just a city the size of Philadelphia,
12 clearly we can't be everywhere. The fact
13 that the City has chosen to partner with
14 us on this project and we've cooperated
15 with training and with identifying the
16 contractors has really, really been a
17 very positive experience, and I would
18 hope that we could do more of that.

19 COUNCILMAN RAMOS: If there was
20 one thing that you would recommend to us
21 on how the City can better monitor the
22 safety of workers on construction sites,
23 what would that be? The Department of
24 License and Inspections is going to
25 testify shortly. I mean, what would you

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2 in your expertise --

3 MS. CASSADY: Again, I think
4 probably the easiest way to do this --
5 and, again, it's something that we are
6 seeing from the Fire Department and we
7 have done this with other groups as
8 well -- is that if L&I happens to see
9 serious hazards on a work site that no
10 one seems to be interested in correcting,
11 if they would call my Philadelphia area
12 office, we would send an inspector out
13 there to make sure that those hazards got
14 corrected.

15 COUNCILMAN RAMOS: L&I doesn't
16 call you when they see --

17 MS. CASSADY: They will call us
18 sometimes, but my guess is that there's
19 probably many times when maybe they don't
20 want to bother us. I'm not pointing
21 fingers, but I think that there's
22 probably many times when they could call
23 us and for whatever reason they don't.
24 They apparently always give us a call if
25 they see a trench, which is clearly a

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2 very serious issue. I don't know that we
3 get calls all the time when there are
4 fall hazards. So that's certainly one
5 very easy way. And, truthfully, it
6 doesn't just have to be L&I. It could be
7 other City workers that happen to see a
8 problem. We have no problems if there
9 are Street Department workers out there
10 that happen to see a trench. We would
11 more than welcome a call from them that
12 there are employees working in an
13 unprotected trench, and we will go
14 investigate.

15 COUNCILMAN RAMOS: Okay. Thank
16 you so much for your testimony.

17 Any other questions from this
18 Committee?

19 (No response.)

20 COUNCILMAN RAMOS: Thank you.

21 MS. CASSADY: Thank you.

22 COUNCILMAN RAMOS: Since we're
23 dealing with government entities that
24 have a direct or indirect involvement on
25 worker safety or enforcement, Otis

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2 Haigler, can you please take the witness
3 table.

4 Good morning.

5 MR. HAIGLER: Good morning.

6 COUNCILMAN RAMOS: For those of
7 you in this room, this gentleman is not a
8 stranger by a long stretch to this
9 Chamber. He comes here, right,
10 Councilmembers, he comes here and sits
11 there very often and has had a very
12 distinguished career as a public servant
13 in the City of Philadelphia.

14 Mr. Haigler, please.

15 MR. HAIGLER: Thank you. Good
16 day, Councilman Ramos and members of the
17 Committee. I am Otis Haigler, Jr.,
18 Director of Legislative Affairs for the
19 Department of Licenses and Inspections.
20 Accompanying me here to also present the
21 Department's testimony on Resolution
22 060738 is Michael Maenner, Manager of
23 Licenses and Inspections Construction
24 Inspection Division. Today I am here to
25 provide testimony on Resolution 060738,

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2 which calls for hearings within this body
3 to investigate worker safety and health
4 on construction jobs located within the
5 City of Philadelphia.

6 As the Committee is aware, the
7 Department of Licenses and Inspections is
8 the regulatory arm of the City that
9 enforces local laws governing building
10 construction. We enforce these laws by
11 regulating individuals and activities
12 through the licensing of qualified
13 persons to perform certain work, the
14 enforcement of local, state and federal
15 laws related to construction to ensure
16 compliance, and the issuance of permits
17 for construction work performed on
18 properties located within the City.

19 The primary mission of the
20 Department with regard to regulating the
21 above is to safeguard the public welfare.
22 Indirectly by regulating individuals
23 through licensing and enforcing laws
24 related to building construction in order
25 to ensure compliance, certain aspects of

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2 worker safety are also considered.

3 The International Building
4 Code, IBC, as promulgated by the
5 International Code Council and adopted by
6 the City as its building code, contains
7 language within Chapter 33 related
8 specifically to safety at construction
9 sites.

10 The provisions of this chapter
11 include the following safeguards during
12 construction operations: One, provisions
13 for fire standpipes for use during
14 construction that are within one floor of
15 the highest point of construction
16 projects; two, provisions that at least
17 one temporary lighted stairway is
18 available and accessible when a building
19 project exceeds 50 feet in height; three,
20 provisions for properly located and
21 serviced fire extinguishers; four,
22 provisions requiring protection of public
23 and private property during construction;
24 and, five, provisions requiring permits
25 to be obtained by qualified individuals

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2 for welding and cutting operations. And
3 I might want to add for that last one the
4 requirements for welding and cutting
5 operations is something that I'm
6 intimately familiar with since I used to
7 be in charge of the area of Licenses and
8 Inspections that would inspect for those
9 things, and we have a requirement for
10 permit activity, that you have to notify
11 the Department within 48 hours prior to
12 commencing a welding or cutting operation
13 so that we can arrange for an inspection
14 of that operation at that time.

15 Further, the Department
16 requires that builders hire a registered
17 engineer to evaluate the impact on
18 adjoining property and, when necessary,
19 provide for shoring and underpinning of
20 the property to prevent shifting,
21 property damage and trench collapse which
22 could trap workers conducting excavation
23 work.

24 I'm going to say that we have a
25 very good relationship with OSHA. We

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2 have a very good relationship with OSHA
3 and have made frequent referrals to them
4 for their action to enforce federal laws
5 related to worker safety when conditions
6 are observed during the course of our
7 inspection of permit activity and which
8 may pose a threat to same.

9 Finally, as a way of addressing
10 worker safety prior to the commencement
11 of excavation projects, the City actively
12 promotes the use of the State's One Call
13 System to locate buried utilities. The
14 activation of this system provides
15 contractors with much-needed information
16 as to where lines are buried so as to
17 avoid accidental breaches which could
18 cause property damage, injury or death.
19 The toll-free number for the PA One Call
20 System is 1-800-242-1776.

21 Thank you for the opportunity
22 to provide the Department's testimony on
23 Resolution 060738. I will be happy to
24 answer any questions at this time.

25 COUNCILMAN RAMOS: Thank you,

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2 Mr. Haigler.

3 Any questions from this

4 Committee for Mr. Haigler?

5 (No response.)

6 COUNCILMAN RAMOS: Mr. Haigler,

7 we have this construction boom and you

8 require all these permits. I know about

9 these permits. It takes time. There's a
10 lot of sites to visit.

11 How much are you able to get

12 around to these sites? OSHA used the

13 word "alarming" when it comes to the

14 fatalities particularly due to falls on

15 construction sites. Are you getting

16 around? Are you alarmed also by the

17 incidents in the past year?

18 MR. HAIGLER: Well, of course.

19 Anybody would be very much alarmed if

20 they hear reports of any worker safety

21 issues related to death or injury. So

22 that would be an alarming indication or

23 alarming condition.

24 Again, as stated in my

25 testimony, the Department of Licenses and

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2 Inspections' primary role is to inspect
3 for construction-related permit work
4 related to the construction code that we
5 enforce. Primarily these are laws
6 related to how a building is constructed
7 and the material that may go into that
8 building type construction.

9 Our inspectors primarily are
10 out there to inspect to ensure that the
11 laws that have been adopted by the City
12 of Philadelphia are in compliance.
13 Again, worker safety is an aspect of what
14 we do certainly. Our primary goal is to
15 deal with public safety to make sure that
16 the public welfare is secured by the
17 enforcement of our laws.

18 COUNCILMAN RAMOS: How much are
19 you able to get around with the personnel
20 that you have to all this construction
21 and all these permits that are required
22 and for you to do the work that you do?
23 I mean, are you getting to 80 percent of
24 the jobs, 70 percent? I mean, are you
25 getting to all the jobs?

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2 MR. HAIGLER: I'll let Michael
3 Maenner, who is our Director of
4 Construction Inspections, answer that
5 question.

6 COUNCILMAN RAMOS: Mr. Maenner,
7 will you please state your name again and
8 your title for the purpose of the record.

9 MR. MAENNER: Mike Maenner.
10 I'm the Construction Inspections Manager
11 for Licenses and Inspections.

12 We get to 100 percent of the
13 jobs.

14 COUNCILMAN RAMOS: You get
15 to --

16 MR. MAENNER: In various phases
17 of the job.

18 COUNCILMAN RAMOS: And I know
19 that on the very human element, we're all
20 alarmed, but do you see that because
21 maybe this construction boom going on
22 commercially, residential, downtown -- I
23 just drove through a part of North
24 Philadelphia this morning. Thank God,
25 there's some houses being built in this

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2 whole big parcel of land in North Philly,
3 and that's a very positive thing, but are
4 you concerned as OSHA is about the safety
5 of workers on construction sites?

6 MR. MAENNER: Oh, absolutely.
7 My inspectors are workers also and
8 they're on the construction site. So any
9 flagrant violations we usually do report.

10 COUNCILMAN RAMOS: I guess my
11 question is, in the past year, do you see
12 this being more of a concern because of
13 all of the construction boom versus a
14 couple years ago?

15 MR. MAENNER: Yes.

16 COUNCILMAN RAMOS: Okay. Have
17 you taken any other remedies? I mean, do
18 you have any opinions of what things can
19 be done on the short-term or long-term
20 basis in Philadelphia to improve
21 workplace safety?

22 MR. MAENNER: Well, several
23 years ago all the inspectors for Licenses
24 and Inspections took a class that was
25 given by OSHA for open trenches, and we

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2 generally inform our inspectors --
3 because they are on the job site, I'm
4 concerned with their safety also, and any
5 fall hazards they may come across, to
6 report those.

7 COUNCILMAN RAMOS: Okay. I'll
8 defer to Councilman DiCicco.

9 Councilman.

10 COUNCILMAN DiCICCO: Thank you,
11 Mr. Chairman.

12 I have one question.
13 Mr. Haigler, on Page 2 of your testimony,
14 the paragraph that begins, "Further, the
15 Department requires that builders hire a
16 registered engineer to evaluate the
17 impact on adjoining property and, when
18 necessary, provide for shoring and
19 underpinning," et cetera, is that
20 requirement for all excavation or is
21 there a criteria? For instance,
22 single-family housing development, one
23 house being built where the lot is being
24 excavated, are they required to do that?

25 MR. HAIGLER: Well, Councilman,

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2 this is in reference to a bill that
3 recently passed. It was enacted, and it
4 was due to a lot of work that we worked
5 on together. It's primarily for
6 excavations that have been left
7 unattended for more than six months. If
8 a foundation permit was issued for a
9 particular project and the excavation was
10 left unattended for more than six months,
11 then the Department has a requirement now
12 to require that the property owner hire
13 an engineer to submit to the Department
14 information related to that construction
15 excavation to make sure that it is still
16 safe.

17 Also, there are certain
18 requirements that the excavation put up
19 certain types of barriers to prevent
20 access to that so that would prevent
21 persons from coming in contact and
22 harming themselves if they were to come
23 into contact with -- that would have
24 imposed a safety risk.

25 COUNCILMAN DiCICCO: I

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2 understand that, because as you said, we
3 worked for quite amount of time on that
4 bill, and I think it's a good bill, but
5 that is generally after the excavation
6 has been left unattended --

7 MR. HAIGLER: That's correct.

8 COUNCILMAN DiCICCO: -- for six
9 months. What I'm asking is, I'm going to
10 go build a new home tomorrow and I take
11 an old property, a vacant structure, down
12 and I do excavation. At that point, am I
13 required to have an engineer evaluation
14 of that excavation, or does it only
15 pertain to large-scale development,
16 Symphony House as an example or any of
17 the other high-rises? Is there a
18 criteria?

19 MR. HAIGLER: Councilman, I'm
20 going to have to get back to you on the
21 question.

22 COUNCILMAN DiCICCO: Because I
23 think it's important, just as important,
24 whether it's large-scale development or
25 single-family dwelling that when any time

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2 there is an excavation and there are
3 adjoining properties, that some
4 evaluation needs to be made that, A, the
5 excavation is being done properly and
6 that there is a safety mechanism in place
7 to keep it from collapsing.

8 MR. HAIGLER: The Department as
9 part of its building construction permit
10 process, there are requirements as part
11 of that process to require engineering
12 reports for various inspections for areas
13 that the Department would not inspect on
14 its own for structural steel, for
15 excavation, for soils. We require soils
16 reports from engineers. So it's a
17 requirement that's built into the process
18 itself. I don't know if it's a
19 requirement that's routinely done every
20 time a permit is taken out, but if the
21 engineer that we have on staff reviews
22 the plans, the construction plans, and
23 there is something indicated on the
24 plans, then that engineer can require
25 additional reports from qualified design

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2 professionals.

3 COUNCILMAN DiCICCO: Again, I
4 understand the reason we did the other
5 bill after six months, but I'm a little
6 bit concerned that maybe there should be
7 some sort of a requirement during that
8 permitting process that would also
9 provide for some sort of engineering
10 evaluation. Whether it's a single-family
11 rowhouse in the middle of a block,
12 generally there's properties on either
13 side.

14 MR. HAIGLER: I believe it is,
15 but I will give you a definitive answer.

16 COUNCILMAN DiCICCO: And I
17 don't want to drive the cost of
18 construction up any higher, but this is
19 an issue of public safety, so I think we
20 need to look at that a little bit
21 further. Thank you.

22 Thank you, Mr. Chairman.

23 COUNCILMAN RAMOS: Thank you,
24 Mr. Councilman.

25 Councilman Kelly.

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2 COUNCILMAN KELLY: Yes. Thank
3 you, Mr. Chairman.

4 Mr. Haigler, I just want to ask
5 you, most of the infractions that you
6 come across and you refer them to OSHA,
7 do they generally, most of them, come
8 from the same developers or is it across
9 the board, it could be any developer? In
10 other words, I want to know, is there
11 people that are doing business in
12 Philadelphia and they're constantly going
13 against all the safety regulations that
14 we have in the City or against your
15 codes?

16 MR. HAIGLER: I'll let
17 Mr. Maenner answer that question again,
18 since he's more familiar with the
19 day-to-day operations of inspections.

20 MR. MAENNER: It's usually
21 various contractors, and most of those
22 complaints or referrals were for open
23 trenches. So it's usually in the street.

24 COUNCILMAN KELLY: Would this
25 be the smaller contractors or are these

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2 the big contractors who are working on
3 large projects?

4 MR. MAENNER: It would be the
5 smaller contractors.

6 COUNCILMAN KELLY: That's where
7 most of the infractions occur?

8 MR. MAENNER: Some of the
9 infractions. I don't know whether I
10 could say most or half or give a
11 percentage.

12 COUNCILMAN KELLY: That are
13 referred to OSHA, I'm speaking about.

14 MR. MAENNER: Yes.

15 COUNCILMAN KELLY: Most of them
16 are the smaller contractors then, right?

17 MR. MAENNER: Yes.

18 COUNCILMAN KELLY: Is it
19 basically the same contractor or are they
20 numerous contractors?

21 MR. MAENNER: It's numerous
22 contractors.

23 COUNCILMAN KELLY: Okay. All
24 right. Thank you.

25 Thank you, Mr. Chairman.

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2 COUNCILMAN RAMOS: Thank you,
3 Councilman Kelly.

4 Any other questions from this
5 Committee?

6 (No response.)

7 COUNCILMAN RAMOS: How many
8 referrals have you made in the last year
9 to OSHA, if any? Do you have any idea
10 how many?

11 MR. MAENNER: I have no idea.

12 COUNCILMAN RAMOS: One, two?
13 You've made some in the last year?

14 MR. MAENNER: Yes. We have 28
15 inspectors. I mean, we might not make as
16 many referrals as the Fire Department by
17 virtue of the fact they have more people,
18 but I couldn't give even a guesstimate as
19 to how many.

20 COUNCILMAN RAMOS: When you
21 make these referrals to OSHA, what kind
22 of response have you gotten that you can
23 recall and how were they of help in
24 remediating the problem?

25 MR. MAENNER: Actually, OSHA

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2 has always been very responsive. Even
3 going back to when I was an inspector,
4 they respond immediately to the site.

5 COUNCILMAN RAMOS: Okay. Thank
6 you so much for your testimony this
7 morning. My intention is to gather all
8 this information, take a look at it,
9 study this and we'll get back and get
10 copies out to you, and I'll be looking
11 for any legislative action, if necessary,
12 to make this City a safer place for
13 workers.

14 Thank you for your testimony.

15 MR. HAIGLER: Thank you.

16 MR. MAENNER: Thanks.

17 COUNCILMAN RAMOS: The next
18 person scheduled to testify is Mr. Pat
19 Gillespie of the Philadelphia Building
20 and Construction Trades Council, AFL-CIO.
21 And I don't see Mr. Gillespie, but I see
22 Mr. Consenza.

23 Mr. Consenza, I assume you're
24 here to testify on behalf of
25 Mr. Gillespie and the Building Trades?

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2 MR. CONSENZA: Yes, I am,
3 Councilman.

4 COUNCILMAN RAMOS: Okay.
5 Please state your name and your
6 organization's name please for the
7 record.

8 MR. CONSENZA: My name is Fred
9 Consenza and I'm with the Philadelphia
10 Building Trades Council. I'm here for
11 Pat Gillespie. I am a business
12 representative for the Building Trades.
13 I am the Chairman of the Philadelphia
14 Building Trades Safety Committee. I'm an
15 OSHA 500 instructor.

16 I'm here today to speak for Pat
17 Gillespie and, like you said, the
18 alarming problem that we have with the
19 industry today. Part of the problem I
20 think is that OSHA is understaffed. They
21 need help, because I handle -- my area is
22 Delaware County, Chester County and
23 Philadelphia, and the Philadelphia region
24 of OSHA covers that same county, the same
25 three counties. To get in Chester County

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2 or Delaware County, if there's a problem
3 and you call OSHA at 12 o'clock or 1
4 o'clock, to get out to a construction
5 site in Chester County, it might take
6 them a day to get there. They need help.

7 The Philadelphia Building
8 Trades has an alliance with OSHA. Years
9 ago people thought of OSHA as the enemy,
10 and with this alliance, OSHA is not our
11 enemy, they're our friends. We work with
12 Dominick Salvatore. We meet monthly.

13 What we do, we try to come up
14 with ways to prevent accidents. We've
15 developed a system for tracking injuries,
16 which OSHA doesn't even have a tracking
17 system to track the incidents that
18 happen. They just get the reports of
19 what happened. We're trying to be
20 proactive, and OSHA is a big part of
21 this, because like I said, Dominick
22 Salvatore is in our alliance that we have
23 with them, and it's an alliance because
24 Dominick is not an enforcement, he is
25 working with us to help us prevent

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2 accidents. So there's a big difference.
3 And the contractors have to look at OSHA
4 as our friend, not as the enemy. And
5 over the years, they've always looked at
6 them as somebody to stay away from, get a
7 lawyer, go in and fight with them. It's
8 better if they're fined \$100,000 to say,
9 listen, I'm going to put 50,000 of that
10 fine into training and I'll pay you the
11 other \$50,000, or \$75,000 into training
12 and pay a \$25,000 fine. It benefits
13 everybody. We're here to try to make
14 sure that people go home at the end of
15 the day.

16 It was alarming to hear that
17 OSHA put a request out to 100 steel
18 erectors and only eight responded. I
19 know in our industry there is a handful
20 of steel erectors that do high-rises, and
21 I just have a question on that. I want
22 to know if they were eight union
23 contractors or non-union. That's a big
24 difference to me.

25 They were union? Thank you.

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2 Because building a high-rise,
3 not only are the men and women working on
4 those projects in jeopardy, but it's the
5 pedestrians that are walking around the
6 site that have to worry about something
7 happening to them, where, God forbid,
8 you're walking down the street and
9 somebody drops a spud wrench that from 20
10 feet or from 200 feet, it could kill you.

11 We're working with the
12 Philadelphia School District now, that
13 every student that will be coming out of
14 high school will have either an OSHA 10
15 or 30 card in their pocket for that
16 partnership we have with the Building
17 Trades, that they're already hitting the
18 apprenticeships with that card in their
19 pocket. Our apprenticeships are teaching
20 OSHA 10 and 30. Most of them are up to
21 OSHA 30. And we have journeymen
22 refresher courses. These men and women
23 are coming in at night on their own time
24 and getting trained and certified with
25 OSHA. And we're talking about

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2 construction accidents, and the falls and
3 the ditches are a major problem.

4 In today's market, everybody
5 that could afford to buy a little piece
6 of property north of Spring Garden Street
7 somewhere is digging a hole and putting a
8 house up and making a million dollars,
9 and there's a problem, because it's their
10 first time ever building a house. With
11 L&I, what they're doing with the
12 engineering seal that you have to have so
13 you don't make the house next to you fall
14 down is a great thing, but when you put a
15 scaffold up to put the brick on the front
16 of that house, they're two feet away from
17 a power line that they didn't protect.
18 There's electrocutions. They're not
19 building scaffold right.

20 There is a lot of problems, and
21 I don't want to talk union/non-union, but
22 I'm going to, because I also am a union
23 organizer for the Building Trades, and
24 what I do is go to work for non-union
25 contractors. I get hired with them, and

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2 I get fired because I bring up safety
3 issues with them, and I have proof to
4 back up what I'm saying. When I bring up
5 a safety issue, they'll fire me from the
6 project.

7 That's alarming where we
8 represent people and we have a hard time
9 getting them to make sure that things are
10 done safe. I've personally called OSHA,
11 I would say, once a week. I probably
12 call them 50 times a year, and I call on
13 union contractors as well as non-union
14 contractors, because I want everyone to
15 go home at the end of the day. But when
16 you get fired for bringing up a safety
17 issue, that's just criminal and something
18 should happen to those people. There's a
19 law. It's an 11(c), which a lot of
20 people really don't know about.

21 So OSHA is doing what they can
22 do with what they have. They have a big
23 area and it's tough getting outside of
24 the City because of the glut of work that
25 we have going on right now.

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2 But that's just that type of
3 construction. There's people getting
4 killed not today that are going to be
5 killed in ten years or 15 years where we
6 thought we got all the asbestos out of
7 these buildings in schools back in the
8 '80s. It's not out of there. We took
9 out what we saw then. Now we're ripping
10 walls down and exposing asbestos that we
11 never took out in the '80s because it was
12 behind walls. Now people are opening up
13 every wall in the building and letting
14 the brick walls show and they're
15 refitting out the buildings. There's a
16 ton of asbestos in these projects, and I
17 know it firsthand because I'm on the
18 jobs.

19 And as far as the question you
20 asked OSHA if they stop jobs, they have a
21 little bit of a harder time than I do.
22 When I go to a job site and there's
23 safety issues where we stop the project
24 ourselves, all the unions, we'll make the
25 contractor fix what he has to fix. So I

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2 don't want to talk a lot about union and
3 non-union, but there is a big difference
4 in the way the two work, where the
5 housing market with the minority workers
6 that are working on them sites, they need
7 help. We're here to help them, but the
8 contractors keep them away from us where
9 we're trying to organize just to show
10 them the difference between working safe
11 and how they are working.

12 Like I said, I'm out on the
13 projects. I'm the Chairman of the Safety
14 Committee and I'm also an organizer. So
15 I know both ends of what's going on in
16 the real world.

17 I appreciate it for letting me
18 speak to you.

19 COUNCILMAN RAMOS: Thank you,
20 Mr. Consenza. Thank you for your very
21 thorough testimony.

22 Any questions from this
23 Committee to this witness?

24 (No response.)

25 COUNCILMAN RAMOS:

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2 Mr. Consenza, you represent the Building
3 Trades and the Building Trades are
4 affiliated with the AFL-CIO, so I would
5 expect you to talk union. So feel free
6 to speak your mind and how you've seen it
7 in your position within the Building
8 Trades. But what triggered this hearing
9 was that I read that this young man, I
10 believe 23 years old, named Jeffrey
11 Martin, was killed in Philadelphia in a
12 downtown project and that he fell six
13 stories through a steel cable barrier
14 down several floors to a garage area and
15 that he's a member of the Building
16 Trades, I believe affiliated with the
17 Laborers Local 332 that I'm very familiar
18 with. This got a lot of attention.

19 What is being done or what is
20 the role of the Building Trades in this
21 particular incident, the companies
22 involved? There were reports that the
23 company that this young man worked for
24 had other problems in other
25 jurisdictions. Where does that stand

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2 today, the investigation, who is involved
3 in it?

4 MR. CONSENZA: Well, OSHA is
5 involved in the investigation, and the
6 company is Fabi, where I don't want to
7 get into too much detail with Fabi, but I
8 worked for Fabi in Atlantic City. I have
9 nothing good to say about them. I worked
10 for the Building Trades when Fabi was
11 working on Delaware Avenue. I had issues
12 with them on that project. I had issues
13 with them on this project. And my heart
14 goes out to the Martin family for the
15 loss of Jeffrey. It could have been
16 prevented. But I'd rather stay away from
17 talking about Fabi, because I get
18 aggravated.

19 What we've done through the
20 Building Trades, we've mandated new guide
21 rules that we're reaching out to all the
22 bigger general contractors, because
23 they're the only ones that could build
24 high-rises, where we have it on the
25 Symphony House right now, we have it in

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2 place at the Comcast Center and we're
3 going out, like I said, to all the big
4 contractors who do build high-rises.

5 If anyone touches a perimeter
6 cable that is not supposed to touch that
7 cable, they are fired from the job, and
8 that's come up from the Building Trades
9 Council. And we have 100 percent
10 agreement with all the trades that belong
11 to the Council. So any time a perimeter
12 cable has to get touched, removed,
13 anything, they go to the general
14 contractor. It's like working down the
15 refinery. You get a permit to touch that
16 cable, and if you don't have a permit to
17 touch it, the worker is off the site, and
18 the foreman will also be removed if he
19 told the worker to take that perimeter
20 cable down without the proper permission.

21 COUNCILMAN RAMOS: The
22 contractor that Mr. Martin was working
23 for, was that a union contractor, the
24 Fabi group? I believe you referred to
25 them as Fabi.

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2 MR. CONSENZA: Is Fabi a union
3 contractor?

4 COUNCILMAN RAMOS: Yes.

5 MR. CONSENZA: Yes.

6 COUNCILMAN RAMOS: I ask
7 that --

8 MR. CONSENZA: And I say that
9 the way I say it because, like I said, I
10 worked for the company years ago down the
11 shore. They are a union company, yes.

12 COUNCILMAN RAMOS: And the
13 reason why I asked that question, because
14 you represent the Building Trades, which
15 is an affiliate of the AFL-CIO. You're a
16 union guy and you seem to have no
17 hesitance to criticize a union contractor
18 in this particular case. So I want to
19 commend you for that, because at least
20 from my vantage point, it says that if
21 it's wrong, it's wrong, it's wrong.

22 And then any particulars? I
23 know that there's probably some court
24 action going on on the Martin case. Is
25 there anything that has changed on that

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2 site that can further prevent anyone from
3 falling on that job? I believe -- is
4 L.F. Driscoll here?

5 MS. FILE: Yes, sir.

6 COUNCILMAN RAMOS: We're going
7 to get to L.F. Driscoll soon.

8 You already mentioned there the
9 barrier.

10 MR. CONSENZA: Yes. We told --
11 and that was at our suggestion -- that
12 anybody touching the cable, you fire them
13 from the job, and that's coming from the
14 unions telling the general contractors to
15 do that, where we have no problem with
16 replacing a guy, because I'd rather see
17 somebody lose a couple days' pay than to
18 lose a life.

19 COUNCILMAN RAMOS: So the
20 investigation on the Martin case is still
21 ongoing?

22 MR. CONSENZA: Yes.

23 COUNCILMAN RAMOS: Do you know
24 of any other remedies that have been put
25 in place since that tragedy?

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2 MR. CONSENZA: Yes. There's a
3 lot of different things going on with the
4 Symphony House that is going to make it a
5 safer project, and I don't want to speak
6 too much about what is going on because
7 I'm probably going to have to testify
8 when the case comes up for the Martin
9 family, and I'll do that and it's against
10 a union contractor. And union/non-union,
11 I'm going to testify and tell them what
12 happened.

13 The main thing is, when you go
14 to work, you get up early, your wife is
15 sleeping, your kids are sleeping, you go
16 to work. At the end of the day, you're
17 supposed to come home, sit down and have
18 dinner with them, and for Jeffrey Martin,
19 his life was cut short. And that's just
20 one person. There are so many accidents
21 that happen in the construction industry.
22 Besides mining, it's one of the most
23 dangerous industries that you could work
24 in. You're supposed to go home at the
25 end of the day, and if a contractor puts

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2 you in a position like I was that I
3 brought up safety issues and I got fired,
4 that contractor should --

5 COUNCILMAN RAMOS: Do you think
6 this was an isolated thing, Mr. Consenza?

7 MR. CONSENZA: What?
8 Contractors that fire people for bringing
9 up safety issues?

10 COUNCILMAN RAMOS: Yes.

11 MR. CONSENZA: Not at all. And
12 I could give you a lot of documentation
13 to back up what I'm saying, because like
14 I said, I do go to work for non-union
15 companies.

16 COUNCILMAN RAMOS: Undercover?

17 MR. CONSENZA: Yes, and I'm
18 very good at it. But there has to be a
19 change. And eight contractors showing up
20 for the steel erectors, those eight
21 contractors are probably the only eight
22 that build high-rises. So if it was four
23 that -- but I know the iron workers are
24 working with their contractors every day
25 and they're sitting with OSHA helping

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2 them critique their steel erection
3 standards, if I'm not mistaken, correct?

4 MS. DUGAN: No.

5 MR. CONSENZA: You're working
6 hand in hand with iron workers locals?

7 MS. DUGAN: Yes.

8 MR. CONSENZA: So we are
9 changing, but the change isn't happening
10 fast enough, I believe.

11 COUNCILMAN RAMOS: Thank you so
12 much, Mr. Consenza, for your testimony,
13 for your recommendations as well. If at
14 any time I will need to call on you to
15 get some of this documentation that you
16 have, I will sure ask you to make it
17 available to me, because I think this is
18 a very, very important area, and what I
19 have seen over the years is that
20 regardless of how people might feel about
21 union or non-union, union jobs seem to
22 put a whole lot of emphasis, at least
23 maybe in my limited experience, though
24 I've got some experience, that there
25 seems to be much more of an emphasis on

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2 safety and the care of workers. That's
3 not to discard any other entities' desire
4 for safety on their jobs as well.

5 Thank you for your testimony.

6 MR. CONSENZA: Thank you.

7 COUNCILMAN RAMOS: Our next
8 witness will be Mr. Roscoe Green. He's
9 the Training Director for the Laborers
10 District Council.

11 MR. GREEN: Good morning,
12 Councilman Ramos and the rest of the
13 Councilmembers. I want to thank you for
14 being able to come and testify about a
15 very important area concerning worker
16 safety and construction site safety.
17 Again, my name is Roscoe Green. I'm the
18 Training Director for the Laborers
19 District Council Education and Training
20 Fund.

21 We represent construction craft
22 laborers in the five-county Southeastern
23 Pennsylvania area. We cover Bucks,
24 Montgomery, Chester, Delaware and
25 Philadelphia counties. We primarily

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2 train construction craft laborers in all
3 facets of work done by laborers under the
4 Building Trades. We've been training
5 since 1982. In general, we train about
6 1,400 to 1,500 construction workers a
7 year. Since 2003, we've trained 81
8 people in the OSHA 30 safety course.
9 Since 2002, we've trained over 1,400
10 people in what's called a PSM/OSHA 10
11 combination class, and that allows people
12 to get their completion card for the OSHA
13 10 course as well as a PSM card, which
14 allows them to work in refineries. And
15 also since 2002, we trained over a
16 thousand people in just the OSHA 10
17 construction safety class.

18 I've included information that
19 I left with the Councilmembers a brief
20 description of the OSHA Outreach Training
21 Program Guidelines. We take a rather
22 simplistic approach toward worker safety
23 and construction safety, and, that is, we
24 believe that making workers as aware as
25 possible of the hazards that might be

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2 present on a construction site is the
3 best way to have them be safe and
4 productive workers on a construction
5 site.

6 We understand that it involves
7 a partnership between workers and
8 employers. Employers are mandated by the
9 OSHA Act to do certain things, and one of
10 those things is to train workers in the
11 hazards of the work, the work site and
12 things that might happen on the site.

13 We emphasize to the workers
14 that you not only have to be concerned
15 with the work that you're doing, but you
16 also have to be concerned about those
17 that are working with you and those that
18 are working around you, because there's
19 sometimes things that other people do and
20 not the craft and not the workers that
21 you're working with that causes some of
22 the accidents and incidents on the job
23 site.

24 I currently have six
25 instructors in my program. They're all

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2 authorized by OSHA to do the outreach
3 training. They conduct 10-hour training.
4 They can conduct 30-hour training. We do
5 a special OSHA 30 health and safety
6 class, that we combine that with CPR,
7 first aid and AED training. We emphasize
8 to all the members of the Laborers
9 District Council that it's very, very
10 important to at least get an OSHA 10
11 card. We recommend to the foremen and
12 stewards on the job that they get the
13 OSHA 30 and any additional training that
14 might be available in specialties that
15 they're doing out on the job site.

16 And exactly what is the OSHA
17 10? The OSHA 10 is ten hours of training
18 that primarily covers topics that are
19 covered in the CFR 1926 OSHA manual, and
20 it covers ten hours of training in any of
21 the subjects that you have there. Six
22 are required and then you have electives
23 with the other ones.

24 The OSHA 30 goes a little bit
25 further, in that it covers 30 hours of

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2 training. We combine that, again, with
3 the CPR, first aid and AED class. And,
4 again, we recommend that to all foremen
5 and all stewards there on the job.

6 The reason why we address those
7 classes to each one of those categories
8 of workers is because if you have a
9 situation where everyone on the job site
10 is buying into safety -- and that
11 includes the owners, management, the
12 superintendents, the project managers and
13 the workers -- you have a much better
14 chance of avoiding and minimizing
15 accidents and incidents on the job if
16 everyone has a basic same knowledge of
17 the dangers of the work site and what has
18 to be done to prevent them.

19 We have a two-pronged approach
20 to the training. One is the initial
21 training where you get the full
22 complement of hours, and also we do
23 something a little bit different with our
24 refresher training, is that instead of
25 leaving them a large gap in terms of

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2 coming back and getting retrained or
3 refreshed, we recommend to all people to
4 take our classes, come back each year for
5 an annual refresher. Although some areas
6 and some parts of the Act do not indicate
7 that you need annual retraining, we
8 insist on it because we think that the
9 more you get it, the repeated times that
10 you get it, the more it might sink in.
11 We also have people that can give
12 testimony in the classes as to incidents
13 and accidents they've seen on the job
14 site and recommended ways of trying to
15 prevent it.

16 One of the things about the
17 OSHA training that is sometimes
18 misunderstood is that the OSHA training
19 does not certify you in anything. The
20 OSHA training is an approved program of
21 training. The trainer or the instructors
22 and the curriculum is approved by OSHA.
23 What the students get is, they get a
24 completion card that they've successfully
25 completed that number of hours of

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2 training in that area.

3 One of the things that we
4 recommend to them by putting a lot of the
5 responsibility on what they do after they
6 leave the training is that we ask them a
7 question. We ask them to ask themselves,
8 who is with you 100 percent of the time
9 on a job site? And the general answer is
10 you're the only one that's with you 100
11 percent of the time. You may have the
12 greatest foreman in the world, you may
13 have the greatest superintendent in
14 world, you may have the greatest steward
15 in the world, but once that steward or
16 that superintendent or that project
17 manager leaves you, you are responsible
18 for keeping an eye out on you. If you're
19 to get back home with all your fingers
20 and all your toes, you have to take part
21 of that responsibility.

22 It is a partnership with
23 management. It is a partnership with the
24 employer. Again, the employer has to
25 meet his obligations by making sure that

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2 everyone is trained on the job to
3 recognize hazards and to do things to
4 help minimize and eliminate them, but
5 also you as a worker have the
6 responsibility that once you're trained,
7 that you then go out and you do things
8 that help make job sites safer.

9 And we continue to encourage
10 all of the members of the Laborers
11 District Council, people that are working
12 with our laborers on the job, to get the
13 necessary training to make job sites
14 safer.

15 One of the things that we do do
16 with them is, we introduce them and make
17 sure they understand the general duty
18 clause, in that an employer does have the
19 responsibility to provide a safe and
20 healthful work site. We also tell them
21 about the Section 11(c), complaints that
22 can be filed, that if you feel that
23 you've been discriminated against on a
24 job site because you've talked about
25 safety and you had issues with safety,

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2 that within 30 days of this
3 discriminatory act taking place against
4 you, you can report it to OSHA. And if I
5 may briefly, the Act reads the employee
6 rights under Occupational Safety and
7 Health Act, "You have the right to bring
8 up workplace safety and health conditions
9 to your employer, co-workers and union
10 and to file a complaint with OSHA without
11 fear of losing your job or having
12 otherwise adverse action taken against
13 you. The Act provides that employees may
14 not be discharged or discriminated
15 against for filing safety and health
16 complaints or otherwise exercising their
17 rights under the Act. If you believe
18 you've been discriminated against, you
19 can file an 11(c) complaint with OSHA
20 within 30 days of the alleged
21 discriminatory actions."

22 One of the things we give our
23 trainees is, we give them this card, a
24 laminated card, to carry in their
25 wallets. It has on it the OSHA office

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2 numbers of all the Region 3 offices
3 located in this area, and it also says
4 that "this was provided for training
5 purposes and can be duplicated and passed
6 on to other workers." It's not there to
7 cause a lot of job problems and
8 employer/employee problems, but it's
9 there to educate the people and to let
10 them know that they can get in touch with
11 OSHA if there are problems on the job.

12 Again, we serve as a training
13 provider for union contractors, signatory
14 contractors, in Southeastern
15 Pennsylvania. We encourage every job
16 site, every employer to have daily
17 toolbox meetings and weekly safety
18 reviews to find out what's going on on
19 the job site and what can be done to help
20 improve those situations.

21 Mr. Chairman, any questions?

22 COUNCILMAN RAMOS: Thank you,
23 Mr. Green, for your testimony.

24 Any questions from this
25 Committee for Mr. Green?

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2 (No response.)

3 COUNCILMAN RAMOS: Mr. Green,
4 are all members of the Laborers District
5 Council mandated to take an OSHA 10, a
6 safety course, before they go on a
7 construction site?

8 MR. GREEN: It's a voluntary
9 program. It's highly recommended, but
10 solely voluntary. It's not mandated.
11 However, there are parts of the country,
12 there are states in the United States and
13 provinces in Canada that require that all
14 workers on the construction site have at
15 least the OSHA 10, at least the OSHA 10.

16 COUNCILMAN RAMOS: What
17 percentage of your members -- and you're
18 referring to a member of the District
19 Council, construction worker, that goes
20 to your facility and takes the course,
21 right?

22 MR. GREEN: Yes.

23 COUNCILMAN RAMOS: Do you have
24 any idea what percentage go out and take
25 that course at your training facility?

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2 MR. GREEN: Well, at least ten
3 percent of the membership on a revolving
4 basis take one of the three classes that
5 I mentioned, either the OSHA 30, the PSM
6 or the regular OSHA 10. In addition to
7 that, we have four-hour and eight-hour
8 safety awareness classes that we get.
9 For instance, in the area of fall
10 protection, we have an eight-hour course
11 on that that can be done on a Saturday or
12 over the course of a couple evenings.
13 And it primarily covers Subpart M of the
14 regulations, fall protection, and related
15 sections in the standard.

16 COUNCILMAN RAMOS: But in your
17 agreements with the union contractors,
18 there are these stipulations of them
19 providing these, besides that they are
20 legally bound to abide by all OSHA regs,
21 but that also that these weekly safety
22 meetings happen and so forth. How do you
23 monitor? Do you monitor that stuff to
24 see if it's going on?

25 MR. GREEN: Well, all of that

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2 is part of how the Act and the standards
3 are written. The employer, a good
4 employer, would have a health and safety
5 plan program written that can be reviewed
6 from time to time. He can monitor the
7 workers that are sent on the job to check
8 to see what kind of safety training that
9 they've had.

10 One of the things that happens
11 with the Act is that we pretty much
12 service the contractor as a training
13 provider so that he can fulfill the
14 requirements of that part of the Act. We
15 as the education and training benefit for
16 our union members, we do the authorized
17 OSHA training. A contractor can get
18 copies of those cards, keep them on file
19 and have that part of his record-keeping
20 system that he's fulfilled his obligation
21 as a contractor by making sure that his
22 workers have had the training.

23 COUNCILMAN RAMOS: Thank you,
24 Mr. Green, for your testimony today, and
25 continue to do what you're doing, because

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2 it seems that from your line of work,
3 that safety is first and foremost for the
4 members of your District Council. Thank
5 you.

6 MR. GREEN: Yes.

7 COUNCILMAN RAMOS: We're going
8 to call up a couple. How about if we try
9 this, since we're looking at training
10 going on in the area of safety on
11 construction sites, how about we call
12 Mr. Jim Dollard. He's on my list here,
13 Safety Coordinator for IBEW.

14 (No response.)

15 COUNCILMAN RAMOS: He's not
16 here. Okay.

17 Tony Wigglesworth from PALM;
18 Mr. James Sassaman, Director of Labor
19 Relations and Safety for GBCA. Can you
20 come so we can get -- I know it's been a
21 long morning. I'm trying to follow this,
22 get this list going.

23 All right. Mr. Wigglesworth,
24 will you please state your name and your
25 occupation for the record, please.

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2 MR. WIGGLESWORTH: Sure. I'm
3 Tony Wigglesworth, the Executive Director
4 of the Philadelphia Area Labor Management
5 Committee. Chairman Ramos, thank you for
6 the opportunity to speak today.

7 In my role as the Executive
8 Director, I operate a program called
9 Built-Rite, which is a construction labor
10 management program of the Philadelphia
11 Area Labor Management Committee. Since
12 1985, Built-Rite has concluded \$14
13 billion worth of construction in and
14 around Philadelphia.

15 I'm going to speak from the
16 experience we've had on the projects that
17 we've been involved with. I want to
18 characterize those projects, first of
19 all, as all large projects; second of
20 all, all are all-union projects; third,
21 there is a requirement that owner,
22 contractor and union be engaged in the
23 construction process on a Built-Rite job;
24 and, finally, the characteristic is that
25 there would be a high level of labor

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2 management cooperation on those projects.

3 Past projects in the City of
4 Philadelphia include both Stadium
5 projects, the recently concluded Terminal
6 projects, the first Convention Center and
7 hopefully soon the expansion of our
8 Convention Center in Philadelphia.

9 Every Built-Rite project has
10 beyond its participation an agenda, and
11 every Built-Rite meeting starts with
12 safety. When we speak about safety, we
13 focus not on incidents and accidents, but
14 on near misses, because to prevent those
15 is to prevent future incidents. But we
16 require the participation of all three
17 parties, and our approach to construction
18 safety, while it's rooted in our heart,
19 really is manifest through our head.
20 It's a dollars and cents approach to
21 safety on construction jobs. In fact,
22 good safety does save money.

23 I want to talk about
24 construction for a second. Construction
25 really is a network of shared

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2 responsibility and objectives, and what
3 we're all looking for is no surprises and
4 no mistakes. We want to minimize risk.
5 We want to maximize our benefit. Nowhere
6 is it truer on a construction site that
7 those four characteristics come into play
8 than on safety.

9 And I want to also speak for a
10 minute about best practices on
11 construction projects as we've
12 experienced it through our involvement in
13 construction. What we look for is
14 prudent owner actions, starting with
15 pre-qualification of contractors to
16 ensure that those contractors that work
17 in a job have strong safety records, have
18 experienced modification rates that allow
19 us to work with contractors who have
20 performed safely in the past and are
21 going to be attendant to safety now and
22 in the future.

23 Second of all, we work with
24 responsible contractors. Responsible
25 contractors are those, in our experience,

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2 that place safety personnel on a project
3 and provide training to their employees
4 so that safety incidents not only are
5 prevented on the project but really are
6 unthinkable on construction jobs.

7 We work with organized,
8 observant and engaged unions, unions that
9 sponsor apprenticeship programs to make
10 sure that every individual that comes to
11 the job understands safety and their role
12 in safety and that advocates on behalf of
13 their employees.

14 And, finally, we encourage
15 every employee on our construction
16 projects to act as their own safety
17 officer.

18 I want to conclude really with
19 an observation, and it's an observation
20 that's rooted in W. Edward Stemming, who
21 is the father of Total Quality Management
22 in this country and internationally. He
23 was fond of saying that "that which is
24 unmeasured ends up unimproved," and it's
25 been our experience in construction that

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2 that which is undiscussed remains a trap
3 for an individual that could be on that
4 construction job. And with that, I'll
5 conclude my comments.

6 COUNCILMAN RAMOS: I like that
7 quote.

8 You've been doing this for a
9 long time and you have a pretty decent
10 record of being able to do labor
11 management agreements and making these
12 job sites safer.

13 Are you just limited to the
14 union contractor, and, if so, why? Why
15 not get the others involved?

16 MR. WIGGLESWORTH: Sure. Our
17 experience is largely in the union
18 sector. We have been involved with
19 projects that have had some non-union
20 personnel, and I guess characteristic of
21 what Fred Consenza said a little bit
22 earlier in terms of the Building Trades
23 Council's position on safety, wherever
24 we're involved with a non-union
25 workforce, they're invited into our

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2 process. Safety doesn't know a union
3 card or a non-union card.

4 As to why most of our
5 experience has been in the union sector,
6 there are two reasons. The first reason
7 is, in and around the Philadelphia area
8 we have found unions to be responsible
9 parties in labor management programming.
10 They provide a focus for employees, they
11 provide a network, and they also provide
12 training.

13 The second reason why you will
14 find us on union projects and not union
15 projects is because we're basically
16 unknown to the non-union sector, and one
17 of the reasons for that is, given the
18 success we've had in working with the
19 union sector, we have little impetus to
20 work with the non-union sector.

21 COUNCILMAN RAMOS: Did you have
22 a contract over at the Symphony House
23 project where this young man fell to his
24 death?

25 MR. WIGGLESWORTH: We've had no

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2 involvement with the Symphony House. We
3 are actively involved with the
4 construction of the Comcast Center.

5 COUNCILMAN RAMOS: But not at
6 the Symphony House where this young man
7 fell to his death?

8 MR. WIGGLESWORTH: No, sir.

9 COUNCILMAN RAMOS: Once you
10 enter into contracts with employers/the
11 respective unions, do you monitor on your
12 own how this agreement is being upheld,
13 and how has that gone?

14 MR. WIGGLESWORTH: Generally,
15 owners, contractors and unions -- and I
16 would direct the comment largely to
17 owners, because we're an owner-driven
18 process. Owners that engage in our
19 process from the very beginning
20 understand that they're going to have a
21 hands-on involvement in the construction
22 activity. That's one of the
23 prerequisites for wanting us around.

24 In terms of how we actually get
25 involved, and I'll speak specifically

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2 regarding safety, how we get involved in
3 safety on a project, that's really
4 dependent upon the characteristics of a
5 specific job. When we're active in a
6 refinery and a petrochemical plant, we
7 pay attention to certain issues, exposure
8 issues, certain kinds of injuries. More
9 to the point of your current experience
10 and the reason for these hearings, our
11 involvement with the Comcast Center is
12 our first involvement with a high-rise
13 building, and I can tell you that we've
14 paid specific and special attention to
15 issues of fall protection ever since that
16 project started. Our observation is
17 generally if you're in a petrochemical
18 plant and you're injured, you may break a
19 hand or you may break an arm or you may
20 be exposed. Unfortunately, if you're
21 involved in a high-rise enterprise and
22 you have an injury, often it's a much
23 more serious injury and it's often a
24 fall.

25 COUNCILMAN RAMOS: In your

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2 organization's opinion, what things can
3 be done on a short-term or long-term
4 basis in Philadelphia to improve
5 workplace safety? And if you have any
6 ideas that you think could be done
7 through legislation that would improve
8 worker safety, can you please offer them.

9 MR. WIGGLESWORTH: I wouldn't
10 be so bold as to suggest that I have the
11 answers. I would suggest that any
12 conversation, any law, any ordinance, any
13 administrative rule, any policy that
14 requires more discussion at a local site
15 level on construction projects and
16 requires construction workers,
17 particularly the non-union sector because
18 they spend long apprenticeships in order
19 to understand safety conditions on
20 projects, any procedure that requires
21 conversation of the local level between
22 they and their employer with the active
23 participation of the owner can't help but
24 encourage safety on local construction
25 projects.

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2 COUNCILMAN RAMOS: Okay. Thank
3 you so much for your testimony.

4 MR. WIGGLESWORTH: Thank you
5 very much.

6 COUNCILMAN RAMOS: Mr. James
7 Sassaman, can you please proceed with
8 your testimony.

9 MR. SASSAMAN: Certainly.
10 Thank you and good afternoon. My name is
11 Jim Sassaman. I am the Director of Labor
12 Relations for the General Building
13 Contractors Association. I have been
14 with them for the past 21 years. GBCA
15 has been in this City since 1724. We are
16 the functional offshoot of the Carpenters
17 Company, 320 Chestnut Street. We are
18 also the Philadelphia Builders Chapter of
19 the AGC, the Associated General
20 Contractors of America.

21 Twenty-one years ago I was
22 charged for taking responsibility on an
23 industry-wide basis in safety, and our
24 services are two-pronged. One, we
25 litigate. I am a non-attorney employer

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2 representative who constantly litigates
3 against OSHA. You are no doubt familiar
4 with two of my most famous cases, the
5 2000 Kimmel Center collapse and the 2003
6 Tropicana collapse.

7 We are not reactive. From the
8 inception, our approach has been
9 proactive. To that extent, we
10 established the longest running
11 continuous 30-hour OSHA program in the
12 City. It's been around since 1985. We
13 offer it twice a year.

14 I am also a professor at Drexel
15 University, and among the courses I teach
16 is their version of the 30-hour
17 OSHA-approved program.

18 Furthermore, we also take
19 safety, and have done so for the past 20
20 years, right to the job site. In fact, I
21 was at Symphony House training the
22 employees in fall protection in January
23 of this year. This is the AGC video and
24 now DVD on fall protection. If you'd
25 like to have it, my gift to you.

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2 We also publish the OSHA
3 standards. In here we'll find the heart
4 of the matter, what we're talking about.
5 This is Part 1926. We published it with
6 our logo.

7 I'm here speaking in an
8 official capacity, not for any particular
9 contractor but for the GBCA as a whole.
10 Having just come from their Board retreat
11 in Atlantic City last week, I am
12 authorized to testify that the GBCA
13 respectfully is opposed to this bill, and
14 I'll tell you why.

15 COUNCILMAN RAMOS: For clarity,
16 this is a resolution on public safety,
17 public safety on job sites, worker
18 safety. This is not a bill.

19 MR. SASSAMAN: Well, let me
20 clarify. If it's a resolution, then I
21 stand corrected.

22 Subpart M, which is what we
23 call OSHA's fall protection standard --

24 COUNCILMAN RAMOS: So you're
25 not opposing the resolution? Because

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2 this resolution only calls for public
3 hearings, so that's what I'm doing today,
4 on worker safety in the Philadelphia
5 area.

6 MR. SASSAMAN: To the
7 extent that this resolution talks about a
8 guardrail at six feet high, I'm here to
9 explain that the OSHA standard is 42
10 inches, give or take three.

11 COUNCILMAN RAMOS: You must
12 have one thing mixed up with the other,
13 because my resolution is a very
14 straightforward resolution on worker
15 safety on construction sites.

16 MS. DUGAN: Councilman, we
17 corrected that in our testimony.

18 COUNCILMAN RAMOS: I think now
19 I know where your concern is about. If
20 it's about a part of the resolution that
21 said "whereas" and it talked about 15
22 fatalities, at the beginning of this
23 session, we corrected that, because OSHA
24 got back to us and told us that there was
25 an inaccuracy there, and when I started

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2 this hearing, I made that correction. We
3 had put that out there in the resolution
4 only because we got it from a statement
5 related to the fatalities. So for the
6 record, that has been corrected per the
7 request of OSHA.

8 MS. DUGAN: And also the fall
9 protection.

10 COUNCILMAN RAMOS: And the fall
11 protection, yes.

12 MR. SASSAMAN: With all due
13 respect, I came in about ten minutes
14 late. I am glad that OSHA is here.

15 And in conclusion, I can also
16 recommend that you speak to their
17 National Directorate of Construction
18 Services. That's a group they have at
19 the national office in Washington with
20 people dedicated just to construction
21 engineering.

22 COUNCILMAN RAMOS: We'll take
23 it under consideration. Proceed.

24 MR. SASSAMAN: Well, that's it.
25 If we're not deviating from the fall

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2 protection requirement, Subpart M, that
3 concludes my testimony.

4 COUNCILMAN RAMOS: Okay. Is
5 this your first time to a public hearing?

6 MR. SASSAMAN: My first time
7 here in these Chambers.

8 COUNCILMAN RAMOS: Okay.
9 You're welcomed.

10 MR. SASSAMAN: Thank you.

11 COUNCILMAN RAMOS: The way it
12 works is that whoever is sitting here
13 asks questions and we expect you to
14 answer them.

15 MR. SASSAMAN: Sure.

16 COUNCILMAN RAMOS: So you
17 represent all the builders -- the union
18 builders only?

19 MR. SASSAMAN: Union
20 construction. There are about 450 member
21 firms, perhaps another 450 who are not
22 members but who nonetheless contribute to
23 our industry advancement program. So,
24 therefore, we service the entire industry
25 and, yes, union. So, in other words, if

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2 a general contractor or a subcontractor
3 invites me to a job site to show some
4 safety videos, if other trades or other
5 employers want to join in, that's fine.
6 That's great.

7 COUNCILMAN RAMOS: The GBCA
8 presented a safety video to the employees
9 at Symphony House?

10 MR. SASSAMAN: That's true.

11 COUNCILMAN RAMOS: This was
12 done in January. All the employees had
13 to be there, right?

14 MR. SASSAMAN: I was requested
15 by Fabi to show the video to the
16 employees over one or two days in various
17 sessions in the in-check job trailer.

18 COUNCILMAN RAMOS: Okay. Did
19 you have a sign-in sheet that day?

20 MR. SASSAMAN: I have at least
21 one. There might have been another
22 perhaps left there. I don't have it with
23 me, but my office has it.

24 COUNCILMAN RAMOS: What do you
25 think went wrong there?

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2 MR. SASSAMAN: I know nothing
3 about the case. I couldn't tell you what
4 went wrong. I know nothing about the
5 case. I'm not involved.

6 COUNCILMAN RAMOS: When you
7 went there, did the place look like a
8 place that you would put on a hard hat
9 and boots and go to work, as long as you
10 were conscious of safety yourself, that
11 this was a safe environment?

12 MR. SASSAMAN: I didn't conduct
13 a safety inspection. That is not part of
14 what I do. What I did was simply walk
15 into the job trailer, which was located
16 right on the corner, showed the movie in
17 various sessions and then left.

18 COUNCILMAN RAMOS: All right.
19 Why don't you tell me again, what do you
20 do?

21 MR. SASSAMAN: What do I do? I
22 teach and I educate. I teach classes at
23 night and I take safety videos to the job
24 sites to train the workers.

25 COUNCILMAN RAMOS: Okay. Have

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2 you ever put on a hard hat and boots?

3 MR. SASSAMAN: I own about ten
4 different hard hats and I own steel-toed
5 shoes.

6 COUNCILMAN RAMOS: All right.
7 Thank you for your testimony.

8 MR. SASSAMAN: Thank you.

9 COUNCILMAN RAMOS: The next
10 panel will include Barbara Rahke. Please
11 correct me if I'm pronouncing your name
12 wrong. And Dona File from -- Barbara is
13 from PhilaPOSH, it says here, and Dona
14 File is from L.F. Driscoll.

15 Please come forward.

16 MS. RAHKE: Let me first
17 correct. It's Barbara Rahke. Good name
18 in Philadelphia, right? And I am indeed
19 the Director of PhilaPOSH, which stands
20 for the Philadelphia Area Project on
21 Occupational Safety and Health. So good
22 morning and thank you very much for this
23 invitation to speak today.

24 PhilaPOSH is a non-profit
25 501(3)(c) organization whose sole purpose

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2 is to fight to protect the health and
3 safety rights of workers. We are
4 supported by about 100 sponsoring local
5 unions in the area and also receive
6 funding from OSHA, from the State, from
7 different organizations to conduct
8 different training programs.

9 Last year we celebrated our
10 30th anniversary, which is no small feat
11 for a non-profit organization dedicated
12 to safety and health. And although I
13 have only been the Director of PhilaPOSH
14 for a little over a year, PhilaPOSH
15 representatives, my predecessor, have
16 testified before City Council on numerous
17 occasions, I think the first time being
18 in 1970, in the '70s, when City Council
19 was considering passage of the first
20 "Right to Know" law in the country, a law
21 that was passed and went on to become
22 part of the haz communication standard
23 for OSHA. So I am particularly happy
24 that these hearings are being held today.
25 In other words, the City Council is

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2 continuing sort of its historic role in
3 dealing with safety and health issues.

4 Now I want to begin to talk a
5 little bit about reality and begin with a
6 personal story. Five years ago, I
7 purchased a home in the Francisville
8 section of North Philadelphia. About a
9 year after I moved in -- and, in fact, am
10 part of many of your friends and
11 neighbors in the Spring Garden area.

12 About year after I moved in, an
13 abandoned house next door to me
14 collapsed, pulling down with it another
15 unoccupied house on the other side. The
16 City hired a contractor, who had the
17 lowest bid, to bring down the houses to a
18 safe level so that I could reenter my
19 home. I observed the entire process
20 since I was on the street until it was
21 completed.

22 The contractor arrived with
23 three workers. Their safety equipment
24 consisted of knit hats and gloves. They
25 used an extension ladder, which was

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2 placed on the teetering front brick
3 walls, which they climbed to just below
4 the front windows on the third floor,
5 straddled the wall and then began to
6 bring it down brick by brick with an ax.

7 For two days I watched in
8 horror, imagining what was going to
9 happen if one of them fell, and although
10 there were several close calls, the job
11 was completed without any tragedy.

12 Almost as quickly as collapsed
13 or collapsing houses are demolished, new
14 single or multiple-unit houses are being
15 built or houses are being gutted and
16 renovated throughout the City and
17 certainly very much in my neighborhood.
18 In fact, there are five construction jobs
19 going on right now on my very block.

20 A survey of those construction
21 sites will reveal just with the naked eye
22 a total lack of safety protections, a
23 total lack of protective equipment and
24 other safe practices being used site by
25 site. The enormity of the construction

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2 that's going on I think makes it almost
3 impossible to probably get a grip on, but
4 that is in fact what's going on in the
5 neighborhoods.

6 Many of the workers at these
7 sites are in fact day laborers who are
8 paid in cash. On my block many of them
9 are people from the neighborhood and from
10 the block that are being hired to do
11 these jobs. They certainly have no
12 safety training. They are getting
13 injured. These injuries are not being
14 reported. And if they get hurt, they
15 simply don't get called back to the job
16 the next day. That's what's happening.

17 OSHA and the City I believe
18 both have a responsibility to get control
19 of and to remedy this situation as much
20 as possible. And the testimony I've
21 heard already this morning has pleased
22 me, because I was unaware of some of the
23 initiatives that are happening as we
24 speak in the neighborhood. But I believe
25 that if OSHA could just start enforcing

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2 randomly fall standards at some of these
3 residential construction sites, it would
4 not take long for the message to get out
5 to other small developers and
6 contractors. And I also believe the City
7 must stop awarding contracts, including
8 demolition contracts, to the lowest
9 bidder, unless they can show that they
10 will be in full compliance with OSHA
11 standards, and that they should be
12 inspected once the project has begun to
13 ensure that they have followed through
14 with their safety system.

15 I had a similar story on the
16 other side of my house. If I hadn't
17 called L&I actually -- a house after the
18 one house collapsed, the City sent a
19 letter to the owner on the other side of
20 me that they were going to demolish the
21 house. A young developer bought it, was
22 supposed to seal and clean it, didn't,
23 proceeded construction on an expired
24 permit, with a contractor who wasn't even
25 registered with the City, and if I hadn't

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2 been aware and called, nothing would have
3 happened.

4 We in the City of Philadelphia
5 must face the consequences of an economic
6 system that values short term gain for a
7 company over the safety and health of its
8 workers and face the reality that without
9 mandatory safeguards and meaningful
10 penalties, the behavior will not change
11 and will continue to have tragic
12 consequences.

13 I am simply outraged by the
14 example of a tragic consequence to this
15 economic behavior that I recently was
16 involved with. PhilaPOSH receives
17 hundreds of calls each year from injured
18 workers who are usually looking for
19 information about workers' compensation
20 and their rights. Many are union members
21 who are referred by their locals. Some
22 are not in unions but got referred by a
23 friend or found our number through
24 various search mechanisms.

25 The call we received last April

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2 was different. The person who called,
3 named Calvin, was homeless and living in
4 a City shelter. Before he fell on hard
5 times, he had a good job and had received
6 health and safety training. He had no
7 access to a phone at the shelter to call
8 us, but his counselor next door at a
9 City-funded human resource center let him
10 use her phone.

11 He told me that he and other
12 men at the shelter were being paid to go
13 to work in an old factory, probably
14 textile, in North Philadelphia. They
15 were being driven in a van to the site
16 where their job was to clean it out.
17 They were given hand tools and gloves and
18 sometimes throw-away paper masks to cover
19 their mouth and nose. The developer who
20 had recently bought the factory was
21 usually there. He was friends with one
22 of the managers at the human resource
23 center next to the shelter.

24 Calvin immediately knew it was
25 a bad and possibly dangerous situation.

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2 He said there were all kinds of things
3 they were picking up in the trash with
4 their hands, like syringes, but what
5 concerned him most was the white stuff
6 hanging over them and laying on the
7 ground that they were also having to
8 remove by hand. He wasn't positive, but
9 he thought he recognized it from his
10 previous training. He thought it was
11 asbestos.

12 After his first day there, he
13 knew he wasn't going to go back. He took
14 his clothes off when he got back to the
15 shelter and put them in a plastic bag
16 just in case. No one else who was with
17 him did the same. In fact, he told the
18 others that he worked with from the
19 shelter that he didn't think they should
20 go back there, it could kill them. But
21 they didn't either believe him or the
22 small bit of money was more real in their
23 lives than the risk of being exposed.

24 He told me all of this and said
25 he would help in any way he could, but

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2 that somebody had to do something to stop
3 them from working there unprotected. I
4 couldn't reach him back by phone, but was
5 able to leave a message for him with his
6 counselor.

7 I got in touch with OSHA,
8 relayed all the information I had, which
9 included the location of the old factory
10 and the only way I knew to reach Calvin.

11 I have with me today the letter
12 I received last week from OSHA with a
13 description of their findings about this
14 case, including one willful and one
15 serious citation and proposed fines
16 totalling \$13,500. Calvin was correct.
17 Samples collected from the floor
18 contained 100 percent asbestos.

19 We will probably never know how
20 many people were actually exposed. After
21 all, they were homeless, including others
22 at the shelter from the clothing that the
23 workers had on when they returned from
24 work. I do know that even after OSHA was
25 alerted to this situation, because of the

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2 time gap in doing an investigation, the
3 homeless workers, minus Calvin, were back
4 in there still working.

5 How many of these kinds of
6 cases we will never know or hear about.
7 In these less visible cases, the workers
8 are seen as disposable, easily
9 replaceable, often homeless,
10 undocumented, non-English-speaking or
11 young. No one will even notice what is
12 going on.

13 I think we would all assume
14 that we do know what's going on with
15 worker safety at major construction
16 sites. For instance, we know that
17 private sector employers are required to
18 report to OSHA all injuries or illnesses
19 that require medical attention or result
20 in lost time, as well as fatalities. At
21 PhilaPOSH, we see a growing trend among
22 contractors at construction sites not to
23 report injuries.

24 Another recent call we took at
25 PhilaPOSH came from an injured worker who

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2 worked for a subcontractor on a
3 construction job at the Sunoco Refinery.
4 He said he was on workers' compensation
5 and had some questions. He said his
6 contractor was very uptight about any
7 incidents that resulted in an injury, but
8 not for the right reason. He told me
9 that, quote, Everyone knows that if you
10 are a subcontractor at Sunoco, you will
11 lose your contract if you have reported
12 injuries, so the contractors just don't
13 report them.

14 Other similar calls we have
15 received have been from workers who were
16 not on workers' compensation but were
17 being paid directly by their contractor
18 while recovering from an injury in order
19 to avoid having to report the incident.

20 When something as basic as
21 mandatory reporting is so easily
22 circumvented, why should we be surprised
23 when other mandatory safety standards are
24 also being ignored?

25 Fatalities and large

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2 catastrophes cannot be hidden. The facts
3 surrounding the accident get fully
4 revealed and almost always there is a
5 question of whether human error was
6 involved.

7 On April 3, 2006, scaffolding
8 at a Boston, Massachusetts construction
9 site collapsed, killing two workers and
10 one pedestrian, touching on your issue of
11 what's happening in other big cities. A
12 key issue was how a metal tie that had
13 secured the platform to the building had
14 been disconnected. A letter was
15 published in the Boston Globe from Marcy
16 Goldstein-Gelb and Ted Comick, the
17 Director and Co-Chair of MassCOSH, our
18 sister organization in Boston. Under the
19 title "Asking wrong questions in probe of
20 building accident," they wrote, "The
21 science of worker health and safety and
22 injury control anticipates error and
23 builds in fail-safe mechanisms. Yes,
24 equipment breaks and people make
25 mistakes. This is predictable.

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2 Construction safety requires redundant
3 systems so that equipment failure or
4 human error does not cause death and
5 injury. The frenzied push to complete
6 construction without adequate protection
7 puts workers at increased risk."

8 On September 29th, OSHA cited
9 Bostonian Masonry, the company in Boston,
10 for eight violations of safety standards
11 and proposed fines totalling \$119,000.
12 We all know these fines are usually
13 reduced, greatly reduced during
14 conference.

15 In September, Philadelphia woke
16 up after a fatality at a construction
17 site on North Broad Street. Jeffrey
18 Martin, who worked for Fabi Construction,
19 fell to his death after the perimeter
20 safety protections had been compromised.
21 Fabi has a long history of safety
22 violations, which others have already
23 attested to, so I will not repeat it.

24 Even though Fabi was cited in
25 2003 for willful safety violations,

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2 meaning ones committed with an
3 intentional disregard or plain
4 indifference to the requirements of the
5 OSHA Act, and fined \$119,000, OSHA and
6 the Justice Department did not pursue
7 criminal prosecution. The maximum
8 penalty under criminal prosecution would
9 be a fine of \$250,000 and a six-month
10 jail term. But we know criminal
11 prosecution is rarely pursued.

12 The Commonwealth of
13 Massachusetts is aggressively responding
14 to the incident with the tragic
15 scaffolding accident. A legislative
16 panel began reviewing work safety issues
17 immediately following that accident.
18 Then after OSHA announced its multiple
19 citations and proposed fines against
20 Bostonian Masonry, the Massachusetts
21 legislature's joint Committee on Public
22 Safety and Homeland Security released a
23 report just this month, in fact just two
24 weeks ago, recommending that construction
25 company owners and officials should face

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2 criminal charges if they recklessly fail
3 to protect workers killed on construction
4 sites. Quote, The prospect of criminal
5 convictions and jail time send a powerful
6 and necessary message to companies that
7 might not be deterred by a fine and who
8 obviously do not participate in voluntary
9 programs. People should not have to
10 choose between earning a living and
11 preserving their health and well-being."

12 The report says the State's law
13 enforcement officials should be given a
14 stronger hand to go after negligent
15 contractors. Quote, Criminal
16 prosecutions may be one of the only
17 solutions that the Commonwealth's
18 Attorney General and District Attorneys
19 have available to them to permit action
20 against willful violations, close quotes.

21 In closing, I want to say that
22 just as the City Council of Philadelphia
23 stepped up and passed the first "Right to
24 Know" law in the United States in the
25 '70s, strong action is once again needed

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2 to stop contractors and business owners
3 whose willful violations of health and
4 safety standards result in preventable
5 deaths. Fines are not enough. The
6 Commonwealth of Massachusetts has got it
7 right by calling for criminal convictions
8 with jail time. We must stop the abuse
9 of vulnerable and disposable workers who
10 are intentionally and unknowingly exposed
11 to asbestos just to keep costs down. We
12 must stop the repeated offenders like
13 Fabi from killing one more worker. We
14 must step up. Workers' lives are
15 counting on it.

16 Thank you.

17 (Applause.)

18 COUNCILMAN RAMOS: Barbara
19 Rahke, thank you so much for your
20 testimony.

21 MS. RAHKE: Thank you.

22 COUNCILMAN RAMOS: Dona File,
23 will you please proceed with your
24 testimony.

25 MS. FILE: I'd like to thank

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2 you for inviting me to appear today,
3 especially as a life-long resident and
4 taxpayer of Philadelphia.

5 I am the Corporate Safety
6 Director for the L.F. Driscoll Company,
7 and though my employers permitted me to
8 participate in these hearings, I prefer
9 that my comments be noted as one from a
10 resident and taxpayer who is a safety
11 professional.

12 In a book written by Charles
13 Perrow in 1999 called "Normal Accidents,"
14 he goes on to report, generally speaking,
15 that accidents are often caused by many
16 seemingly unrelated circumstances that
17 occur in a sequential order to result in
18 an accident of a specific magnitude. I'd
19 like to refer to it as the Swiss cheese
20 theory of accidents. All the holes in
21 the Swiss cheese have to line up and they
22 have to line up in a certain order for an
23 accident of a certain magnitude to occur.

24 As a safety professional in
25 Philadelphia, I believe that it's my duty

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2 to try and narrow that eye of the needle,
3 the opportunity for those circumstances
4 to occur and minimize the outcome. As we
5 know, recently in Philadelphia that
6 occasion has not presented itself to us
7 generously.

8 Because both worker safety and
9 public safety are very connected while
10 constructing high-rise buildings that are
11 coming to characterize the new nature of
12 Philadelphia as a world-class city, I
13 believe that as a resident and a taxpayer
14 to this City, it's incumbent upon me as a
15 safety professional to propose certain
16 elements that are likely to reduce the
17 opportunity for severe accidents and
18 death that at this time do not seem to be
19 referenced either by OSHA or other
20 regulatory commissions.

21 I have not studied the
22 Philadelphia L&I codes, though I know
23 some of my co-workers have actually
24 trained L&I. However, I believe that a
25 building construction code of a similar

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2 nature as found in New York City would be
3 beneficial. I propose this Committee or
4 some other committee be appointed with
5 proper representation to develop those
6 regulations for major buildings, and
7 those are identified in the New York City
8 Construction Building Code as any
9 building greater than 15 stories in
10 height or more than 200 feet in height or
11 more than 10,000 square feet. And I have
12 some very specific recommendations.

13 One would be to enhance fall
14 protection systems which exceed the OSHA
15 standards, which, for instance, would
16 include a three-rail system. Some of the
17 systems that are currently approved or --
18 and I apologize to OSHA. I know you
19 don't approve anything -- that are
20 OSHA-compliant systems such as a brand
21 name PearlWeave has one cable at the top
22 and it's an orange netting system that's
23 often found on buildings. The system
24 itself is patented without a midrail in
25 place, so that once the top rail is

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2 compromised and the netting is
3 compromised, there is no safety
4 whatsoever in place. To have a mandatory
5 midrail required as part of the City code
6 or City building code would be very
7 beneficial, in my mind.

8 Horizontal safety netting on
9 the side of a structure more than six
10 stories or 75 feet in height to be moved
11 in accordance under the working or
12 stripping decks, depending if it's a
13 concrete poured-in-place or a steel
14 structure. That's very similar to the
15 New York Building Construction Code.

16 The requirement for writing a
17 detailed written fall protection plan by
18 each contractor on site who will not be
19 using the convention guardrail system.
20 One problem with the -- and I use the
21 PearlWeave in the same context that we
22 refer to a Frigidaire as a refrigerator,
23 in the fridge. So the PearlWeave type
24 system is that it's easily compromised,
25 and I know that workers on break, for

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2 instance, sitting on top of drywall
3 buckets, as I'm sure both you and I have
4 done many times as union brothers and
5 sisters in the trades here in
6 Philadelphia, I've seen holes poked with
7 cigarettes and knife slashings so workers
8 can sit at break time or lunchtime and
9 peer outside of this netting system.
10 Once the netting is compromised, the fall
11 system is virtually not intact.

12 And along these lines, to have
13 a type of netting system that becomes --
14 the fall protection system can be easily
15 breached with a utility knife, and once a
16 contractor has to go outside of that
17 area, for instance, to do some layout,
18 very easy to slice this netting, go
19 outside unprotected and do their layout
20 and then the floor becomes exposed,
21 because we know in the preamble to the
22 fall protection standard by OSHA is that
23 there's no safe distance from an edge.
24 So without a midrail in place either by a
25 cable or a wooden guardrail system, there

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2 is really no protection on that floor at
3 that level.

4 A mandatory written engineered
5 plan developed by a professional engineer
6 and stamped for inspection and repair of
7 a system to be used for tie-off. And I
8 think I haven't clarified that in No. 4
9 here. So that any worker who is going to
10 use a wire rope cable system for fall
11 protection needs to be engineered with a
12 professional engineer and there needs to
13 be a detailed report about how that
14 guardrail or that top rail would be
15 maintained, how it would be breached and
16 how it would be repaired.

17 Engineered drawings for any
18 ramps, runways or platforms intended for
19 the use of power buggies or equipment.
20 The standards, in my mind, don't
21 adequately address that issue. They say
22 that it needs to be built for two times
23 the intended load, especially for hole
24 covers, and sometimes the intended load
25 might be foot traffic, but the actual

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2 load is a power buggy that might be
3 filled with concrete.

4 Another issue that has come to
5 me in some of the high-rise buildings
6 that we've built in the City or as we are
7 building them are sidewalk sheds and
8 pedestrian protection. And I know that
9 Built-Rite, Fran Petriccione, who is not
10 here today, when we walked the Comcast
11 site a few weeks ago, we looked very
12 intently at pedestrian protection. We've
13 had this problem on other job sites,
14 trying to protect people from themselves.
15 As they cross a street, instead of
16 crossing the corner away from the
17 construction site, they cross directly
18 into the area, the corner, where there
19 might be an open gate or traffic coming
20 into that site, which is closer to the
21 building.

22 At the L.F. Driscoll job site
23 at 8th and Walnut Street, we actually
24 built pedestrian barricades on the
25 opposing corners to shuttle people away

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2 from crossing caddy corner onto the
3 corner of the construction site. And New
4 York City has a similar proposed or a
5 similar standard or code for any building
6 that's over 100 feet in height.

7 No. 7 actually addresses that
8 issue, the erection of sidewalk barricade
9 on the opposite side of the street.

10 Right across City Hall here,
11 many, I'm sure, employees of City Hall
12 have walked on the wrong side of the
13 street in traffic trying to get to 15th
14 Street or to Chestnut Street from this
15 side of City Hall Plaza, and a hard
16 barricade would prevent that opportunity
17 to occur.

18 In creating buildings of
19 enormous height, especially for
20 renovation job sites -- and one I believe
21 that you worked on yourself, Councilman
22 Ramos, at the PSFS building where we
23 met -- that you know one problem in a
24 building of that nature is --

25 COUNCILMAN RAMOS: A long time

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2 ago.

3 MS. FILE: A long time ago,
4 yes, sir. One problem in a building of
5 that nature is that often all of the
6 systems, the alarm systems, are ripped
7 out in the demolition process. The alarm
8 systems need to be kept intact so that
9 there's a way of uniformly informing the
10 workers on those floors that there is a
11 need to leave the building. If there had
12 been a fire or some other safety hazard
13 that became evident on that job site, for
14 instance, to notify all the workers, it
15 would have been extremely difficult.
16 Workers running from floor to floor down
17 the building to notify everyone to leave
18 the building as opposed to leaving the
19 existing alarm system in place. I would
20 propose that as part of the hopefully
21 newly formed City building construction
22 code.

23 And another part that is sort
24 of tangentially attached to the
25 electrical standard by OSHA is the NFPA

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2 70E, which is a -- and I wish my good
3 friend Jim Dollard had been here today to
4 speak to this. It is a standard written
5 pertaining to the use of energized work
6 or the working on energized systems so
7 that there are -- if it's not possible,
8 for instance, in some facilities to use a
9 lock-out, tag-out program, some systems
10 from time to time have to be left
11 energized. Some testing procedures of
12 electrical panels and equipment require
13 the panel to be energized while the
14 testing occurs. The NFPA 70E allows for
15 a written electrical safe work practices
16 plan that would include the matrix, a
17 personal protective equipment matrix, in
18 the NFPA 70E standard so that the
19 contractor and the workers involved in
20 working on hot work would be required to
21 use the level of protection that's
22 identified in the NFPA 70E standard. And
23 though I think OSHA is trying to enforce
24 this, it doesn't because the OSHA
25 standards are not necessarily concurrent

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2 with industry standards. This would be
3 really a lifesaver.

4 There have been some very
5 severe accidents in Philadelphia such as
6 the one at the Phillies ballpark a few
7 years ago while that was under
8 construction. Two construction workers
9 were severely injured while working on
10 live energized parts, and having this
11 standard in place would have most likely
12 prevented severe injury to those two
13 individuals.

14 So I'd like to thank you for
15 these considerations. I remain a
16 life-long resident of Philadelphia and
17 taxpayer, and I hope that some of these
18 issues are addressed.

19 COUNCILMAN RAMOS: Keep it that
20 way.

21 MS. FILE: I may be the only
22 Philadelphia resident here today, sir.

23 I'm sorry. You, too. There's
24 three of us.

25 Thank you.

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2 COUNCILMAN RAMOS: You got
3 yourself in trouble.

4 MS. FILE: Freddie, are you a
5 resident, too? Okay.

6 COUNCILMAN RAMOS: There's more
7 Philadelphians in this room.

8 MS. FILE: I'm surprised.

9 COUNCILMAN RAMOS: Thank you so
10 much for your testimony. I want to say
11 to both of you, thank you for bringing to
12 this Committee hearing on worker safety
13 specific recommendations, that I'm going
14 to read and study and see what we can do
15 with these recommendations through the
16 City Council, and we'll be in touch with
17 you.

18 Ms. File, you're also the
19 Safety Director for L.F. Driscoll, and
20 L.F. Driscoll is the general contractor,
21 I believe, or the overseer of the
22 Symphony House project. Is there
23 anything that could have been prevented
24 there from Mr. Martin falling to his
25 death on that job site?

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2 MS. FILE: Well, the incident,
3 of course, is still under investigation,
4 and there are platoons, as you can
5 imagine, of lawyers involved. I think
6 one thing that would have definitely
7 helped the situation was to have a
8 mandatory midrail with this PearlWeave
9 type system used so that there would be a
10 less likely breach of the entire
11 guardrail system.

12 And also, sir, I'd like to
13 state that for the record, that job site
14 at the Symphony House is a joint venture
15 partner with Intech-Driscoll. It's not
16 solely a Driscoll project.

17 COUNCILMAN RAMOS: Is it the
18 responsibility of the joint partners to
19 hire the subcontractor or is it the
20 responsibility of the owner to hire the
21 contractor?

22 MS. FILE: It varies from site
23 to site. There's some sites that have a
24 list of approved and preferred
25 contractors and others that do not. So I

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2 can't speak clearly to that.

3 COUNCILMAN RAMOS: In the
4 Symphony House project, did L.F. Driscoll
5 hire Fabi as a subcontractor?

6 MS. FILE: To the best of my
7 knowledge, Fabi was hired by the joint
8 venture.

9 COUNCILMAN RAMOS: Which
10 included L.F. Driscoll?

11 MS. FILE: Yes.

12 COUNCILMAN RAMOS: It was in
13 testimony here, someone mentioned that
14 Fabi had -- and this is not the
15 Councilman or Chairman of this Committee
16 saying this, but someone that testified
17 made a comment that this contractor had
18 had other problems of falls and tragedies
19 with falls in other jurisdictions. Maybe
20 you're not the person to ask this
21 question of. Was the joint partners, in
22 hiring or awarding this contract to the
23 subcontractor, aware that this contractor
24 had had a significant incident that led
25 to death of a construction worker in

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2 other jurisdictions? I mean, if there's
3 a contractor out there that got notoriety
4 because of a death at another job that
5 this contractor was involved in, why
6 would you hire this contractor to work on
7 your project?

8 MS. FILE: I can't answer that
9 question, sir, myself.

10 COUNCILMAN RAMOS: Okay. All
11 right. Thank you so much for your
12 testimony, especially both of you for
13 your recommendations.

14 This incident of Calvin,
15 Barbara, was something done about this?
16 You mentioned that there was a fine.

17 MS. RAHKE: I can give you the
18 document. OSHA actually pursued and
19 investigated the case and has cited and
20 proposed fines to the owner of the
21 factory. Calvin has been moved to
22 another shelter.

23 COUNCILMAN RAMOS: Is this job
24 still going on?

25 MS. RAHKE: Yes, the job is --

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2 well, the homeless people are not still
3 at the site.

4 COUNCILMAN RAMOS: They're no
5 longer at the site, but the job is still
6 going on?

7 MS. RAHKE: Right.

8 COUNCILMAN RAMOS: Because you
9 do know that, particularly in the area of
10 asbestos, that you can file charges. You
11 can go to the District Attorney's office
12 and file a charge if you have been in
13 fact exposed to asbestos, because it is
14 part of the 1971 -- correct me if I'm
15 wrong -- 1971 toxic waste -- no; '74.
16 Mid '70s. I don't have my exact date,
17 but it's an early to mid '70s law that
18 you can be charged. You can bring up
19 violators. Anyone that has been
20 purposely exposed to the exposure of
21 asbestos particles can be charged.

22 Did Air Management -- are you
23 familiar with Air Management? Air
24 Management is the unit within the
25 Philadelphia Health Department that

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2 monitors jobs, asbestos jobs and other
3 type of work, but definitely asbestos
4 comes under their jurisdiction.

5 MS. RAHKE: I think part of the
6 tragedy of this is that the people who
7 were exposed were all living in a
8 homeless shelter. That's part of what's
9 so tragic. I was really hoping I could
10 get Calvin here today. I'm trying to
11 find him. He's not at that shelter
12 anymore, and he was really the stand-up
13 hero in this situation.

14 COUNCILMAN RAMOS: If you can
15 get any of this information, if you grab
16 a hold of it, please make it available to
17 me.

18 MS. RAHKE: Yes, definitely.

19 COUNCILMAN RAMOS: Thank you so
20 much for your testimony, both of you.

21 On my list I have Jimmy Bickel
22 of Adams Bickel Associates and Mr. Geoff
23 Zeh from ABC Contractors. Please come
24 forward.

25 Is Jimmy Bickel here?

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2 MR. BICKEL: Yes. That's me.

3 COUNCILMAN RAMOS: That's you.

4 MR. BICKEL: That's me. Good
5 afternoon.

6 COUNCILMAN RAMOS: Welcome.

7 And Geoff Zeh?

8 MR. ZEH: Yes, sir.

9 COUNCILMAN RAMOS: Am I
10 pronouncing your name correctly?

11 MR. ZEH: That's correct.

12 COUNCILMAN RAMOS: Thank you.

13 MR. JUDGE: Councilman, I'm
14 John Judge. I'm the Education Director
15 with Associated Builders and Contractors.

16 COUNCILMAN RAMOS: What we'll
17 do is, we'll get Jimmy to go first. Then
18 please identify yourself with your name
19 and your association. Please proceed,
20 Jimmy.

21 MR. BICKEL: Yes. My name is
22 Jimmy Bickel. I serve as Chairman of the
23 Safety Committee of the Southeast
24 Pennsylvania Chapter of Associated
25 Builders and Contractors.

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2 ABC is a national association
3 representing more than 23,000 merit
4 contractors and construction-related
5 firms in 79 chapters across the United
6 States. The Southeast Pennsylvania
7 Chapter represents merit contractors in
8 Bucks, Chester, Delaware, Montgomery and
9 Philadelphia Counties.

10 ABC is pleased for the
11 opportunity to address the City of
12 Philadelphia Committee on Labor and Civil
13 Service on the issue of job site safety.
14 We share the premise that job site safety
15 should be paramount in the construction
16 industry. Safety is certainly one of the
17 most important goals at ABC. Our
18 Chapter's Safety Committee is responsible
19 for providing safety training and support
20 services to our members.

21 For example, in 2006, the
22 Chapter conducted twelve 10-hour OSHA and
23 three 30-hour OSHA courses attended by
24 more than 200 construction employees.
25 This is in addition to the many ABC

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2 members who conduct OSHA training
3 programs on their own. ABC conducts
4 safety-related education programs with
5 the assistance of local OSHA officials.
6 Along with traditional safety programs,
7 ABC offers online safety training and
8 certification. In addition, we maintain
9 a free video lending library with a wide
10 range of safety videos for our members
11 without charge. Finally, ABC offers free
12 consultations to members in the
13 development of company safety committees
14 and programs.

15 ABC encourages members to
16 develop and maintain rigorous and
17 proactive safety programs to increase
18 employee awareness of job site safety and
19 minimize accidents. The success of our
20 members' safety record is attributable to
21 the high level of safety training
22 provided to its employees. ABC offers
23 job-specific safety courses through
24 structured seminars dealing with topics
25 such as fall protection, forklift

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2 certification, first aid and CPR training
3 to supplement our 10 and 30-hour OSHA
4 programs. Finally, ABC offers
5 management-level programs to certify
6 individuals as construction health and
7 safety technologists, while promoting a
8 regional program to certify high school
9 instructors as OSHA trainers, so that
10 they can offer safety training and
11 certifications to secondary school
12 students.

13 Additionally, the Southeast
14 Pennsylvania Chapter of ABC has
15 maintained a partnership agreement with
16 both the Philadelphia and Allentown
17 offices of OSHA since 2001. In this
18 agreement, ABC and OSHA recognize the
19 importance of providing a safe and
20 healthy work environment for construction
21 employees throughout Southeast
22 Pennsylvania. The partnership has helped
23 to foster mutual trust and respect for
24 the roles each organization plays in
25 ensuring a safe construction job site

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2 environment.

3 The partnership agreement
4 provides incentives to contractors that
5 participate in ABC's safety training and
6 evaluation process program, also known as
7 STEP, and demonstrate superior levels of
8 performance in safety. The STEP program
9 is a tool that contractors use to
10 evaluate and strengthen their safety
11 programs, policies and procedures. ABC
12 recognizes participants based on their
13 level of achievement with their
14 management of safety programs, policies
15 and procedures. The recognition levels
16 are bronze, silver, gold and platinum.
17 Participants enjoy the added benefit of
18 reduced worker compensation costs and the
19 knowledge that their employees are
20 working in a safe job site environment.

21 ABC has instituted a mentoring
22 program with OSHA as part of our
23 partnership agreement. The mentoring
24 program is jointly administered by ABC
25 and OSHA and assists contractors in the

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2 development of procedures needed to
3 establish and operate effective safety
4 programs.

5 ABC has produced Construction
6 Safety Management, a 118-page safety
7 handbook that provides methods, policies
8 and procedures for operating a safe
9 construction company. It offers detailed
10 information on each of the components
11 necessary for an effective safety and
12 health program. Construction Safety
13 Management also provides tips on safety
14 and health program essentials as
15 management support, pre-task planning,
16 substance abuse testing, return to work
17 plans and finding experienced, safe
18 employees. Finally, ABC produces a
19 number of other safety publications for
20 use by its members. A listing of these
21 publications is attached to this
22 statement.

23 As you can readily see, ABC
24 concurs with the intent of the City of
25 Philadelphia's effort to ensure that

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2 safety is a paramount consideration at
3 construction job sites. ABC is committed
4 to that premise and commits that it is
5 prepared to work with both OSHA and the
6 City of Philadelphia to promote job site
7 safety on its construction projects.

8 Since ABC has an ongoing safety
9 partnership with OSHA that is designed to
10 accomplish the objectives sought by the
11 City of Philadelphia, ABC urges that we
12 work together to share ideas and continue
13 efforts to maintain a safe working
14 environment at construction job sites.

15 Thank you for the opportunity
16 to present this statement.

17 COUNCILMAN RAMOS: Thank you so
18 much, Mr. Bickel, for your presentation.

19 If Mr. Zeh can proceed with his
20 testimony, please.

21 MR. ZEH: Councilman Ramos,
22 Mr. Bickel presented ABC's testimony.

23 COUNCILMAN RAMOS: Do you want
24 to add anything further?

25 MR. ZEH: I don't have anything

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2 further, except to thank you for the
3 opportunity to let us appear before you
4 on this important issue this morning --
5 or this afternoon.

6 COUNCILMAN RAMOS: Thank you
7 for coming forward and giving us
8 testimony.

9 How many of your affiliates
10 have ongoing projects in the City of
11 Philadelphia? Not the counties but in
12 the City of Philadelphia proper. How
13 many contractors do you have?

14 MR. ZEH: We can't tell you
15 precisely how many. They don't give us
16 detailed information. I know of at least
17 three members that are currently working
18 on fairly major projects in the City.

19 COUNCILMAN RAMOS: And you
20 consider them major projects?

21 MR. ZEH: Yes.

22 COUNCILMAN RAMOS: What
23 percentage of the market does ABC
24 represent in the Philadelphia area that
25 are affiliates of your organization?

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2 MR. ZEH: We don't keep
3 information. We do have information from
4 a study done by the Building Trades quite
5 a number of years ago where open-shop
6 contractors did slightly over half of the
7 construction work in the five-county area
8 and the Building Trades did something
9 just under 50 percent of the work.
10 That's the only information we have.

11 COUNCILMAN RAMOS: How many of
12 your affiliate members are doing
13 residential building in Philadelphia
14 proper?

15 MR. ZEH: Our members do very
16 little residential work. We're
17 predominantly a commercial construction
18 trade association.

19 COUNCILMAN RAMOS: And you only
20 represent non-union or do you represent
21 union contractors as well?

22 MR. ZEH: We're open to
23 everyone. We do have some members that
24 are signatory, but the vast majority of
25 our members are open shop.

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2 COUNCILMAN RAMOS: Philadelphia
3 is known as a union town. I can attest
4 to that, and I keep membership in the
5 Laborers Union. I got a little pension
6 that awaits me. If I don't get a pension
7 here, I'll have a pension because I
8 worked as a construction worker for so
9 many years, and I'm proud of that fact.

10 The only world that I can talk
11 to you about when it comes to
12 construction work is a union world,
13 because it was part of my livelihood for
14 so many years.

15 Do you provide the type of
16 benefits, pension, health and welfare
17 plans, salaries, that are comparable to
18 union construction jobs?

19 MR. ZEH: Most of our members
20 provide a wide array of benefits,
21 including pension, 401(k), health
22 insurance, life insurance, education,
23 training.

24 COUNCILMAN RAMOS: Are they
25 comparable?

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2 MR. ZEH: Yes. In many
3 instances, they exceed Building Trades
4 rates. A lot of our members do what's
5 called public construction on prevailing
6 wage or Davis-Bacon jobs. On those jobs
7 everybody is required to be paid the same
8 amount of money.

9 COUNCILMAN RAMOS: Are you
10 doing any work in Philadelphia that are
11 under Davis-Bacon prevailing wage jobs?
12 Do you know if any of your affiliates are
13 doing work here in Philly?

14 MR. ZEH: Not that I'm aware
15 of, but that doesn't mean there isn't
16 any.

17 COUNCILMAN RAMOS: I know that
18 if I was to ask -- well, we have
19 testimony here of a guy named Calvin, a
20 homeless person and obviously a person
21 down in his luck, was concerned about
22 safety also. So I would assume everybody
23 is concerned about safety.

24 How do you assure that your
25 affiliates make sure that the workers

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2 that your affiliates represent, that they
3 pay for, that they hire, are working in a
4 very safe environment? How do you go
5 about that? I know you mentioned OSHA.
6 Maybe I want to give you the opportunity
7 to elaborate on -- because one thing that
8 we do know in the City of Philadelphia is
9 that our union contractors have made this
10 a very big priority, safety, and whether
11 you're union or non-union, safety is a
12 human factor issue more so than anything
13 else.

14 How do you go about making sure
15 that these major job sites or smaller job
16 sites have safety first and foremost in
17 your daily work?

18 MR. BICKEL: I'd like to
19 address that, please, if I may.

20 COUNCILMAN RAMOS: Sure.
21 Please.

22 MR. BICKEL: As OSHA states,
23 it's the employer's obligation to provide
24 a safe work environment for its
25 employees.

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2 COUNCILMAN RAMOS: And these
3 will be your affiliates in your case,
4 right?

5 MR. BICKEL: Well, I'll be
6 speaking from an employer's standpoint on
7 this. And so from the employer's
8 standpoint, it's our responsibility to
9 ensure that safe work site, and we do
10 that through OSHA 10-hour, 30-hour
11 training. All of our employees have a
12 minimum of 10-hour training. Many,
13 probably more than half, have the OSHA
14 30-hour training.

15 Through the OSHA partnership,
16 we work with mentoring to enhance our
17 current safety programs that we have, and
18 through our entire safety program through
19 the incentives and the disciplinary
20 actions that are included in our safety
21 and health program, safety inspections,
22 things like that, we continue to ensure a
23 safe work environment on a construction
24 site.

25 COUNCILMAN RAMOS: Thank you so

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2 much for your testimony. In today's
3 hearing, first and foremost is the safety
4 of workers, and today different
5 organizations from government to labor
6 organizations, associations like yours --
7 is GBCA -- what is your relationship, if
8 any, or -- the person that testified
9 seems to have been just a tad bit nervous
10 his first time here. Are you the same
11 type of association or --

12 MR. ZEH: I think we're --
13 well, I'm not that familiar with GBCA.
14 We do work with them occasionally on
15 legislative issues, but by and large, we
16 do not partner with them on safety
17 matters. We operate our safety programs
18 independently.

19 COUNCILMAN RAMOS: Are they
20 union and you guys are non-union
21 essentially?

22 MR. ZEH: Most people would say
23 that, but --

24 COUNCILMAN RAMOS: Do you have
25 any specific recommendations? If you

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2 don't, I sure welcome any specific
3 recommendations that you think that you
4 can present that you would like to
5 present to us when it comes to
6 legislation that would improve upon
7 worker safety.

8 MR. BICKEL: I don't know that
9 we have specific recommendations today
10 with us, but we would like to continue to
11 work with the City of Philadelphia and
12 OSHA as you go through that process.

13 COUNCILMAN RAMOS: Okay. Well,
14 thank you so much for your testimony
15 today. Thank you.

16 MR. CONSENZA: Wait.

17 COUNCILMAN RAMOS: Yes. You
18 can leave.

19 MR. CONSENZA: Can I have a
20 question?

21 COUNCILMAN RAMOS: Mr.
22 Consenza, can you hold on, please.
23 Unless you have anything else
24 to add, I am done with the questioning.

25 MR. BICKEL: Thank you.

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2 COUNCILMAN RAMOS: Thank you so
3 much for your testimony.

4 Is there anyone else here that
5 would like to testify?

6 Yes, ma'am. You're from OSHA,
7 right?

8 MS. DUGAN: Yes, sir, and I
9 would just like to add something for the
10 record.

11 COUNCILMAN RAMOS: Okay. OSHA
12 is coming back. Mr. Consenza, you would
13 like to add something else to the
14 resolution?

15 MR. CONSENZA: Yeah. I wanted
16 to --

17 COUNCILMAN RAMOS:
18 Mr. Consenza, hold on. Let me let her go
19 first and then you can come back and if
20 you want to add a brief emphasis, a very
21 brief statement, too, that's fine.

22 Ma'am, please state your name
23 again for the record.

24 MS. DUGAN: Kate Dugan. I'm
25 the Regional Director for Public Affairs

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2 for the U.S. Department of Labor, of
3 which OSHA is part of, and we'd just like
4 to get into the record today, Councilman,
5 concerning the testimony of Mr. Haigler
6 from the Department of Licenses and
7 Inspections.

8 It seems as if in conferring
9 with the OSHA enforcement people we have
10 given extensive training to the
11 Department of Licensing and Inspection
12 construction people on trenches, and the
13 referrals that they make to us almost are
14 solely on trenches. What we'd like to do
15 today is formally offer Michael Maenner,
16 the Manager of L&I's Construction
17 Inspection Division, an opportunity for
18 OSHA to in fact train their inspectors in
19 other areas, specifically fall hazards.

20 It just seems that we've
21 trained them in the trenching and we get
22 a lot of referrals on trenching. We're
23 hoping that if we offer to train on fall
24 hazards, that we will get more referrals
25 from them on fall hazards.

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2 So I just wanted to make the
3 offer part of the record and extend that
4 to the Department of Licensing and
5 Inspection Construction Inspection
6 Division, and we will be happy to do
7 that. Thank you.

8 COUNCILMAN RAMOS: Your
9 statements have been added to the record.
10 I believe that everyone that came here
11 today came here because they're concerned
12 about worker safety. So we're taking
13 everything that you presented to this
14 Committee and has been recorded as your
15 real sincere concern for worker safety on
16 construction sites. Okay?

17 Mr. Consenza, come forward.
18 Please state your name again and who you
19 represent.

20 MR. CONSENZA: Fred Consenza,
21 the Philadelphia Building Trades.

22 I'm sorry. I didn't hear the
23 ABC. I think there was a phone ringing
24 and I couldn't hear. Do they represent
25 men or contractors? I wasn't sure what

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2 they were saying. Not men. Do they
3 represent workers or just contractor
4 groups?

5 COUNCILMAN RAMOS: No;
6 contractors. It says here that they're
7 the Associated Builders and Contractors
8 of the Southeast Pennsylvania Chapter.

9 MR. CONSENZA: Okay. A
10 question.

11 COUNCILMAN RAMOS: I ask the
12 questions here, but go ahead.

13 MR. CONSENZA: I'm sorry.

14 COUNCILMAN RAMOS: But go
15 ahead, make your comment.

16 MR. CONSENZA: See, I'm not
17 used to this type of stuff.

18 They said something about they
19 do the drug testing. Do they drug test
20 their contractors, if they don't have
21 members? Like what type of drug testing
22 is done? Because maybe I can learn from
23 some things, and if there is drug testing
24 done, what type of rehabilitation do they
25 offer?

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2 COUNCILMAN RAMOS: What I would
3 do, Mr. Consenza, is that I will forward
4 that question to them because of the
5 testimony that you're giving at this
6 time. I'll be glad to, or if you have
7 any other questions that you want me to
8 forward to them or to OSHA or to anyone
9 else, I'll be glad to forward it to them.

10 MR. CONSENZA: Okay. Thank
11 you. Because we do drug testing and we
12 fix anybody in-house. That was one thing
13 I didn't bring up, that if someone does
14 have a problem -- and there is people
15 that have problems -- where we use our
16 own dime to fix them and we don't want to
17 send them from one site to a different
18 site. We want to bring them in and get
19 them the help they need and then put them
20 back out there. Because if there's a
21 specific site that does drug testing and
22 that site might be a drug-free site and
23 you want to make sure that people that do
24 do drugs aren't all on one site, God
25 forbid. So we bring anybody that has a

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2 problem in our organization in and fix
3 them. And maybe if they do something
4 different, I would like to know.

5 COUNCILMAN RAMOS: I will send
6 that question to them and I can forward
7 that to you, if you don't mind.

8 MR. CONSENZA: Thank you very
9 much.

10 COUNCILMAN RAMOS: And I must
11 admit that in -- and this is my knowledge
12 because this is the world that I live in
13 in Philadelphia, that the Building Trades
14 Council or not just in the Building
15 Trades Council, I see the painters -- I
16 believe that gentleman back there is for
17 the Painters Unions. Just about all of
18 our unions in Philadelphia have in their
19 contracts or have in their health and
20 welfare programs assistance, assistance
21 programs for people that have gone in the
22 wrong direction when it comes to drug use
23 and substance abuse generally, and there
24 are programs to get that construction
25 worker back into being a productive

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2 person or responsible person with family
3 and so forth.

4 So I give credit where credit
5 is due. I commend the Building Trades
6 and their unions and those outside the
7 unions. I know the Teamsters and the
8 painters and allied trades have those
9 types of programs. Our City municipal
10 unions have the programs, as well as the
11 police, the FOP. So I think that's a
12 very valid, important point. Thank you.

13 MR. CONSENZA: Because any
14 information I could gather. I'm the type
15 of person that likes asking a lot of
16 questions because that's how I get my
17 knowledge, by asking questions. But if
18 they have something, I would appreciate
19 it if you could get it for me. I'd love
20 to see it. Thank you.

21 COUNCILMAN RAMOS: And there
22 are testimonies on the table there. I
23 believe ABC and others, OSHA, have
24 testimonies. You can help yourself to
25 the testimonies that have been given here

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2 today.

3 MR. CONSENZA: Thank you very
4 much, Councilman.

5 COUNCILMAN RAMOS: Yes, ma'am.

6 MS. FILE: Councilman Ramos, my
7 name is Dona File. I previously gave
8 testimony, and I'd like to add that in my
9 written statement, though I didn't say
10 verbally, I am a 26-year member of the
11 United Brotherhood of Carpenters and
12 still hold my union card as well, and I'm
13 also the Founder and President of the
14 Midatlantic Construction Safety Council.
15 So that can be popped back up into my
16 other testimony in case my written
17 statements, which I embellished, didn't
18 artfully enclose. So thank you.

19 COUNCILMAN RAMOS: I was told
20 that you have some very impressive
21 credentials. Thank you.

22 Do you want to testify, sir?
23 Please come forward. Please state your
24 name for the record.

25 MR. RICH: Toby Rich, Scoop USA

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2 Newspaper, and I'm called the Mayor of
3 Girard Avenue.

4 COUNCILMAN RAMOS: You're
5 called the what?

6 MR. RICH: The Mayor of Girard
7 Avenue.

8 COUNCILMAN RAMOS: Okay,
9 Mr. Mayor. Proceed.

10 MR. RICH: Thank you,
11 Mr. Councilman, my friend.

12 I was very impressed with the
13 gentleman speaking about the drug help
14 and things. As you know, I've had
15 problems, and you all have been very
16 helpful to me.

17 What I would like to say,
18 though, when you talk about addiction and
19 stuff like that, if you notice, there was
20 a certain amount of people that got up
21 and left, and that's what it brings, that
22 stigma that it brings. Everybody has a
23 problem in their closet, but they don't
24 necessarily want to talk about it or deal
25 with it, and I feel that when you take a

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2 certain thing and classify everybody as
3 being addicted and put them in a certain
4 area or a certain site and they look at
5 this site or group of people as the guys
6 that work in the union, but they're the
7 guys that are the ex-dope fiends, you
8 kind of put them in a name-calling
9 situation. I would hope that they would
10 be able to filter amongst everybody else.
11 Because everybody has a problem at one
12 time in his or her life, and you can
13 learn from anybody.

14 I'm also an honorary member of
15 Local 332, the Laborers Union, and
16 they've always helped me. And you know
17 that as well, sir.

18 So I would hate to see the
19 people with problems with addiction, be
20 it gambling or sexual addiction or drug
21 addiction or alcohol addiction, all
22 grouped up in a bunch and looked at as
23 the people of addiction working on a
24 certain site. I would hope that they
25 would be able to work amongst all of the

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2 other people, sir.

3 COUNCILMAN RAMOS: Toby, thank
4 you so much for your testimony and for
5 your concern about this very important
6 matter. Without a doubt, if we don't
7 give our people a second chance,
8 particularly construction workers a
9 second chance to make a living, I think
10 that then we're not being totally
11 responsible. The responsibility comes
12 from the individual, but nevertheless, it
13 is good to belong to associations that
14 will give you the opportunity to provide
15 you with a program with some health
16 benefits to get your health back in
17 order. So I appreciate your testimony
18 this afternoon. Thank you so much.

19 MR. RICH: Thank you, sir.

20 COUNCILMAN RAMOS: Is there
21 anyone else that cares to testify?

22 (No response.)

23 COUNCILMAN RAMOS: Seeing none,
24 I am going to recess this hearing to the
25 call of the Chair. That means that I can

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2 call for a continuation of this hearing.

3 Thank you all, every single one of you,

4 for coming out today and testifying on

5 this most important issue. Thank you.

6 (Committee on Labor and Civil

7 Service adjourned at 1:15 p.m.)

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