

1
2 COUNCIL OF THE CITY OF PHILADELPHIA
3 PUBLIC HEARING AND PUBLIC MEETING
4 BEFORE THE COUNCIL COMMITTEE ON RULES

5 - - -
6 Room 400, City Hall
7 Philadelphia, Pennsylvania
8 Thurs., 5/14/98, 12:20 p.m.
9 - - -

10 BILL 970092 - Amending Title 14 of Philadelphia
11 Code entitled "Zoning and Planning" by amending
12 Section entitled "Hearings" to establish fee for
13 accelerated hearings before Zoning Board of
14 Adjustment.

15 BILL 970395 - Amending Philadelphia zoning maps by
16 changing zoning designations of certain areas of
17 land located within area bounded by Elsworth St.,
18 Broad St., Snyder Ave., and 16th St.

19 BILL 970778 - Amending Philadelphia zoning maps by
20 changing zoning designations of certain areas of
21 land located within area bounded by Snyder Ave.,
22 Broad St., Oregon Ave., and 18th St.

23 RESOLUTION 980251 - Declaring it desirable for
24 health, safety, and welfare of people of
25 Philadelphia, PA, for Quakertown General Authority
to undertake certain health-care projects.

BILL NO. 970713 - Amending Title 9 of Philadelphia
Code, entitled "Regulations of Businesses, Trades
and Professions," by adding a new chapter,
entitled "Agents". . .

18 PRESENT: COUNCILMAN JAMES F. KENNEY, Chairman
19 COUNCILMAN DAVID COHEN
20 COUNCILWOMAN JANNIE BLACKWELL
21 COUNCILWOMAN ANNA C. VERNA
22 COUNCILMAN MICHAEL A. NUTTER
23 COUNCILMAN FRANK DICICCO
24 COUNCILMAN FRANK RIZZO

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Commissioner Frances Egan 4

Department of Licenses and Inspections

5

John P. Campbell. 5

Legislative Affairs Regulatory Affairs Manager

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Department of Licenses and Inspections

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Bill No. 970395

8

Chief Richard Lombardo. 6

Project Planning, Planning Commission

9

Marie C. Donato, Private Citizen. 9

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Bill No. 970778

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Chief Richard Lombardo. 10

Project Planning, Planning Commission

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John Furey, President 13

Broad Street West Civic Association

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1 RULES COMMITTEE - BILL NO. 970092

2 P R O C E E D I N G S

3 COUNCILMAN KENNEY: Ladies and
4 gentlemen, the Council Committee on Rules has
5 established a quorum. Present are Councilmembers
6 Cohen, DiCicco, Nutter and Kenny, who will take a
7 short recess and then come right back.

8 (Short recess taken.)

9 COUNCILMAN KENNEY: Good afternoon.
10 The Council Committee on Rules is now in session.
11 Those who are testifying, please take seats behind
12 the rail.

13 We will do a number of bills first
14 dealing with zoning issues. The first is Bill No.
15 970092, which is an ordinance amending Title 14 of
16 The Philadelphia Code entitled "Zoning and
17 Planning," by amending Section 14-1805, entitled
18 "Hearings," to establish a fee for accelerated
19 hearings before the Zoning Board of Adjustment
20 good afternoon please identify yourself for the
21 record and proceed.

22 Good afternoon. Please identify
23 yourself for the record and proceed with your
24 testimony.

25 COMMISSIONER EGAN: Thank you, Mr.

1 RULES COMMITTEE - BILL NO. 970092

2 Chairman. My name is Frances Egan. I'm the
3 Commissioner of the Department of Licenses and
4 Inspections.

5 With me is John Campbell, our
6 Legislative Affairs liaison.

7 COUNCILMAN KENNEY: Please proceed.

8 COMMISSIONER EGAN: Bill 970092. This
9 process is already in place, but what it does is
10 create a mechanism for accelerated hearings before
11 the Zoning Board of Adjustment.

12 Prior to the current fiscal year, the
13 Zoning Board conducted accelerated hearings and
14 paid for them by abating the vouchers against the
15 fees collected. For the current and future fiscal
16 years, the Finance Department has placed funds in
17 the Board's budget to handle these hearings.

18 So this very simply gives us the
19 mechanism in place to account for the change in
20 accounting procedures that have already taken
21 place.

22 COUNCILMAN KENNEY: So the need for
23 this ordinance is to formalize a practice that's
24 been going on and also to provide for the
25 accounting of the additional fees that are being

1 RULES COMMITTEE - BILL NO. 970092

2 collected as a result of the service.

3 COMMISSIONER EGAN: Yes, sir.

4 COUNCILMAN KENNEY: Great. Mr.

5 Campbell, do you have anything to add?

6 MR. CAMPBELL: We would request a

7 suspension --

8 COUNCILMAN KENNEY: Please identify

9 yourself for the record.

10 MR. CAMPBELL: John P. Campbell,

11 Legislative Regulatory Affairs Manager for the

12 Department of Licenses and Inspections.

13 Mr. Chairman, we would request a

14 suspension of the rules so that we could have this

15 legislation enacted as quickly as possible.

16 Thank you.

17 COUNCILMAN KENNEY: Thank you very

18 much.

19 Are there any questions of our members

20 for these witnesses?

21 (No questions.)

22 COUNCILMAN KENNEY: Hearing none. Is

23 there anyone else in the room to testify on behalf

24 of Bill No. 970092?

25 (No response.)

1 RULES COMMITTEE - BILL NO. 970395

2 COUNCILMAN KENNEY: Seeing none, we'll
3 move to Bill No. 970395, which is an ordinance to
4 amend the Philadelphia zoning maps by changing the
5 zoning designations of certain areas of land
6 located within an area bounded by Elsworth Street,
7 Broad Street, Snyder Avenue, and 16th Street.

8 Good afternoon. Please identify
9 yourself for the record and proceed.

10 MR. LOMBARDO: Good afternoon Mr.
11 Chairman and members of the Committee. Richard
12 Lombardo, Chief Project Planning, the Planning
13 Commission, here today to speak on Bill 970395.

14 This bill is one of an ongoing program
15 of zoning remapping embarked on in South
16 Philadelphia with Councilman DiCicco and
17 Councilwoman Verna and yourself.

18 The purpose of this bill basically is
19 to update the zoning maps that reflect the pattern
20 of the development which has existed for -- well,
21 since there was zoning in South Philadelphia,
22 which is basically reflecting the single-family
23 row house nature of most of the housing in these
24 neighborhoods, and also to use where appropriate
25 the C-1 commercial to reflect the neighborhood

1 RULES COMMITTEE - BILL NO. 970395

2 service type of retail stores on the corners of a
3 number of these streets in this area.

4 The bill involved here involves
5 approximately 40 acres of the City, the area
6 between Elsworth and Snyder Avenue, Broad Street
7 and 16th Street.

8 And as I said, the major changes in
9 this bill would bring about would be the rezoning
10 of the majority of the residential properties from
11 R10 residential, which is a multifamily row house
12 district, to R10-A residential, which is a
13 single-family row house. We are retaining some
14 R10 in this area basically along the Broad Street
15 frontage and around St. Agnes Hospital, but most
16 of the other area is becoming R10-A.

17 There is also C2 commercial and C1
18 commercial being used. The C2, which is the
19 heavier commercial is basically a heavier
20 commercial, allows the entire use of the property
21 as commercial, is being retained along Broad
22 Street, along Federal Street, west of Broad along
23 -- basically where are those types of commercial
24 properties. The rest of the commercial properties
25 are being changed to C1 commercial to reflect the

1 RULES COMMITTEE - BILL NO. 970395

2 upper-floor residential above a service type
3 commercial store.

4 For the record, the Planning Commission
5 meeting of December 4, 1997 recommended the
6 adoption of Bill 970395.

7 COUNCILMAN KENNEY: Councilmember --
8 I'm sorry.

9 MR. LOMBARDO: This bill was prepared
10 in conjunction with Councilwoman Verna's office
11 and with her and her staff.

12 COUNCILWOMAN VERNA: Yes. And I would
13 just like to add that we did have several
14 communities meetings, and the area residents are
15 in full support.

16 And Broad Street will be R10-A.

17 MR. LOMBARDO: R10-A.

18 COUNCILWOMAN VERNA: Okay. Because we
19 understood you to say R10.

20 MR. LOMBARDO: No, no. As I said,
21 there's a little bit of R10 being retained around
22 St. Agnes Hospital. That's the only R10 that's
23 being retained.

24 COUNCILWOMAN VERNA: Thank you.

25 COUNCILMAN KENNEY: Thank you very much

1 RULES COMMITTEE - BILL NO. 970395

2 for your testimony.

3 Is there anyone else in the room to
4 testify?

5 (Marie Donato comes forward.)

6 COUNCILMAN KENNEY: Good afternoon.
7 Please identify yourself for the record and
8 proceed.

9 MS. DONATO: My name is Marie C
10 Donato. I live at 1522 South Broad Street. I've
11 been on Broad Street for 62 years. It's a
12 one-family owner-occupied dwelling and funeral
13 home.

14 The apartments on South Broad Street
15 have made my life very miserable. I'm constantly
16 living in trash, tenants that breed pit bulls,
17 sell dope, prostitutes. They are all absentee
18 landlords. And I think that this bill is long
19 overdue.

20 COUNCILWOMAN VERNA: Thank you.

21 COUNCILMAN KENNEY: Thank you very
22 much. We agree. Thank you.

23 Is there anyone else here to testify on
24 this bill.

25 (No response.)

1 RULES COMMITTEE - BILL NO. 970778

2 COUNCILMAN KENNEY: Seeing none, we'll
3 move now to Bill No. 970778, which is an ordinance
4 to amend the Philadelphia zoning maps by changing
5 the zoning designations of certain areas of land
6 located within an area bounded by Snyder Avenue,
7 Broad Street, Oregon Avenue, and 18th Street.

8 Please identify yourself for the
9 record, and proceed.

10 MR. LOMBARDO: Good afternoon. Mr.
11 Chair and members of the committee. Richard
12 Lombardo, from the City Planning Commission,
13 speaking on behalf of Bill 970778.

14 This bill involves approximately 123
15 acre of land immediately south and to west of the
16 previous bill. This area is bounded, as you said,
17 by 18th Street and Broad Street from Snyder Avenue
18 to Oregon Avenue.

19 The purpose of this bill was basically
20 the same as I testified the previous bill. It's
21 to reflect that the pattern of development
22 throughout this neighborhood as being
23 predominantly single-family row housing, with
24 quite a few corner stores.

25 As a matter of fact, we were surprised

1 RULES COMMITTEE - BILL NO. 970778

2 -- not surprised, but when we did this area, how
3 many active occupied service commercial stores
4 there were throughout neighborhoods in this area.
5 So you'll see me looking at the map. An awful lot
6 of corner commercial stores. All those C1's
7 reflect active businesses that are still serving
8 the community in this area of South Philadelphia.

9 Once again, along Snyder Avenue, along
10 Passyunk Avenue and along South Broad Street,
11 we're retaining the C2 commercial which is the
12 heavier commercial, reflecting a heavier or a
13 total commercial use of the properties.

14 West of 17th Street, between Ritner and
15 Shunk, we're using some R5 residential to reflect
16 the pattern of the development of that portion of
17 Girard Estates, which is either detached or
18 semidetached houses.

19 The rec. center -- the (unintelligible)
20 Recreation Center is being rezoned from G2
21 industrial. I don't know why it was G2
22 industrial, but it's being rezoned from G2
23 industrial to class-recreational.

24 That's basically the highlights of this
25 remapping. Again, this was done in conjunction

1 RULES COMMITTEE - BILL NO. 970778

2 with Councilwoman Verna's office. And the
3 Planning Commission, for the record, at its
4 meeting of May 7, 1998 recommended adoption of
5 Bill 970778.

6 COUNCILMAN KENNEY: Thank you very
7 much.

8 Should this bill, as the other bill and
9 the other bills that have been introduced and
10 passed here, as it relates to South Philadelphia,
11 would require property owners, whether they're
12 resident property owners or, in many cases,
13 nonresident property owners, to display a hardship
14 before the Zoning Board in order to convert a
15 property from a single to a multifamily dwelling.

16 MR. LOMBARD: That's absolutely
17 right. That's the difference between the R10-A
18 and the R10. If it's R10, they can walk into L&I
19 and just get a permit to convert. With the 10-A,
20 they'll need to go to the Zoning Board and prove
21 hardship.

22 COUNCILMAN KENNEY: They've been, for
23 years, been walking into L&I and getting a permit
24 to convert without any neighborhood involvement
25 and to the detriment of our community.

1 RULES COMMITTEE - BILL NO. 970778

2 COUNCILWOMAN VERNA: Mr. Chairman, I do
3 have a petition signed by most of the area
4 residents in favor of this ordinance. And there
5 were some community meetings.

6 I don't know if Mr. Furey would like to
7 testify. He may have some questions that the City
8 Planning Commission may be able to answer for him.

9 COUNCILMAN KENNEY: Thank you. The
10 petition will be offered to the record.

11 (John Furey comes forward.)

12 COUNCILMAN KENNEY: Mr. Furey, please
13 identify yourself for the record, and proceed.

14 MR. FUREY: Good afternoon,
15 Councilmembers.

16 COUNCILMAN KENNEY: John, why don't you
17 pull the microphone right directly to you.

18 MR. FUREY: My name is John Furey,
19 F-U-R-E-Y, President of the Broad Street West
20 Civic Association.

21 Originally when this remapping was
22 proposed, we had a meeting in the neighborhood and
23 we discussed the various options and this whole
24 proposition with the City planners.

25 We have no problem with the R10 to

1 RULES COMMITTEE - BILL NO. 970778

2 R10-A. We want to see anything that will slow
3 down the multifamily conversions. Our
4 neighborhood is saturated with apartments, we
5 don't need any more apartments. We want to see
6 the emphasis on single-family dwellings.

7 So the R10-A is very helpful because we
8 have a number of three-story apartment buildings
9 that are sitting along the residential streets
10 with single-family homes, but our concern is with
11 the corner properties. The corner properties now
12 have a C2 designation, and a lot of these corner
13 stores are closing up and converting to duplexes.
14 Some of them are three stories and they're zoned
15 C2.

16 So we're concerned that if we go to C1,
17 the way we're reading the code here, C1 will
18 enable a person to convert a building from a store
19 to a duplex without going to the Zoning Board. We
20 need the Zoning Board's input. That's where we
21 catch a lot of problems, and that's where the
22 neighborhood opposes conversions.

23 If we give them access to converting
24 without going to the Zoning Board, that's where we
25 have problems. They are inevitably converting

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2 stores to duplexes, 'cause the business doesn't
3 work so they convert it to two apartments and they
4 make their income from that.

5 We want to reduce the amount of
6 apartments, so anything that's going to help
7 businesses convert to apartments without going to
8 the Zoning Board has got to raise a flag for us.

9 I understand that the C1 and the C2,
10 there's more restrictions on the use of a C1
11 property as far as bars. I don't see that many
12 neighborhood bars opening up in our neighborhood
13 anymore. The opposite is true. They're
14 converting these commercial corners to duplexes
15 and triplexes.

16 We had one on the corner of Ritner and
17 Hicks. It was an old dilapidated store for years,
18 10 or 15 years. It was C2, the guy wanted to put
19 apartments in there, so he had to go to Zoning
20 Board, and we were able to work out a compromise.
21 But I think if that was C1, he could convert
22 easily to a duplex, just make it two big
23 apartments instead of three.

24 And I just ask the City planners if
25 they would clarify that C2 to C1. If it enables a

1 RULES COMMITTEE - BILL NO. 970778

2 store to convert to a duplex without going to the
3 Zoning Board, there's got to be an amendment made
4 there.

5 I'd like to see it read: If you want
6 to convert the store to a single-family home, God
7 bless you, you don't have to go to the Zoning
8 Board. But if you're going to convert it to an
9 income property, then I think you should get some
10 public scrutiny.

11 COUNCILWOMAN VERNA: Mr. Chairman, may
12 I ask that Mr. Lombardo address this issue?

13 COUNCILMAN KENNEY: Please.

14 MR. LOMBARDO: I'd be glad to answer
15 the question.

16 The reason we use C1, generally
17 speaking, is that C1 limits the use of the
18 property, of the upper floors, to the most
19 restrictive residential properties, which is
20 basically single family.

21 C2, however, is a multifamily
22 district. The only thing that limits your ability
23 to have two, three, four units is how much rear
24 yard you have. So leaving 'em C2 does not take
25 away the right of people who (unintelligible)

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2 convert that store or the upper floors of the
3 building to apartments.

4 We use the -- C1 used to be exclusively
5 a single-family dwelling but what we found is that
6 a lot of commercial properties, in some past
7 conversion, eliminated the steps that connected
8 the store to the upper floor -- not just in South
9 Philadelphia, this happens throughout the City.

10 So when the goes out of business, you
11 now have a space that is not part of the
12 residential unit, and it winds up either becoming
13 a storage space or a vacant store. And a lot of
14 instances, it's a blighting influence.

15 We did a sort of study of this. And we
16 saw that usually the first instance of blight that
17 starts appearing in the neighborhood is the vacant
18 store on the corner of a little street. So
19 Council and the Planning Commission, about eight,
20 ten years ago, changed C1 to give you a one-time
21 conversion from a store to an apartment. Once you
22 make that conversion, you can't go back to being
23 store.

24 So if the property is a viable
25 commercial property, you, as an owner or landlord,

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2 have to decide whether you want to give up forever
3 the potential rent as a commercial property in
4 exchange for converting just the area of the
5 store, not but the whole building of the
6 two-family, but what was the store in that
7 building to a single-family. We thought that was
8 a worthwhile trade-off.

9 But to get to the point of this bill,
10 to leave the C2, you're not going to accomplish
11 much in stopping people from having as-of-right
12 conversions of those properties to multifamily.
13 You still can do that under C2.

14 The only alternative would be to make
15 'em all R10-A. And then every time those stores
16 want to rent to new tenant, they'd have to go into
17 the Zoning Board to get a variance because they
18 would be residential. They would be no longer
19 commercial.

20 And that idea wasn't -- I'm sure the
21 Councilwoman didn't bring that idea before the
22 community or the business people in the
23 community. That would -- I mean, to try to amend
24 the bill that way, you'd have to go back and start
25 from scratch in terms of talking to people again.

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2 But that's the only sort of way to get
3 at the problem he raised, which is to make every
4 conversion from a store to an apartment have to go
5 to the Zoning Board.

6 MR. FUREY: So that's the -- my
7 question is: If it's zoned C1, they can convert
8 from a store to a duplex without going to the
9 Zoning Board.

10 MR. LOMBARDO: That's right, just the
11 area of the store, not --

12 COUNCILMAN KENNEY: But never back to a
13 store again.

14 MR. LOMBARDO: Never back to a store
15 again.

16 MR. FUREY: But it goes to a duplex and
17 is an income-producing property instead of --
18 couldn't it be easily converted to -- why does the
19 emphasis have to be on an income-producing
20 property and not on a single-family. Are you
21 going to give him an option of --

22 COUNCILMAN KENNEY: The question is
23 that because of the C1, as you testified, requires
24 a single-family residence above the store, is that
25 correct?

1 RULES COMMITTEE - BILL NO. 970778

2 MR. LOMBARDO: Yes.

3 COUNCILMAN KENNEY: Then the store
4 becomes a two-family residence.

5 MR. LOMBARDO: That's right.

6 COUNCILMAN KENNEY: How does that jibe
7 with the C1 zoning?

8 MR. LOMBARDO: It jibes because, like I
9 said, we changed the C1 about eight or ten years
10 ago to get at this other problem that when you've
11 rezoned the store of the C1, which limited -- the
12 old code only limited you to one family in the
13 building, period, and that store did not get
14 reincorporated back into the single-family
15 dwelling, it just became a vacant store and then
16 became a problem in the neighborhood.

17 And we were looking at a way of finding
18 a reuse for that vacant store is why we changed to
19 C1, to allow the one-time conversion to an
20 apartment.

21 MR. FUREY: So you're going to allow
22 them to convert to a residence but an
23 income-producing residence, a duplex.

24 You have to remember there are some of
25 these corners that are not two stories, they are

1 RULES COMMITTEE - BILL NO. 970778

2 three stories.

3 MR. LOMBARDO: That's right, they --.

4 MR. FUREY: Well, what do we do with
5 the three stories if there's --

6 MR. LOMBARDO: Well, under C1 --

7 MR. FUREY: If it's C1 and it's three
8 stories --

9 MR. LOMBARDO: Then we'd limit it to
10 one family on the second and third floor, and it
11 could convert the store to an additional
12 apartment.

13 MR. FUREY: So they could convert the
14 corner to a triplex.

15 COUNCILMAN KENNEY: No. The most it
16 could be is a duplex.

17 MR. LOMBARDO: That's right. But
18 today, then C2, that three-story building could
19 have as many apartments as the area of the lot
20 would allow.

21 COUNCILMAN KENNEY: By right?

22 MR. LOMBARDO: By right. C2 allows --
23 it's a multifamily district. It allows the --
24 basically, if you have 100 square feet of rear
25 yard for every family. So if you have 300 feet of

1 RULES COMMITTEE - BILL NO. 970778

2 square rear yard, which is, you know, 15 by 20,
3 you could have three families in that building.

4 MR. FUREY: Obviously, the corner
5 properties are not working out, and the emphasis
6 is on converting them to residential but still
7 allowing for commercial activities by means of
8 rental properties by income-producing apartments
9 rather than a single-family dwelling.

10 And that's where -- we'd like to see
11 more emphasis on single-family dwellings than
12 trying to make it available to rental incomes.
13 The concern seems to be, Well, the stores aren't
14 working, so we're going to let them convert to a
15 duplex and make their money that way.

16 But we've already stated that we have
17 too many apartments in the area now. We're
18 inundated with apartments. And if we're given
19 that option, I think a lot of these stores are
20 going to convert to duplexes.

21 Right now whenever they do
22 conversations, we wind up with petitions and a lot
23 of discussion at a Zoning Board.

24 COUNCILMAN KENNEY: But as they exit
25 now, Mr. Lombardo, don't they have that right to

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2 convert to a duplex now?

3 MR. LOMBARDO: In C2, yes. Or, like I
4 said, as many families as you could fit into the
5 building.

6 If we could for a minute, we sort of
7 lost the focus of one thing. If you look at the
8 two maps, the existing map and the proposed map,
9 there's a lot less corner stores on the proposed
10 map. And that reflects the fact that where we saw
11 a vacant store, where we saw a property that was
12 no longer being used as a store, we rezone that to
13 10-A residential; we didn't leave it zoned either
14 C1 or C2 commercial.

15 So we -- or where we found a property
16 that was incorporated back into the residence or
17 it was already converted to an apartment, we made
18 it 10-A, not left it zoned commercial. So we did
19 try to get at that --

20 COUNCILMAN KENNEY: But you made the
21 bulk of the C2 C1.

22 MR. LOMBARDO: That's right.

23 COUNCILMAN KENNEY: Which would
24 eliminate the possibility of triplexes.

25 MR. LOMBARDO: That's right.

1 RULES COMMITTEE - BILL NO. 970778

2 COUNCILMAN KENNEY: And above.

3 MR. LOMBARDO: And above.

4 And also, like I say, these are all
5 very -- you're more familiar than I am with how
6 active this retail is and has been. And the
7 question of whether --

8 COUNCILMAN KENNEY: Is there a
9 potential with -- if you were advising or
10 suggesting that we make them all residential, is
11 there a potential action by the property owner by
12 removing its commercial designation in toto?

13 MR. LOMBARDO: You probably make it a
14 little more likely that that store will become
15 vacant because a person looking for a commercial
16 occupancy, a lot of people, when they hear they
17 have to go to the Zoning Board, forget -- they're
18 not interested in leasing the property.

19 That's -- one of the things I think
20 we've done years ago in remappings, which we --
21 now we use C1 more because we found that we didn't
22 do anybody a favor by making commercial properties
23 residential; they just became vacant.

24 As a matter of fact, in Manyunk, that's
25 an ongoing problem. They've come back -- Manyunk

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2 has come back to us and said put the commercial
3 designations back on the corner because all the
4 neighborhood services have gone away.

5 COUNCILWOMAN VERNA: Mr. Chairman, I
6 would like to offer a suggestion on that since we
7 have other bills to be heard.

8 Maybe Mr. Lombardo and Mr. Furey can
9 discuss this. And at the conclusion of the public
10 hearing, we'll either vote it out or hold it for
11 further study. But perhaps you could work out
12 details now.

13 Do you have any other bills to testify
14 on?

15 MR. LOMBARDO: We're done. Yeah, we're
16 okay, we're done, okay.

17 COUNCILWOMAN VERNA: All right. Would
18 you please -- perhaps you could go into my office
19 with Mr. Furey and discuss this and come back and
20 let us know.

21 MR. LOMBARDO: Thank you.

22 COUNCILWOMAN VERNA: Thank you.

23 COUNCILMAN KENNEY: Is there anyone
24 else in the room to testify on this specific bill,
25 970778, dealing with rezoning of the area bounded

1 RULES COMMITTEE - RESOLUTION NO. 980251
2 by Snyder Avenue, Broad Street, Oregon Avenue,
3 18th Street?

4 (No response.)

5 COUNCILMAN KENNEY: Seeing none, we
6 will now move to Bill No. 980251. This is a
7 resolution declaring it desirable for the health,
8 safety, and welfare of the people of Philadelphia,
9 Pennsylvania, for the Quakertown General Authority
10 to undertake certain health-care projects.

11 (Two new witnesses come forward.)

12 COUNCILMAN KENNEY: Good afternoon,
13 thank you for waiting. Please identify yourself
14 for the record, and proceed.

15 And let me say for the record that
16 Councilwoman Blackwell, who was in attendance
17 here, had to leave and wanted to leave her words
18 of both thanks and support and encouragement for
19 this project.

20 Please identify yourself and proceed.

21 MR. HOOVER: Thank you, Mr. Chairman.
22 We're here very much here to testify on behalf of
23 Bill No. 980251 to provide funding for local
24 health-care institutions through the Presbyterian
25 Foundation and New Cortland.

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2 My name's Tim Hoover, with Payne Weber.

3 MS. LEE: Frieda Lee, with the
4 Presbyterian Foundation.

5 COUNCILMAN KENNEY: Would you move the
6 microphone closer. And just kind of explain, for
7 the record, the project and what's anticipated to
8 happen -- it's in the bill, but it's more for the
9 written record.

10 MR. HOOVER: Certainly. The project
11 will include the issuance of about \$50 million
12 bonds through the Quakertown General Authority in
13 order to fund projects -- in order to fund
14 health-care projects in the City of Philadelphia,
15 the Care Pavilion of Walnut Park, the Cheltenham
16 and York Road Nursing Center, the Cobbs Creek
17 Nursing Home, and Tucker House.

18 COUNCILMAN KENNEY: Is there a reason
19 why the Philadelphia Municipal Authority was not
20 used to --

21 MR. HOOVER: Yes.

22 COUNCILMAN KENNEY: Just out of
23 curiosity.

24 MR. HOOVER: At this point in time, the
25 Quakertown General Authority has funds on hand

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2 which are allowing the bonds to be issued without
3 the institutions having to pay the up-front cost
4 of issuance, and save them money.

5 COUNCILMAN KENNEY: Councilmember
6 Cohen.

7 COUNCILMAN COHEN: How much money would
8 be saved?

9 MR. HOOVER: About \$250,000.

10 COUNCILMAN COHEN: Has this been
11 discussed with the Philadelphia Municipal
12 Authority?

13 MR. HOOVER: Yes. We went through both
14 Philadelphia Municipal Authority and PAID to see
15 how much it would cost us to issue the bonds
16 through them and did a comparison to see how much
17 it would save these institutions.

18 COUNCILMAN COHEN: All right for now.
19 I think we ought to find out, though, why
20 Philadelphia is not able to be competitive with
21 Quakertown.

22 COUNCILMAN KENNEY: Well, it seems to
23 me, from your testimony, that it's an issue of the
24 position of Quakertown General Authority, at this
25 particular time. Due to an excess amount of

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2 cash.

3 MR. HOOVER: Yes. It's not just the
4 fees that they charge. They have an excess amount
5 of cash on hand to provide for funding of a pooled
6 bond issue for health-care facilities that is
7 unique to any other issuer that would be
8 available.

9 COUNCILMAN KENNEY: Okay.

10 COUNCILMAN COHEN: Well, I've asked the
11 only questions that I think are pertinent at this
12 point. But to the Chair, I'd just say that I
13 think it would be awfully good if we could find
14 out from the Philadelphia Municipal Authority what
15 its response is. They may very well agree with
16 you.

17 COUNCILMAN KENNEY: I assume, because
18 of the fact that they weren't involved in this
19 decision today, they are not here to testify.

20 So, John, if could you get a hold of
21 Mr. Cramp's office and see whether or not they can
22 offer us any information either by letter, faxed
23 over, you know, okay.

24 Thank you very much. Do you have
25 anything to add?

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2 MR. HOOVER: We would also like to
3 request a suspension of the rules.

4 COUNCILMAN KENNEY: Thank you very
5 much.

6 MR. HOOVER: Thank you very much.

7 COUNCILMAN KENNEY: Well, it's a
8 resolution, so we'll just be voting it out.

9 MR. HOOVER: Okay.

10 COUNCILMAN KENNEY: There's no need for
11 a only suspension of the rules on an ordinance
12 today.

13 MR. HOOVER: Okay.

14 COUNCILMAN KENNEY: If it gets out
15 today, it will be ready for next week -- actually,
16 it's two weeks 'cause we have no session next
17 week.

18 MR. HOOVER: Thank you very much, Mr.
19 Chairman.

20 COUNCILMAN KENNEY: Thank you very
21 much.

22 Is there anyone else here to testify on
23 Bill No. 980251?

24 (No response.)?

25 COUNCILMAN KENNEY: Thank you very

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2 much.

3 We're going to move to 970713 in one
4 moment. I would ask Mr. Campbell and Commissioner
5 Egan to come to the witness table.

6 (Commissioner Egan and Mr. Campbell
7 come forward.)

8 COUNCILMAN KENNEY: Councilmember Cohen
9 has an outstanding question on Bill No. 970092,
10 and the Chair recognizes him now.

11 COUNCILMAN COHEN: Under certain
12 circumstances, I think particularly when permits
13 are issued over the counter, but it may not be
14 limited to just that circumstance, the communities
15 initiate proceedings before the Zoning Board to
16 have the matter reconsidered.

17 Now, it's always been my understanding
18 that when a community files for such a hearing,
19 that there's no fee required. Is that accurate?
20 And would this provision in any way impact on
21 that?

22 MR. CAMPBELL: Again, John Campbell,
23 L&I.

24 That is correct, Councilman. That was
25 the change that Council made a number of years

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2 ago.

3 COUNCILMAN COHEN: Right.

4 MR. CAMPBELL: And this bill would not
5 impact on that particular situation for community
6 organizations.

7 COUNCILMAN COHEN: Okay. The other
8 question I would have is, do we have any study --
9 how much use has been made of these accelerated
10 hearings?

11 There again, I'm just concerned whether
12 the use is so great that it holds other hearings.
13 Has there been any effect on the scheduling of
14 cases normally that did do not pay this additional
15 fee?

16 MR. CAMPBELL: Well, two things,
17 Councilman. Approximately 300 of the cases in the
18 process of a year, if my mathematics is correct --
19 yeah, we do about 300.

20 What this does, this is generally for
21 the person who wants to fast-track whatever
22 they're doing and to get ahead or to get in.
23 They're not jumping in front of anybody because
24 what actually happens is the Zoning Board has a
25 special hearing for those particular cases.

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2 What it does with the regular load of
3 cases, though, it moves them up quicker too
4 because there's nothing in front of them to delay
5 them, so we actually -- it's sort of like a
6 win-win proposition.

7 And that's what we've sort of found in
8 all of the accelerated actions that we take,
9 whether it be a permit review, whether it be a
10 hearing, that you're actually doing -- people are
11 paying for the premium of whatever they have to do
12 to get done to meet budget requirements, to meet,
13 you know time deadlines.

14 And the regular person also gets the
15 advantage of moving up quicker because that person
16 isn't in front of them. You know, they actually
17 move up in line without benefit of having to pay
18 the additional money.

19 COUNCILMAN COHEN: Does members of the
20 boards still get paid per session; and then, as
21 understood the law, the number of payments they
22 can get, or the total amount of money they could
23 get, was capped.

24 Do those two provisions still exist,
25 payment per session up to a cap?

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2 MR. CAMPBELL: They do. Unfortunately,
3 I sort of like have a problem with the flu today.
4 I sort of forget exactly what the cap is, but they
5 are limited to \$80 a session.

6 And, as I said, I'm sort of losing it a
7 little, I guess. I can't remember what the cap is
8 right now, but I think we changed that a few years
9 ago to expand the number of meetings before the
10 board. Actually -- yeah, it's -- yeah, we've
11 expanded the number of --

12 COMMISSIONER EGAN: But the point is
13 there is a per-session and there is a cap. If you
14 need us to tell you exactly what that is, we can
15 get back to you on that.

16 COUNCILMAN COHEN: One effect may be
17 that down the road, we'll be asked to increase the
18 cap to accommodate the additional meetings. But I
19 can understand that they work very hard and they
20 do an excellent job.

21 But I think you've answered my
22 question. I wanted to mainly be certain that the
23 community had -- because communities just don't
24 have cash around, community organizations -- that
25 they had free access to the Zoning Board in the

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2 same fashion that they've enjoyed for a good
3 number of years.

4 COMMISSIONER EGAN: That is correct.

5 COUNCILMAN COHEN: And that includes,
6 where necessary, the provision of transcripts of
7 testimony to the community without cost, is that
8 right, Mr. Campbell?

9 MR. CAMPBELL: Yes, sir, that is
10 correct.

11 COUNCILMAN COHEN: All right, thank you
12 very much.

13 COUNCILMAN KENNEY: Thank you very
14 much.

15 Councilwoman Verna.

16 COUNCILWOMAN VERNA: Mr. Campbell, I
17 think your testimony has somewhat confused me.
18 Why would anybody pay for an accelerated hearing
19 if they are not really being accelerated, so to
20 speak? You said they don't really jump over
21 anybody who has not paid.

22 MR. CAMPBELL: Well, I --

23 COMMISSIONER EGAN: Can I answer that?

24 COUNCILWOMAN VERNA: I would like some
25 explanation.

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2 COMMISSIONER EGAN: What he meant to
3 say was that it just goes on a different track,
4 that's all. It goes on the fast track for people
5 that don't ask for the accelerated track and
6 people that ask for it. There are two separate
7 tracks.

8 COUNCILWOMAN VERNA: Well, Mr.
9 Campbell's did not indicate that. He just said
10 that they simply do not go up ahead of someone
11 else that has applied who has not obtained an
12 accelerated hearing.

13 COUNCILMAN KENNEY: My understanding is
14 that when they first instituted this process,
15 there was overtime work associated with examiners
16 and other people who needed to do work on the
17 expedited cases in off-hours and were being paid
18 overtime, which incurred additional costs.

19 I also understand that because of the
20 rapid pace in which zoning hearings normally are
21 heard in recent times, there are been very little,
22 if any, request for specific expedited hearings
23 because the process has moved relatively quickly
24 in recent years.

25 COMMISSIONER EGAN: Everything you said

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2 is correct.

3 MR. CAMPBELL: Councilwoman, I just --
4 again, I apologize. I'm having a problem today
5 with feeling --

6 COUNCILMAN KENNEY: You don't really
7 want to be here, sir.

8 MR. CAMPBELL: It's 'cause the body's
9 weak or something like that.

10 COUNCILMAN COHEN: Well, maybe to
11 compound your illness, and I'm sorry if it has
12 that effect, my understanding is that Councilman
13 Kenney's statement is based upon the general
14 principle that the City does not have a right to
15 charge a fee except in proportion to the cost that
16 the City incurs.

17 We always have to be able prove to the
18 court that the fees, you know, are related to the
19 expenditures that the City has to make.

20 COMMISSIONER EGAN: That's correct.

21 COUNCILMAN COHEN: Is that accurate?

22 COMMISSIONER EGAN: Absolutely.

23 COUNCILMAN COHEN: And I'm always a
24 little bit troubled by this expedited business
25 wherever government acts in a way which gives

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2 preference to people that are well-heeled
3 financially against people that are not; it's
4 always a disturbing consequence.

5 So that I just think, at some point,
6 this whole procedure ought to be reviewed. And if
7 they're working as efficiently as they seem to be
8 in producing, maybe we don't need the expedited
9 hearings.

10 COUNCILMAN KENNEY: I think the genesis
11 of the expedited opportunity was with outside
12 developers who were coming into the City that were
13 -- we were not exactly in a buyer's market-- I'm
14 sorry, in a seller's market for our city to be
15 developed for economic purposes and for job
16 creation and that the larger companies were coming
17 in to do development, who needed things to move
18 quickly in order to do their development, create
19 the tax ratables, create the jobs, were willing to
20 pay this fee to employ the overtime personnel
21 necessary to get their thing done on track and
22 quickly.

23 I think that was the basic genesis of
24 this --

25 COMMISSIONER EGAN: That is correct.

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2 And keep in mind, as you stated earlier, it is
3 done on the employee's, you know, overtime; it's
4 not done during the normal working day. They take
5 this work home at night and over the weekends so
6 it's not impacting normal work process flow for
7 everyone else that's in our system.

8 COUNCILMAN KENNEY: Okay. Thank you
9 very much.

10 Are there any other questions on this
11 bill?

12 (No further questions at this time.)

13 COUNCILMAN KENNEY: You can stay right
14 here because we're going to move into Bill 970713,
15 which amends Title 9 of The Philadelphia Code,
16 entitled "Regulations of Businesses, Trades and
17 Professions," by adding a new chapter, entitled
18 "Agents," requiring any person who represent or
19 acts on behalf of another person in any matter
20 before the Department of Licenses and Inspections,
21 the Board of Building Standards, the Board of
22 Licenses and inspections Review, the Zoning Board
23 of Adjustment, the Board of Safety and Fire
24 Prevention, or the Accessibility Advisory Board to
25 obtain a license; and setting forth standards for

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2 the issuance of such licenses requiring such
3 persons to complete entry of appearance forms
4 prior to any active representation, prohibiting
5 certain conduct by such agents, and providing
6 penalties for violations, all under certain terms
7 and conditions.

8 What I would like to ask is for the
9 Commissioner to re-identify herself for the record
10 on this bill, give your testimony, and I
11 understand there are a number of amendments that
12 Mr. Campbell would then be permitted to offer
13 prior to beginning our entire discussion of the
14 issue.

15 COMMISSIONER EGAN: Thank you,
16 Councilman.

17 I don't have a whole lot to say about
18 this bill except that this is legislation that I
19 have been interested in having passed by Council
20 since my accepting the appointment to Commissioner
21 of Licenses and Inspections.

22 And the reason for that is that there
23 is a business activity taking place in the City
24 that is, at this point in time, unregulated. This
25 is a business known, you know -- known and

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2 performed by people calling themselves
3 "expeditors." And what this legislation would do
4 is provide a consumer some protection mechanisms
5 for people who do hire these people to represent
6 them to do business with the Department of L&I.

7 I consider this important for all the
8 citizens of Philadelphia. It's important for my
9 Department to be able to track, regulate and, if
10 necessary, discipline this type of business taking
11 place.

12 And I would just hope that,
13 particularly, elected officials as yourselves,
14 Councilpeople, would recognize that this type of
15 business can be just as easily performed, if the
16 citizens of Philadelphia would take advantage of
17 it, by just simply calling their Councilpeople,
18 relating their problem or business that they need
19 to get done with a department like my department,
20 and utilize the staff of the Councilperson to get
21 this done.

22 I mean, I would love to think, as
23 Commissioner of L&I, that -- you know my vision
24 for the department would be that some day we'd be
25 so efficient and so just well-organized and oiled

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2 that no one would need any type of expedited
3 service or special service by Council staffer or
4 other elected official.

5 But right now, it does seem to be a
6 necessary business to be performed in the City,
7 and it's important for the consumer to have a
8 recourse should they not be treated fairly or be
9 wronged in some way by the business person
10 representing themselves as expeditors.

11 And this legislation would put all of
12 that into place. It would regulate this business,
13 it would license their activity, and it would
14 provide recourse for consumers who take advantage
15 of this business should they be wronged or treated
16 unfairly.

17 COUNCILMAN KENNEY: For the record --
18 and I'm asking an obvious question, but I want to
19 make sure the record's clear, this bill -- this
20 legislation that's proposed in no way eliminates
21 the practice of expediting or providing this type
22 of service to the citizens. It simply sets
23 standards and requirements in order to participate
24 in the business.

25 COMMISSIONER EGAN: That's correct.

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2 COUNCILMAN KENNEY: Okay.

3 COMMISSIONER EGAN: And I guess I would
4 just add, on a personal editorial note, that the
5 timing of this couldn't be better, given the
6 indictments that came down this morning out of the
7 attorney general's office.

8 COUNCILMAN KENNEY: Are there any
9 questions for the Commissioner before get into Mr.
10 Campbell's testimony relative to amendments?

11 COUNCILMAN COHEN: Just an
12 explanation. Could you just tie in these
13 indictments? How do they impact on this?

14 We don't have any information with
15 respect to the item the Commissioner just spoke
16 about. Was there an indictment of people who are
17 expeditors?

18 COMMISSIONER EGAN: Yes it, is
19 Councilman Cohen. There was a former L&I employee
20 and now known as an expeditor who was indicted
21 this morning by the U.S. Attorney General's Office
22 for activity while he was an employee at L&I and
23 prior, and then post-activity, as an expeditor.

24 COUNCILMAN COHEN: All right. I just
25 think the that the record has to disclose the

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2 relevance. Thank you, Commissioner.

3 COUNCILMAN KENNEY: Councilmember
4 Verna.

5 COUNCILWOMAN VERNA: Commissioner, can
6 you tell us why it's necessary to require error
7 and omission insurance from these agents?

8 COMMISSIONER EGAN: Well, unlike, you
9 know -- and another reason we need to regulate
10 this group of business people. You know, whether
11 you're a lawyer or a contractor or an architect or
12 engineer, you're required to have certain
13 insurance so that if do you in some way perform
14 unfairly or not to the satisfaction of the
15 customer, the customer then has recourse to
16 recover the money that they paid this person.

17 So this simply would set into place
18 same type of standards that are in place for other
19 types of business in Philadelphia.

20 COUNCILWOMAN VERNA: And I'm asking you
21 these questions because they've been asked of me,
22 and I think you're the one that should be
23 answering them.

24 Do you have any indication as to how
25 expensive it would be for individuals to obtain

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2 the insurance?

3 COMMISSIONER EGAN: No, I don't.

4 However, what we propose to do in the bill is ask
5 the City's Risk Management Office to determine
6 what type of insurance would be required for this
7 type of business, so it would be done in a
8 professional and fair way.

9 COUNCILWOMAN VERNA: Thank you.

10 COUNCILMAN COHEN: May I follow, Mr.
11 Chairperson, that line of questioning?

12 COUNCILMAN KENNEY: Sure.

13 COUNCILMAN COHEN: I know it's been
14 stated that the intent of the bill is not to deny
15 expeditors the opportunity to important the
16 functions now perform, that it's only intended to
17 regulate, but sometimes regulation takes the form
18 of denial if the regulation is too prohibitive in
19 costs or otherwise too burdensome.

20 Do we have any statistics at all about
21 the number of expeditors, what their income is
22 from this? Because it looks to me like you're
23 applying standards that are generally admissible
24 to, say, attorneys who have to carry malpractice
25 insurance and that kind of thing.

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2 I don't know how much work is done by
3 individual expeditors, and it could be that
4 requiring too many requirements can effectively
5 eliminate them because their income may not be
6 high enough to justify their continuing in the
7 field.

8 And I gather, Commissioner, from what
9 you said, that you do believe that currently,
10 there is the need for the work of expeditors.
11 Could you comment with respect to that? Did I
12 accurately understand your statement or did I --

13 COMMISSIONER EGAN: I don't think any
14 of the provisions which would be required for
15 someone to become a licensed expeditor are of an
16 onerous nature whereby we would put them out of
17 business.

18 I mean, you know, if you look through
19 the provisions of the bill, you know, the type of
20 the things we're requiring are, you know, there's
21 an application fee of \$200, they have to possess
22 insurance. And, if I could just reiterate, this
23 insurance -- the insurance required would be
24 determined by a professional agency, the Risk
25 Management Agency, which -- that's their

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2 business. They're going to assess the kind of
3 business that's done by expeditors and come up
4 with a fair insurance requirement.

5 Report of criminal history records.

6 There's just nothing that onerous that would -- I
7 don't think that you would be able to then
8 conclude that they would somehow be put out of
9 business because of the some of the type of
10 requirement we have here.

11 COUNCILMAN COHEN: Well, I think we'll
12 want to hear from the persons involved as to how
13 they view these requirements, and we note your
14 comments.

15 If the work is necessary, you know, to
16 make the system work effectively, then I think we
17 have -- maybe have to have some regulations, but
18 they have to be those consistent with that work,
19 you know, being continued. But we won't know
20 that.

21 For example, on insurance, it would
22 seem to me that we would to know -- we should have
23 a pretty good idea as to what the cost of
24 insurance is before we go ahead and enact the
25 bill. We don't really want to delegate a group of

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2 insurers the right to determine whether or not,
3 you know, it's worthwhile for an expediter to
4 remain in business. They make think a \$5,000
5 insurance fee is reasonable -- that is insurers
6 may, but I'm not sure expediters would feel that.

7 And malpractice insurance, you know can
8 vary. Sometimes it's 1,000 a year, but it could
9 be 100,000 a year in the case of many doctors.

10 So I think we need that information
11 before we were to enact the bill.

12 COMMISSIONER EGAN: Well, I would just
13 ask you to keep in mind, Councilman, that right
14 now -- in other words, if I had my way, there
15 would be no need for expediters because what I
16 would say to every citizen of Philadelphia is, if
17 you need to conduct business with any City
18 department in Philadelphia, and you don't feel,
19 for whatever your reason is, maybe your homebound,
20 maybe you have a language problem, maybe, you
21 know, you're working during the day so you don't
22 have the time to come down, you can call your City
23 Council person and get that same service that is
24 now provided by an expediter.

25 COUNCILMAN COHEN: Well, we'd like to

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2 think every City Council office always is prepared
3 to do that, but the judgments's got to be made by
4 the constituent, you know, whether they choose to
5 use our services or whether, choose to use some
6 other service, but I think --

7 COMMISSIONER EGAN: See, I'm also a
8 realist and a pragmatist -- at least I think I am
9 -- and I recognize, you know, that there are
10 people -- first of all, that there are people who
11 are very resourceful, and when there's a way to
12 make some money. Usually somebody finds a way to
13 do that. And this is a business where, certainly,
14 people have able to stake their livelihood. And
15 that's the way it is, and I recognize that.

16 So given that reality, i it think it's
17 important for us, as protectors of the citizenry,
18 to put in place ways that we can protect the
19 consumer, if this business is going to be
20 conducted in Philadelphia, regulate it so that our
21 consumers that make use of this type of business
22 have recourse if they are wronged.

23 COUNCILMAN COHEN: Well, there's a lot
24 to be said for what you say, but this morning, I
25 spent an hour in a street demonstration. It did

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2 not involve L&I, but another department where the
3 citizens felt, after a great number of years, you
4 know, the City employees were still not sensitive
5 to their needs, and they finally felt, in
6 desperation, the only way was to take a street
7 action which interfered with the convenience of
8 many other people.

9 So the ideal of the City department
10 being able to meet all the needs is a great ideal,
11 and I think we've got to keep working toward it,
12 but we're not always able to achieve it.

13 But let's -- but I think, Mr. Chairman,
14 I'm not going to ask any more questions. I think
15 we ought to hear from the people directly
16 involved.

17 COUNCILWOMAN VERNA: Mr. Chairman, if I
18 may.

19 COUNCILMAN KENNEY: Please.

20 COUNCILWOMAN VERNA: Commissioner, can
21 you tell us how many expeditors we presently have
22 that do business? Do you have any indication?

23 COMMISSIONER EGAN: I really don't
24 know. I could only give you my, you know, just
25 like an unprofessional guess at it. I mean, I

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2 just think there's probably about 10 to 15 active
3 expeditors working in the Department of L&I -- you
4 know, working through the Department of L&I.

5 You know, I can tell you that I've
6 heard that there's been a trade association
7 formed. Probably one of those people are going to
8 testify today, so you could ask them those
9 questions.

10 COUNCILWOMAN VERNA: Fine.

11 COMMISSIONER EGAN: I don't know how
12 much they charge, I don't know how much they
13 make. You know, those questions can be answered
14 by those people.

15 COUNCILWOMAN VERNA: Thank you.

16 COUNCILMAN KENNEY: Thank you.

17 Just one question before we go to Mr.
18 Campbell. Of all the professions that have
19 interaction with the Department of Licenses and
20 Inspections, going from lawyers, architects
21 engineers, expeditors, plumbers, electricians,
22 home improvement contractors, are there any other
23 professions that do not have a license requirement
24 or an insurance requirement or some other type of
25 requirement that's being asked for in this bill?

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2 MR. CAMPBELL: Councilman Kenney, if I
3 can answer that. Again, with only one exception,
4 and that is contractor license, and you introduced
5 that piece of legislation within the last two
6 weeks, so that that's in the hopper, waiting to be
7 enacted.

8 But no, everybody else -- lawyers,
9 architects, engineers, electricians, roofers --

10 COMMISSIONER EGAN: Plumbers.

11 MR. CAMPBELL: -- plumbers, they all
12 require some form of --

13 COUNCILMAN KENNEY: Licensing?

14 MR. CAMPBELL: And insurance.

15 COUNCILMAN KENNEY: Errors and
16 omissions insurance and other types of identifying
17 features that identify the individual for these
18 consumer-protection issues?

19 MR. CAMPBELL: That is correct.

20 COMMISSIONER EGAN: For some system of
21 tracking and recourse.

22 MR. CAMPBELL: And throughout the code,
23 you'll have a whole group of other areas that we
24 license. Like tow trucks have garage keepers
25 insurance and other requirements.

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2 So that this is the only group, really,
3 that deals with the Department that has no
4 requirement.

5 COUNCILMAN KENNEY: And the only other
6 thing I want to clear up is I think Councilman
7 Cohen was under the impression that there was some
8 trade group of insurance people that would be
9 determining this level.

10 I want to make it clear from your
11 testimony that the City's Office of Risk
12 Management would be the entity looking, or
13 hopefully would be doing this kind of work in
14 determining the setting levels of insurance that
15 would need to be provided.

16 COMMISSIONER EGAN: That's correct.

17 COUNCILMAN COHEN: But they wouldn't
18 set the rates.

19 COUNCILMAN KENNEY: Right. But I'm
20 saying that they would be setting the levels of
21 consumer protection, but it would be a City
22 agency, not an --

23 COUNCILMAN COHEN: No, I understood
24 that.

25 COUNCILMAN KENNEY: Okay.

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2 COUNCILMAN COHEN: But I'm concerned
3 about the rates --

4 COUNCILMAN KENNEY: Okay.

5 COUNCILMAN COHEN: -- that would be
6 charged. The insurance companies would have to
7 set that, right, we wouldn't have the right to
8 determine the rate of coverage?

9 COUNCILMAN KENNEY: Isn't that done now
10 for every other profession?

11 COMMISSIONER EGAN: Mm-hmm.

12 COUNCILMAN KENNEY: You have to go out
13 and shop for insurance?

14 COUNCILMAN COHEN: Well, the other
15 professions, they may have by this time
16 established rates so that the people, before they
17 go into business, know what they're confronted
18 with.

19 COUNCILMAN KENNEY: Okay.

20 COUNCILMAN COHEN: Here we have a group
21 people who are already working, who may be
22 confronted with, you know, a serious change in the
23 amount of rates.

24 I mean, they are the area of my
25 concerns. I don't know what the evidence is going

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2 to show in any of these areas.

3 COUNCILMAN KENNEY: Okay. Mr.

4 Campbell, could you please give your testimony.

5 And I think it's in the form of offering specific

6 amendments to the bill. And are those amendments

7 in writing?

8 MR. CAMPBELL: Councilman, with the

9 exception of two drafting errors, everything has

10 been presented to the Chair, and to the --

11 COUNCILMAN KENNEY: Hold on one second.

12 Before we start, I'd like to make sure we have

13 it.

14 MR. CAMPBELL: Okay. On -- excuse me.

15 The first amendment that I want to make is in

16 Section 1902. And it's just a changing of the

17 initial words which just says, "Except as set

18 forth in Section 919.2" -- I'm sorry 19 -- yeah,

19 19.2 -- 1902 -- (2), excuse me.

20 COUNCILMAN KENNEY: Start over, John.

21 MR. CAMPBELL: Okay, yeah. The first

22 amendment is just a word change in license

23 required. And it's just adding -- instead of

24 starting with the words "No person shall act. . ."

25 it starts with "Except as set forth in Section

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2 9-1902(2), no person shall act. . ." Again, it's
3 just a drafting language change.

4 The next change is a major change. And
5 with that change, we completely rewrote the
6 exceptions section. Those people who are not
7 required -- or to be licensed under this chapter.

8 The first one, obviously, are attorneys
9 currently licensed to practice law in
10 Pennsylvania. Simply the State Supreme Court
11 regulates attorneys, and nobody else. And we
12 changed the language because it wasn't that clear
13 in the original bill.

14 The second exemption are those people
15 who are already professionally licensed, the
16 licensed contractors that we hope this Council
17 would adopt shortly -- architects, engineers,
18 other persons, who, when they perform or supervise
19 work, they already meet the requirements, they
20 already have those codes of ethics and procedures
21 and have the insurance requirements. And this
22 would only be a burden for something that really
23 wasn't required of that group.

24 The next group are -- the provisions
25 would not apply to public officials or their

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2 employees or City employees in their ministerial
3 duties.

4 And, finally, the provision of this
5 chapter would not apply to those Realtors who are
6 coming in to apply for the certification
7 statements seller certificates.

8 COUNCILMAN KENNEY: For just for
9 clarification on the Realtor exemption, that is
10 for the obtaining of real estate certificates
11 only.

12 COUNCILMAN KENNEY: Okay.

13 MR. CAMPBELL: That is correct.

14 And the next amendment, which is under
15 Section 9-1904, we put an additional section in to
16 further delineate -- or that clearly defines the
17 Department's right to establish disciplinary
18 procedures for suspension and revocation of
19 licenses.

20 This is something that, you know, we
21 really adopted from the valet parking ordinance
22 that this Council passed some weeks ago, that it
23 was not clearly delineated, so I put that in the
24 bill.

25 I have two other --

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2 COUNCILMAN KENNEY: Two others that are
3 not included on the cover -- my understanding of
4 what you gave us this morning is a cover sheet
5 explaining -- or highlighting the specific
6 amendments, and then the following pages are the
7 marked-up bill --

8 MR. CAMPBELL: That is correct.

9 COUNCILMAN KENNEY: -- which would be
10 the proposed amended ordinance, correct?

11 MR. CAMPBELL: Correct.

12 COUNCILMAN KENNEY: Now, you have two
13 more?

14 MR. CAMPBELL: Two more on the
15 marked-up bill. The bill of proposed amendments
16 are adopted. Under the definition of "agent,"
17 there's a drafting error.

18 COUNCILMAN KENNEY: Right. Give me the
19 page.

20 MR. CAMPBELL: Okay, it would be page 1
21 of the ordinance markup or page 2 of the pink
22 bill.

23 COUNCILMAN KENNEY: All right.

24 MR. CAMPBELL: And I am taking out --
25 the section now reads, "Any person employed or

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2 compensated for taking action on behalf of any
3 other person in matters before the Department of
4 the Review Boards or before any of their officers
5 or employees. . . " And I am taking out the words
6 in the very first line which say "for taking
7 action on behalf of." That should be the words
8 "to represent."

9 COUNCILMAN KENNEY: Please proceed.

10 MR. CAMPBELL: Okay. The second -- or
11 final change goes to 9-1903, license renewal. And
12 that would be 1-ii.

13 COUNCILMAN KENNEY: And that's on page
14 2, bottom, right, of the marked-up bill?

15 MR. CAMPBELL: And page 3 at the top of
16 the pink bill, but page 2 at the bottom of the
17 marked-up bill.

18 And that now currently reads, "Proof
19 that applicant possesses insurance in such type
20 and amount as the Department shall, by regulation,
21 require covering claims made by the agent's
22 clients for errors and omissions in the course and
23 scope of the agent's work on behalf of such client
24 and. . . " And we added the words -- and then
25 I'll read it as it should now read:

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2 "Proof that the applicant possesses
3 insurance in such type and amount as the
4 Department, after consultation with the Office of
5 Risk Management. . ." And they are the new words
6 added to that section.

7 And they are the amendment changes that
8 we are recommending to the bill.

9 COUNCILMAN KENNEY: Hold on one sec.

10 Are there any members of the committee
11 have any questions relative to the amendments
12 offered by Mr. Campbell?

13 (No questions.)

14 COUNCILMAN KENNEY: Do either of you
15 have anything else to add relative tower testimony
16 on this bill or the proposed amendments?

17 COMMISSIONER EGAN: Just thank you for
18 your time.

19 COUNCILMAN KENNEY: Thank you.

20 Could you remain? Because what I'd
21 like to do is, in the event -- I know that there
22 are questions that are going to be questions
23 raised about the propriety of this bill and about
24 some of its specific requirements. And I would
25 like to have those, for the record, immediately

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2 responded to.

3 COMMISSIONER EGAN: I'll be happy to
4 stay.

5 COUNCILMAN KENNEY: Thank you very
6 much.

7 Mr. Pollack, are you testifying today?

8 (Mr. Pollack comes forward.)

9 COUNCILMAN KENNEY: Hold on one second.
10 Good afternoon. Please identify
11 yourself for the record.

12 MR. POLLACK: Good afternoon,
13 Councilman Kenney and Councilwoman Verna. Steven
14 Pollack.

15 I am appearing here on behalf of --
16 wearing two hats today. One hat, which I will
17 present testimony on at this point is that I have
18 with me today a resolution which was adopted by
19 the Board of Governors of the Philadelphia Bar
20 Association on February 26, 1998. And I have
21 about -- I have 15 copies. I didn't know how many
22 people would be here from the committee, and I
23 have two or three or four, whatever you want me to
24 hand out --

25 COUNCILMAN KENNEY: The

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2 Sergeant-at-Arms will bring them, we'll get them.

3 MR. POLLACK: And Councilman Kenney, if
4 you want me to read this into the record, we would
5 read it into the record. Or if not --

6 COUNCILMAN KENNEY: How long is it?

7 MR. POLLACK: It's a page and like a
8 quarter.

9 COUNCILMAN KENNEY: Does that represent
10 the crux of your testimony?

11 MR. POLLACK: The crux of the testimony
12 with regard to this matter is that when this
13 resolution was passed, the bill stood without
14 amendment. And we attached to the resolution
15 there the amendments that the Bar Association
16 wanted included with regard to this bill.

17 This bill was not something that -- and
18 it's been put that this is a Steve Pollack bill
19 and that Steve Pollack wrote this bill and I am
20 the major proponent of this bill.

21 And I would just point for the record
22 that Steve Pollack wouldn't have written a bill
23 where I would have to come back in front of the
24 City Council and say lawyers should be exempt from
25 discipline by L&I.

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2 Also, we are -- so therefore, the
3 resolution was that we are opposed to this as it
4 stood, but if the two resolutions -- the two
5 amendments were included which are in 9-1902(1),
6 that there was a definition now that says
7 (reading) provided that no person who is not an
8 attorney currently licensed to practice law in
9 Pennsylvania shall represent another person at a
10 hearing before a review board or otherwise engage
11 in the practice of law.

12 We were asking for that. That is based
13 on -- and I have copies and I would also ask the
14 Sergeant-at-Arms, sorry, to come to pick up some
15 copies of this case. There's a case that goes
16 back to 1961 Letag (ph.) verse somebody named
17 Dilworth, Richardson -- Mayor Dilworth.

18 And this case clearly holds that
19 appearing before the Philadelphia Zoning Board is
20 the practice of law. If the Bar Association is
21 guilty of seeking to try and protect the rights of
22 land owner to use his property, then the Bar
23 Association is guilty.

24 If the Bar Association is guilty of
25 trying to protect the land owner's Constitutional

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2 right to use property, then we're guilty.

3 And if we're guilty of trying to
4 protect the guilty, then we're guilty, also.

5 This --

6 COUNCILMAN KENNEY: So I understand
7 your testimony, the two issues that the Bar is
8 discerned about was, number one, that we do not
9 try to impose any additional discipline on the
10 legal profession that is already imposed by the
11 Supreme Court of Pennsylvania.

12 MR. POLLACK: That's correct.

13 COUNCILMAN KENNEY: And that we, in
14 some way, eliminate the opportunity for people
15 other than lawyers to practice before or to
16 represent individuals before these boards.

17 MR. POLLACK: That is correct.

18 COUNCILMAN KENNEY: Okay. And on one
19 count, you're happy; on the other count, so far,
20 you're not. Is that --

21 MR. POLLACK: Well, no, the amendments
22 -- we believe the amendments, as proposed, would
23 take care of that.

24 COUNCILMAN KENNEY: Okay.

25 MR. POLLACK: This Letag case -- the

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2 old law used to be that no person could -- a
3 person could appear by himself or with an agent or
4 through an attorney.

5 After that, if you look at the
6 Philadelphia zoning code right now, it provides
7 that you can either represent yourself by yourself
8 or by an attorney. So that the battle was fought
9 in 1961 to say that practicing in front of the
10 Zoning Board and Boards of Record is the
11 unauthorized practice of law.

12 And I will probably -- I'll try and
13 have more testimony when I come up possibly later,
14 if you will let me come up later as an
15 individual.

16 I am testifying now -- unless you want
17 me to now where another -- wear another hat.

18 COUNCILMAN KENNEY: You can testify to
19 all you have to testify to now.

20 MR. POLLACK: Okay. I am attorney,
21 who, everybody knows that's sitting in this room,
22 uses an expediter because I don't think that we
23 should deprive anybody of their right to earn a
24 living. I think expediters are an integral part
25 of the practice as it exists in Philadelphia.

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2 I think that without them, you know,
3 the system would break down. I think that
4 everybody has to be aware that they do play that
5 role. And I am not here to put anybody out of
6 business.

7 What we are concerned about -- and, you
8 know, part of the reason I think that they exist
9 is lawyers are like every other layman; we'd much
10 rather spend our time doing some other things than
11 have to put up with all the things that the
12 expeditors put up with to get their job done,
13 because they put up with a lot of things to get
14 their job done.

15 But I guess we are also concerned that
16 -- we are in the business of protecting the
17 consumer, and we feel that the consumer is not
18 being protected, and the rights of people are not
19 being protected if you are going to go in front of
20 a Board of Record on an issue that affects your
21 ability of you to use your property.

22 And Letag case says it much more
23 eloquently than I'm ever going to be able to say
24 it as to what the role of a lawyer is, what the
25 role of anybody is with regard to appearing in

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2 front of a board.

3 This case gives the method to be
4 pursued, the form to be selected, and the practice
5 to be followed for the enforcements of such rights
6 as it's engaged in the practice of law. And it
7 has Constitutional founding.

8 And this court even said it here
9 (reading). We are aware of the fact that
10 non-lawyers -- and this is 1961, so it's in the
11 category of "Nothing New Under the Sun." Here we
12 are 37 years later.

13 (Reading.) We are aware of the fact
14 that non-lawyers appeared for many years before
15 the Zoning Board, and we are mindful that this
16 particular plaintiff, Mr. Letag, has, for years,
17 earned his livelihood at such practice.

18 We do not pretend to know precisely
19 when it should have been recognized that the
20 presentation of zoning problems involved the
21 practice of law. It may well be, as the Assistant
22 Solicitor so well suggested in his oral argument
23 -- and that was Leonard Wolfe, some of you may
24 remember Leonard Wolfe -- that what started out as
25 a relatively informal forum imperceptive evolved

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2 into a tribunal adjudicating very substantial
3 rights and requiring skill, judgment, and
4 artistry.

5 And in the leading Supreme Court case
6 that established zoning and allowed this Council
7 and all councils and municipalities throughout
8 this land to start regulating land use through
9 zoning, in the Village of Euclid case, the Supreme
10 Court recognized the evolutionary aspect of zoning
11 problems.

12 It said (reading) until recent years,
13 urban life was comparatively simple. But with the
14 great increase of concentration of population,
15 problems have developed, and constantly are
16 developing, which require and will continue to
17 require additional restrictions in respect of the
18 use and occupation of private lands in urban
19 communities.

20 And then the Supreme Court of
21 Pennsylvania recognized that there are functions
22 that the lawyers perform. They instruct and
23 advise clients with regard to the law so that they
24 can be properly informed of their rights and
25 obligations and their Constitutional rights they

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2 prepare clients' documents, requiring familiarity
3 with legal principles; and they appear for clients
4 at tribunals; and they're committed to the
5 function of determining the rights of life,
6 liberty and property according to the law of the
7 land in order that he may assist the deciding
8 official in the proper interpretation and
9 enforcement of the law.

10 It says that in order to determine such
11 rights, it's necessary first to establish the
12 pertinent facts which are frequently uncertain,
13 controverted, and, at best, unascertainable, as
14 experience has demonstrated, by the application of
15 the rules of evidence tested by centuries of
16 usage. A lawyer, being technically fitted for the
17 purposes, examines and cross-examines witnesses
18 and presents arguments to jurymen to guide them.
19 As an ancillary, he participates in trials and
20 legal argumentation.

21 Where the application of legal
22 knowledge and technique is required, the activity
23 constitutes such practice, even if it's conducted
24 before such administrative board or commission is
25 the character of the act and not the place where

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2 it is performed, which is the decisive factor.

3 In modern times -- and these are not
4 Pollack's word, these are the words of the Common
5 Pleas Court of Philadelphia in 1961. In the
6 modern times, the affairs of people requiring the
7 services of a lawyer become more intricate and
8 complex, demanding a corresponding increase in the
9 standards of the profession through preliminary
10 education and a lengthened and more diverse course
11 of study.

12 In addition to the rigid educational
13 requirements, the applicant must possess a good
14 moral character.

15 These prerequisites are not for the
16 purpose of creating a monopoly for the legal
17 profession, nor is it for its protection; but are
18 for the better security of the people, the people,
19 against incompetency and dishonesty.

20 And these are not Pollack's words
21 again. These are the case's words. This is the
22 court. And the court goes on to say --

23 COUNCILMAN KENNEY: Mr. Pollack, I need
24 your to sum up. We have copies of the case, and
25 we can --

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2 MR. POLLACK: Okay.

3 COUNCILMAN KENNEY: We'll read it at
4 our leisure.

5 MR. POLLACK: So that's why we are
6 here, to say that, I think Boards of Record are
7 where we are trying to protect.

8 I think that the ordinance may go a
9 little too far in terms of when an expediter might
10 appear in front of certain boards. I think that
11 the Accessibility Advisory Board is not that
12 board. It's an advisory board so I think that in
13 going that far, it overreaches.

14 I think that probably the L&I Review
15 Board and the Zoning Board, since you're appeal --
16 when we say "Board of Record," your appeal from
17 those two boards are right up to Common Pleas
18 Court. And the rule is that unless you raise the
19 issue, you don't get another shot at presenting
20 testimony in the Common Pleas Court. So whatever
21 is going to be presented has to be presented in
22 front of the L&I review board and especially the
23 Zoning Board.

24 People's rights and their right's to
25 use the property -- I had a recent case where I

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2 represented neighborhood group. I was opposed by
3 an expediter. I can tell you, I know the legal
4 doctrine. There's a case I brought, and I with
5 me. It's the Logan Square case. That wasn't used
6 to the best advantage, I feel, by the expediter
7 'cause he doesn't know the case, doesn't really
8 know how to -- what evidence to present.

9 So there's an individual now who, I
10 feel, doesn't -- has a property that he's bought,
11 and has had his rights limited to how he's going
12 to use that property because we have to leave the
13 practice of law to those people who know the
14 practice of law, who've gone through, have special
15 training and expertise, and have done that.

16 I also feel that if L&I feels that it
17 needs to regulate the role of the expediter to
18 have some handle on it because we are subject to
19 disciplinary rules, my ticket, my livelihood can
20 be suspended, can be taken away from by me by the
21 Disciplinary Board of Supreme Court of
22 Pennsylvania.

23 If L&I feels they need some sort of
24 regulations, I feel personally -- this is not as
25 the Bar Association. I feel permanently that L&I

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2 should have that right and has an obligation to
3 the consumer public to regulate that industry.

4 And I believe that would be the sum of
5 my testimony.

6 COUNCILMAN KENNEY: Thank you very
7 much.

8 One nuance, though, as it relates to
9 the L&I Review Board and as it relates to the
10 Zoning Board. I mean there have been times -- and
11 I am not an attorney, but there have been more
12 times than I wanted to be before that Board,
13 representing, along with Councilmember Verna and
14 members of her staff, Councilman Cohen -- I mean
15 every Councilperson and Councilmember staff who
16 are not necessarily attorneys have been there to
17 represent the community group or constituency that
18 are normally opposing a particular -- sometimes in
19 favor of, but normally opposing a particular
20 project or proposal.

21 I know that there are certain
22 procedural changes that happen when a person like
23 myself who is not an attorney goes before that
24 board, and that is that the Chairman does not
25 permit direct questioning of witnesses, and all

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2 information --

3 MR. POLLACK: Cross-examination.

4 COUNCILMAN KENNEY: -- is discussed
5 through the Chair. So it's not exactly a
6 courtroom, although it is a procedure of record
7 which is appealable to a court in Pennsylvania,
8 but, it does kind of -- it's a horse of a
9 different color sometimes.

10 MR. POLLACK: Not if you read --

11 COUNCILMAN KENNEY: I understand.

12 MR. POLLACK: Not if you read Letag.

13 COUNCILMAN KENNEY: Yeah.

14 MR. POLLACK: Letag will tell you that
15 these administrative boards, they are
16 quasi-judicial boards; it's not a horse of a
17 different color.

18 The cases come out of the PUC, which is
19 the utility commission, but it's a State
20 regulatory agency. Cases come out of the
21 Workman's Compensation area where you are
22 dedicated to being in front of like referees --
23 they're now called "judges."

24 It is the practice of law before a
25 tribunal that affects your rights, and the

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2 consumer should be protected by somebody.

3 COUNCILMAN KENNEY: Okay. Councilman
4 Cohen.

5 COUNCILMAN COHEN: As a lawyer, I
6 understand how -- I know it's a very unfair
7 question to ask you as lawyer to lawyer, but could
8 you summarize your position, just summarize it
9 without quoting from anything.

10 MR. POLLACK: Okay.

11 COUNCILMAN COHEN: What is your
12 position with respect to this bill? And that is
13 the Board of Governors position, I guess.

14 MR. POLLACK: The Board of Governors'
15 position, Councilman Cohen, was that, as
16 originally drafted, we were opposed to it, with
17 two amendments. We endorse two amendments.

18 The two amendments are to 1902(1),
19 which would change it so that it provided no
20 person who is not an attorney currently licensed
21 to do practice law in Pennsylvania shall represent
22 another person at a hearing before a review board
23 or otherwise engage in the practice of law. That
24 is one.

25 The other one is to 19-1902-A, which

4 We feel that, one, we are licensed to
5 practice law in Pennsylvania. We have --

9 MR. POLLACK: Yes. Expeditors, knock
10 yourself out downstairs, do what you have to do to
11 represent people, help them with their paperwork,
12 help them move the process along in getting
13 permits, building permits, licenses.

20 COUNCILMAN COHEN: Well, just to get
21 your position, what was your position with respect
22 to the appearance of an expediter at the Zoning
23 Board itself? Not the Board of Review, the Zoning
24 Board itself.

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2 that if they appear at representing somebody or,
3 in the Letag case the case -- in the Letag case,
4 the case finally went on because --

5 COUNCILMAN COHEN: No.

6 MR. POLLACK: All right.

7 COUNCILMAN COHEN: Please, I'm asking
8 you precisely, is the Board of Governors --

9 COUNCILMAN KENNEY: He's a lawyer. He
10 can't give a -- he can't give a short answer.

11 MR. POLLACK: Councilman Cohen --

12 COUNCILMAN COHEN: That's the reason I
13 said it's (unintelligible) pinning down another
14 lawyer.

15 MR. POLLACK: Councilman Cohen, I'm
16 even on my own clock. I'm not billing anybody.

17 COUNCILMAN COHEN: But are you saying
18 that it's the Board of Governors' position that
19 the expediter should or should not be able to
20 appear before the Zoning Board?

21 MR. POLLACK: They cannot appear and
22 represent people before the Zoning Board; they are
23 engaged in the practice law.

24 COUNCILMAN COHEN: So it's not just the
25 Boards of Review. You would limit the expediter

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2 to --

3 MR. POLLACK: I said --

4 COUNCILMAN COHEN: Not appear before
5 any board that has any authority to render a
6 decision. It means the Zoning Board or any of the
7 or appellate boards?

8 MR. POLLACK: Well --

9 COUNCILMAN COHEN: Any hearing of
10 record where a record is maintained.

11 MR. POLLACK: Right.

12 Then I testified personally that I
13 thought the Accessibility Advisory Board, probably
14 the Board of Fires, Safety and Prevention, and the
15 Board of Building Standards might not be boards of
16 record so, therefore, this ordinance may overreach
17 a little bit with that respect.

18 But as far as the boards of record,
19 where there's a record kept and you can only
20 appeal that to Common Pleas Court, then I think
21 you're affecting people's Constitutional rights to
22 use their property. And every --

23 COUNCILMAN COHEN: I didn't want --
24 heard all the arguments. I just wanted to be
25 clear as to what your position was.

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2 And you're speaking on behalf of the
3 Board of Governors.

4 MR. POLLACK: Right. I have the
5 authority to speak on behalf of the Board of
6 Governors.

7 COUNCILMAN COHEN: Right.

8 MR. POLLACK: Today the Pennsylvania
9 Bar Association, unfortunately, has its annual
10 meeting, and Chancellor Aronchik, Chancellor-Elect
11 Chacker (ph.) and Vice Chancellor Doreen Davis
12 were all unable to make it today.

13 COUNCILMAN COHEN: And you're in their
14 place.

15 MR. POLLACK: And I'm Vice Chair -- and
16 I am Vice Chair of the Real Properties section.

17 COUNCILMAN COHEN: Well, since you said
18 that, I have to state that I have a son who's a
19 member of the Board of Governors and --

20 MR. POLLACK: He his and --

21 COUNCILMAN COHEN: Whether or not he's
22 present at that meeting or participating, I don't
23 know.

24 MR. POLLACK: I can tell you he was and
25 that he voted in favor of this resolution.

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2 COUNCILMAN COHEN: But he knows it
3 never binds the father.

4 MR. POLLACK: Right.

5 COUNCILMAN KENNEY: Thank you very
6 much. Thank you for your testimony.

7 I have a list here of witnesses who are
8 requesting, I think, to appear -- to testify in
9 opposition to the bill.

10 But in fairness to what I believe is a
11 relatively newly-formed organization, is there a
12 spokesperson for that, and is that the people --
13 if you could just nod your head that that
14 individual is. Okay.

15 Everyone will get an opportunity to
16 speak, but if there is someone who can be concise
17 about the specific opposition to the bill prior to
18 each individual testimony, I'd like to give him an
19 opportunity first, so --

20 (Unidentified man responds inaudibly
21 off mike.)

22 COUNCILMAN KENNEY: Sir?

23 (Unidentified man responds inaudibly
24 off mike.)

25 COUNCILMAN KENNEY: Okay, let's get

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2 someone from the other side first, and we'll go a
3 little bit back and forth. And let's just go off
4 the record for a moment.

5 (Brief conferring off record.)

6 (Hearing resumes.)

7 COUNCILMAN KENNEY: This is additional
8 testimony relative to Bill No. 970778, which was
9 an ordinance to amend the zoning maps for an area
10 -- within Snyder Avenue, Broad Street, Oregon
11 Avenue, and 18th Street.

12 The Chair recognizes Mr. Furey.

13 MR. FUREY: Thank you, Mr. Chairman.
14 After having had a chance to discuss the matter of
15 changing C2 to C1 with the City Planning
16 Department, we support this bill as it is. Thank
17 you.

18 COUNCILMAN KENNEY: Thank you very
19 much.

20 Let's go back now to the bill in
21 question. And could you please come forward,
22 identify yourself for the record, and proceed with
23 your testimony.

24 MR. MORLEY: Good afternoon, members of
25 the committee. My name is John H. Morley, Junior,

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2 M-O-R-L-E-Y. I represent a fledging association,
3 the License and Permit Agents Association.

4 I first would like to comment on
5 Commissioner Egan's testimony. With all due
6 respect, I interpreted Commissioner Egan's
7 testimony to be a personal attack on one or two
8 individuals, and I don't believe that that
9 justifies legislation.

10 In their own testimony -- and "they're"
11 being Mr. Campbell and Commissioner Egan -- they
12 stated that there were 10 to 15 agents. That, in
13 my opinion, doesn't justify legislation of this
14 nature.

15 Commissioner Egan stated no need for
16 expeditors. She clearly, clearly wants to
17 terminate a trade. I object to that.

18 COUNCILMAN COHEN: No, I understood her
19 differently from what you did.

20 I heard her say -- at least this was my
21 interpretation of what she was saying. She hoped
22 that someday the Department would be able to
23 function in such a way that there would be no need
24 for anybody outside the Department to offer these
25 services. She also indicated clearly that she

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2 thought, at the present time. That expeditors
3 were in fact needed.

4 And I did not interpret it in any way
5 any personal attacks on anyone. I'm sorry if you
6 got that interpretation, but I didn't feel there
7 were any personal attacks intended or even made.

8 MR. MORLEY: Okay, well --

9 COUNCILMAN KENNEY: Thank you,
10 Councilman.

11 Please proceed with our testimony.

12 MR. MORLEY: Commissioner Egan also
13 stated that most trades carry insurance. And in
14 response to that testimony, this legislated
15 insurance would be redundant. Mr. Campbell --

16 COUNCILMAN KENNEY: I don't want to
17 interrupt you again, but I want to make sure -- it
18 was a response to my question.

19 MR. MORLEY: Well --

20 COUNCILMAN KENNEY: I asked her whether
21 or not, of all the professions that have any
22 interaction with L&I, are there any other
23 professions, with the exception of the agent, the
24 permit agent that you're representing, that does
25 not have errors and omissions insurance and other

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2 types of -- she did said no, she was not aware of
3 any of those professions other than expediter,
4 a/k/a permit agent.

5 So I just -- there's -- it's not clear
6 -- and I mean the only reason I interrupted you
7 is 'cause that was in response to my question, and
8 I think the record's clear that the only
9 profession that has interaction with L&I that
10 doesn't have this type of insurance is yours.

11 MR. MORLEY: Okay.

12 COUNCILMAN KENNEY: Okay. I'm sorry to
13 interrupt.

14 MR. MORLEY: Our association would
15 request a continuance of this hearing and a vote
16 by the committee so that we could have the
17 opportunity to work with Council and the
18 Department of L&I regarding the contents of this
19 legislation.

20 Our ethical consideration of the
21 Pennsylvania Statute is -- I'm quoting from the
22 statute. The essence of professional judgment of
23 the lawyer is his educated ability to relate the
24 general body and philosophy of law to a specific
25 legal problem of a client and, thus, the public

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2 interest will be better served if only lawyers are
3 permitted to act in matters involving professional
4 judgment.

5 Where this professional judgment is not
6 involved, non-lawyers, such as court clerks,
7 police officer, abstractors, and many governmental
8 employees may engage in occupations that require a
9 specific knowledge of law in certain areas.

10 This is not a 1961 case, this is not my
11 words -- these are not my words; this is a current
12 statute.

13 We believe the professional judgment
14 required before review boards is not of a legal
15 nature but, rather, a technical nature that falls
16 into professional judgments of architects and
17 engineers who work with building codes and at
18 times a logistical nature that falls into the
19 judgment of agents who have experience with and an
20 understanding of the Philadelphia codes.

21 The public's L&I matters somebody
22 disposed of said chosen agent, be that an
23 architect, engineer, attorney, expediter or any
24 other person. Agents are not design
25 professionals. Therefore, errors and omission

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2 insurance is inappropriate and arbitrarily
3 escalates the cost of services to the public.

4 The City should not deny the freedom of
5 employment because of a criminal past. As
6 written, the bill does not provide consideration
7 to the public in exchange for the fee, tax, the
8 considering of separate lines, clerks, phone
9 lines, fax lines, etc. for agents, and discounts
10 on the purchase of City codes for agents should be
11 included in the bill for a tangible benefit to the
12 public.

13 In accordance with Resolution 1,
14 Section 5, order of business, paragraph 4, reading
15 of communications, I am asking that you read the
16 transcript of my testimony to Council at the
17 appropriate meeting.

18 I reiterate our request for the
19 opportunity to work with Council and L&I. If said
20 opportunity cannot be given, we must oppose the
21 bill as presently written, and we request the
22 Rules Committee to reject and vote against this
23 bill.

24 I have petitions with hundreds of -- in
25 my experience, these are my friends, and I believe

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2 that these are the friends of our association.

3 There are hundreds of people here I'd like to give
4 to the committee.

5 COUNCILMAN KENNEY: The sergeant
6 Sergeant-at-Arms will receive them.

7 MR. MORLEY: All right. I request --
8 we request that rules be enforced.

9 The following statement is not the
10 opinion of the License and Permit Agents
11 Association; it is my personal opinion.

12 In order for this bill to truly protect
13 the public, an examination for competency must be
14 included. This bill, as written, does not include
15 enough language regarding the disciplinary
16 procedure.

17 And, finally, in my experience as a
18 contractor, when I first got into business, error
19 and omission insurance was 10 percent of my
20 revenue. It is now, after seven years in
21 business, been lowered to 2 percent of my revenue.

22 COUNCILMAN KENNEY: Excuse me. You
23 have errors and omissions insurance now?

24 MR. MORLEY: I have errors and
25 omissions insurance for a business.

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2 COUNCILMAN KENNEY: For your agent
3 business -- for your expediting business?

4 MR. MORLEY: No, sir, for a contracting
5 business.

6 COUNCILMAN KENNEY: Okay, fine, thank
7 you. I'm sorry wanted to make sure it was clear.

8 MR. MORLEY: Okay. That's the end of
9 my statement. Thank you.

10 COUNCILMAN KENNEY: Let me ask you a
11 question. You had indicated in your testimony
12 that agents -- expeditors or agents, whatever term
13 you prefer, are not design experts, do not engage
14 in the practice of the law.

15 Could you tell me what it is, what
16 service you actually perform? What do you do for
17 a client? Give me a typical client that you
18 would move through the process, and what is it
19 that you provide to them?

20 MR. MORLEY: All right. We take
21 information that is composed by property owners
22 or, in short, interested parties. Sometimes we
23 also receive information from architects and
24 engineers.

25 We take information that someone else

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2 composed and go through the logistical process of
3 permit application and variance requests to the
4 Board of Building Standards or appeals to the
5 Board of L&I Review, or any other review board.

6 We're taking information that someone
7 else composed. That's why E&O insurance is not
8 appropriate.

9 COUNCILMAN KENNEY: I don't mean to
10 diminish the practice; I'm trying to understand.

11 Is it more of a type of courier
12 service? I mean, is it more of a type of courier
13 service where you take paperwork to a particular
14 office, receive back what it is you need,
15 receipts, other things, move to another area? I
16 mean, to kind of walk it through and then deliver
17 the paperwork back to the either the architect,
18 the resident the homeowner, property owner?

19 MR. MORLEY: In regard to permit
20 applications --

21 COUNCILMAN KENNEY: I don't mean to be
22 -- just want to understand what the job is. What
23 do you do?

24 MR. MORLEY: In regards to applying for
25 permits, it is -- can I yield to Mr. Tayoun,

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2 please?

3 COUNCILMAN KENNEY: If Mr. Tayoun could
4 enlighten us to what the exact -- what the job is.
5 MR. TAYOUN: There are several levels of --

6 COUNCILMAN KENNEY: I shouldn't have to
7 tell you that, but please identify yourself.

8 MR. TAYOUN: My name's James Tayoun,
9 T-A-Y-O-U-N.

10 COUNCILMAN KENNEY: Thank you. Please
11 proceed.

12 MR. TAYOUN: There are several levels
13 of expeditors, or agents, underneath the one label
14 "agent."

15 There are those who fit the category,
16 like I would normally, and several others who are
17 simply couriers. Some of them represent chains
18 that do a great deal of business within the City
19 of Philadelphia.

20 If Council, for instance, decides
21 there's something wrong with the signage code and
22 decides to make an amendment someplace because
23 it's been called to their attention and it passes,
24 all of a sudden, L&I goes out and reminds all
25 these chain stores that their signage no longer is

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2 legal, they've got to do something to bring it in
3 compliance.

4 These companies with then notify an
5 expediter, go put all this stuff together and get
6 these various stores that have been cited on line.

7 So he comes down and he makes the
8 applications, he then goes to the proper agency.
9 If he cannot convince the planner, or whoever
10 examines the plans, that this is only a minor
11 change, it should be adjudicated right here then
12 and now, and it's not now because, for some
13 reason, they're not given that kind of power
14 anymore.

15 He then goes to a Zoning Board or a
16 board of review or a board of standards, and what
17 happens is, he follows it through.

18 This saves that syndication group, that
19 chain group, that business conglomerate a lot of
20 needless headache and work for a minimum fee.
21 They're happy with the services, they continue to
22 use the services.

23 And then there are other people like
24 myself who will get a call from someone who's an
25 immigrant or someone who doesn't understand the

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2 law so much and started up a little corner grocery
3 store and has found out that since, even though it
4 been a corner grocery store 20 years ago, it no
5 longer can be again because the zoning was changed
6 by City plannings through the work of the Council,
7 and he has to go in for a zoning appearance.

8 So the man takes and files the
9 application, returns down -- takes him to the
10 Zoning Board and says, Here's the situation.

11 Mr. Pollack indicated there was a case
12 that he represented in the community and the
13 expediter was ignorant of the Logan case. Well, I
14 was that expediter. And if I had known about the
15 Logan case, I still don't think I would have
16 (unintelligible) because I had the City Councilman
17 and the State Senators, the State Representatives,
18 Congressman and 60 people against me.

19 And this poor guy. So I knew he
20 couldn't win because nobody would weigh logical
21 evidence in a situation like that. They normally
22 go with what the neighborhood wants.

23 So there are precedences and traditions
24 that have developed in the 30-odd years since he's
25 cited the case that he mentioned that state it

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2 should be simple for couriers to really carry
3 information to the -- and make applications for
4 permits to be able to follow them through.

5 If we screw up, it's our fault. If the
6 client realizes he's making a mistake by going
7 through us, he's been told this is a very
8 difficult case by us, I can't handle this, I think
9 you're going to need an attorney, there's too much
10 solved. Then he makes that judgment and decides
11 whether or not he wants to spend more money for an
12 attorney or not. Most of these people do not want
13 to hire an attorney because they do not have the
14 money.

15 And the tradition that we're seeing
16 over the years before the Zoning Board and the
17 other boards has been one where they've listened
18 to someone who's able to put into words more
19 clearly -- and that is an expeditor or an agent --
20 then the consumer himself who has made the
21 application. Then they're very happy to have us
22 before them because we can articulate well what
23 the problem is and what the need is for that
24 place.

25 And that's basically what that is.

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2 COUNCILMAN KENNEY: Thank you for
3 answering the question.

4 MR. TAYOUN: Thank you.

5 MR. MORLEY: May I -- may I --

6 COUNCILMAN KENNEY: Yes, sure.

7 MR. MORLEY: -- complete my answer?

8 In regards to the administrative
9 agencies, they have different jurisdictions. The
10 Board of Building Standards will listen to an
11 appeal to do something that is contrary to a
12 building code. I'm trying to be general just to
13 explain the point.

14 If you wanted to do use a different
15 size structural member on a building, you would
16 ask an engineer to design that structural member
17 if it was in violation of building code. If you
18 were to ask the City to use something less than
19 National Fire Protection Association codes, you
20 would take a fire protection designer, you would
21 hire them to explain why you're changing the pipe
22 size or head locations so that they still meet the
23 intent of the code. These are the engineers.

24 When you go before the Board of L&I
25 Review, in most cases, a Department of L&I

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2 employee has interpreted the codes, and you would
3 make your argument and your interpretation in
4 regards to the handicapped board.

5 The City has flat standards for
6 accessibility, and BOCA allows exceptions to
7 accessibility. You would have the opportunity to
8 speak before the Accessory Board, and you would be
9 given the opportunity to state what that
10 nationwide exception is.

11 So I hope, Mr. Chairman, I've explained
12 that. That's in general the nature.

13 COUNCILMAN KENNEY: Thank you.
14 Councilman, any questions?

15 COUNCILMAN COHEN: Is there any
16 disagreement with the Commissioner's estimate that
17 10 to 15 active expeditors that are involved at
18 L&I?

19 MR. MORLEY: I have no opinion on that,
20 sir. I don't know, I don't know how many there
21 are.

22 COUNCILMAN COHEN: How many are there
23 in your association as of now. And I understand
24 you're a fledgling association.

25 MR. MORLEY: That's correct, sir.

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2 We've had 15 to 18 people attend our association
3 meetings. Not all have been agents. There are
4 several architects, there are several engineers.
5 Recently, there's been people in the construction
6 industry. The attendance at our meetings has
7 ranged from 8 people to 18.

8 COUNCILMAN KENNEY: Thank you. Thank
9 you very much.

10 MR. MORLEY: Thank you.

11 COUNCILMAN KENNEY: Mr. Schlosser.
12 (Neil Schlosser comes forward.)

13 MR. SCHLOSSER: Good afternoon. I --

14 COUNCILMAN KENNEY: I'm sorry. Please
15 identify yourself for the record.

16 MR. SCHLOSSER: My name is Neil
17 Schlosser. And that's spelled N-E-I-L,
18 S-C-H-L-O-S-S-E-R.

19 COUNCILMAN KENNEY: Please proceed.

20 MR. SCHLOSSER: Okay. I'm a registered
21 architect. I've been registered in the state of
22 Pennsylvania since 1972. I've had businesses,
23 both architecture and related businesses before
24 that time and continue to have a practice. I'm
25 part of a practice that I own in Philadelphia.

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2 We've been active all those years. We
3 have a wide range clientele, ranging from
4 community groups to the School District of
5 Philadelphia to private clients.

6 I'm also a member in good standing with
7 the American Institute of Architects Philadelphia
8 Chapter. And I'm here -- I've been asked by the
9 Executive Director to appear at these hearings to
10 express their views on this bill.

11 The opinion is that the bill, as
12 originally presented -- I believe it was in
13 November -- was unacceptable to the American
14 Institute of Architects. The bill as amended --
15 which, frankly, has not -- they feel as though
16 they haven't had the proper time to review it in
17 detail -- may be acceptable. Although my recent
18 -- and I'm talking about as recently as today and
19 yesterday -- examination of it and discussion of
20 it with other people indicate they still have some
21 problems with it.

22 And for that reason, we'd like to -- I
23 don't know what the term is -- extend these
24 hearings or allow some time for the AIA to submit
25 a more --

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2 COUNCILMAN KENNEY: Could you give me
3 an idea --

4 MR. SCHLOSSER: -- formal opinion.

5 COUNCILMAN KENNEY: Could you tell me
6 what the specific areas of concern that still
7 exist are so we know what they are.

8 MR. SCHLOSSER: Yes. We'd like to take
9 exception to Steve Pollack's opinion that
10 architects are not qualified to appear, or it's
11 illegal to appear before these various regulatory
12 boards.

13 If you took that same argument, I
14 imagine the (unintelligible) commission would mean
15 the same thing, even though that's not part of
16 L&I. The Art Commission, it would mean the same
17 thing.

18 Architects have always historically on
19 a regular basis appeared before these boards. For
20 instance, the Zoning Board is one -- is not always
21 an adversarial relationship but it's one where the
22 architect is much better qualified to talk about
23 the impact, the quality of life, what the built
24 environment's going to be. And to limit that in
25 any way, we think, is inappropriate.

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2 The same thing is true of zoning and
3 the L&I Review Board. In a sense, architects are
4 lawyers. We deal with codes which are law. That
5 is, in fact, our responsibility and the way we're
6 licensed by the state to perform.

7 I was talking to our insurance -- my
8 insurance carrier. My firm is about seven people
9 total, so it's not a large firm but it's been a
10 steady player in the Philadelphia architectural
11 scene. We pay \$20,000 a year for professional
12 liability for errors and omissions. I spoke to my
13 carrier today, and he has a problem just with the
14 word characterizing the activities in here as an
15 "agent."

16 Apparently in the insurance word, an
17 agent -- that word is one of the so-called bad
18 words. That we are really independent
19 consultants, you know, to owners and, you know --
20 but routinely are authorized to perform these
21 activities.

22 COUNCILMAN KENNEY: But do you read
23 that to apply to architects after the amendment?

24 MR. SCHLOSSER: Yes, yes.

25 COUNCILMAN KENNEY: I'm sorry. Mr.

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2 Campbell and/or Commissioner Egan, could you or,
3 whoever else the Law Department wants to talk
4 about this, I just want you to be ready to go
5 after the testimony.

6 Have heard Mr. Schlosser's testimony on
7 those two specific issues?

8 (Inaudible response -- off mike.)

9 COUNCILMAN KENNEY: Okay, please
10 proceed. We'll have their response. Please
11 proceed.

12 MR. SCHLOSSER: You're asking me to
13 proceed, okay.

14 There was a big question as to whether
15 our existing errors and omissions would even cover
16 the actions of what's characterized as an agent
17 here, that this new requirement of the law would
18 necessitate yet another layer of insurance,
19 another layer of cost, which, of course, has to be
20 passed on to our consumer clients.

21 I'd like to add some of my personal
22 opinion. I won't say this represents AIA's, but
23 when I read this bill, it has a presumption of
24 guilt, I think, of the people, that the
25 requirements for criminal background checks, the

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2 -- it just seems to -- if fraud and bribery are
3 being committed, if that's what this bill is
4 really about, there certainly are mechanisms in
5 place for that. I don't think another layer here
6 is necessary in a bill of this kind.

7 I have -- do a lot of my own permit
8 work, particularly when it requires appearances
9 between L&I boards. I do use expeditors. I have
10 never been asked or expected nor have I ever
11 received any special favors as a result of hiring
12 an expeditor as far as I know. And I really don't
13 think that is what happens.

14 So, again, when I do use an expeditor,
15 I see all these additional costs -- the insurance,
16 the background checks, and others as something
17 that just is ratcheting up the cost of doing
18 business in Philadelphia.

19 I don't think that the consumer's going
20 to be additionally protected, I don't think this
21 bill will do it. And I think the existing
22 mechanisms already in place now are, you
23 know. . .

24 Indictments were turned out by a
25 systems that's in place now apparently this

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2 morning. I don't know much about it yet. I just
3 heard what I heard today.

4 So the AIA position now is that this
5 bill needs further work, and we would certainly
6 like to offer our offices to do that. We would
7 like to hire an attorney in light of Mr. Pollack's
8 testimony today to examine that issue. We've had
9 heard two conflicting legal opinions right here in
10 this room here today.

11 I'm not going to answer any of those,
12 although I know that I have, according to Mr.
13 Pollack, been criminally appearing before all of
14 these boards for the last -- since 1972. I don't
15 think I'm a criminal, and certainly I think AIA
16 and all the architects of that organization would
17 like to examine that particular issue in much more
18 detail.

19 COUNCILMAN KENNEY: Thank you.

20 Commissioner and Mr. Campbell and Mr.
21 Schlosser, if you could you just remain. I may be
22 -- maybe we're reading the bill differently.

23 I suspected that the amendments that we
24 were offered today eliminated the professional
25 architect from the provisions of this bill. Am I

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2 reading it wrong?

3 COMMISSIONER EGAN: What it does,
4 Councilman, is it eliminates them from the
5 provision of having to apply for a license of
6 expediter.

7 COUNCILMAN KENNEY: Right.

8 COMMISSIONER EGAN: But it doesn't
9 eliminate them from not -- not being able to -- in
10 other words, they would not be able to represent.
11 They can present before the boards, the Zoning
12 Board and other boards, but they would not be able
13 to represent a client before the Zoning Board.

14 COUNCILMAN KENNEY: Do you read this
15 legislation as having any impact on architects
16 whatsoever, on their insurance requirements?

17 COMMISSIONER EGAN: On architects'
18 insurance requirements?

19 COUNCILMAN KENNEY: Yeah.

20 COMMISSIONER EGAN: No.

21 COUNCILMAN KENNEY: And, Mr. Schlosser,
22 you had indicated that you were concerned about an
23 increase on cost of your insurance based on this
24 bill.

25 MR. SCHLOSSER: No, what I'm saying is

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2 that in my discussion with my agent today --
3 COUNCILMAN KENNEY: Oh, an expediter.
4 MR. SCHLOSSER: -- who is a
5 professional liability agent. No, not an
6 expediter.
7 COUNCILMAN KENNEY: Oh, sorry, sorry.
8 MR. SCHLOSSER: That's what I'm
9 saying. "Agent" is a funny word.
10 COUNCILMAN KENNEY: All right.
11 MR. SCHLOSSER: We have some problems
12 with the use of the word "agent."
13 COUNCILMAN KENNEY: So your insurance
14 agent --
15 MR. SCHLOSSER: My insurance agent.
16 COUNCILMAN KENNEY: -- believes that
17 you would have an increase -- a potential increase
18 in your cost of errors and omissions insurance
19 based on the passage of this bill which would
20 regulate expediters?
21 MR. SCHLOSSER: He's my -- what he's
22 saying is the insurance I have in place now,
23 errors and omissions professional liability that
24 architects carry such as mine, which was one of
25 the major ones in the field, would not cover our

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2 activities when we're construed as an agent as is
3 described under this bill.

4 COUNCILMAN KENNEY: See, that's what I
5 -- what I need to know from the Law Department,
6 Mr. Campbell, Commissioner, are architects
7 exempted from the provisions of this bill or not?

8 COMMISSIONER EGAN: Yes, they are.

9 MR. SCHLOSSER: I respectfully disagree
10 with that. I mean, it says we can apply for
11 permits and stuff, but we cannot, unless we are an
12 agent, appear before the boards.

13 COUNCILMAN KENNEY: No, unless you're a
14 lawyer.

15 COMMISSIONER EGAN: Unless you're a
16 lawyer, you cannot represent a client before a
17 board.

18 COUNCILMAN KENNEY: That's two issues.
19 The first issue is, you are correct in your belief
20 that this bill would eliminate your ability to,
21 quote/unquote, represent someone before a board of
22 record.

23 MR. SCHLOSSER: That's correct.

24 COUNCILMAN KENNEY: Correct?

25 MR. SCHLOSSER: Yes.

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2 COUNCILMAN KENNEY: But your contention
3 also is that somehow this bill would potentially
4 increase your errors and omissions insurance, and
5 I think you're exempted from the provisions of
6 this bill as it relates to that issue.

7 MR. SCHLOSSER: I don't think that's
8 clear whether we're exempt from that in this bill.

9 COUNCILWOMAN VERNA: Did you see the
10 comments that were --

11 MR. SCHLOSSER: If I'm representing,
12 quote, as it's described here "an agent" --

13 COUNCILMAN KENNEY: Have you seen
14 copies of the amendments?

15 COUNCILWOMAN VERNA: Have you seen
16 copies of the amendments?

17 MR. SCHLOSSER: I have seen a copy that
18 was sent to me by John Campbell about a week ago,
19 I guess it was, which, I think, includes
20 amendments 1 and 2.

21 COUNCILMAN COHEN: Well, I don't -- Mr.
22 Chairman, I don't see -- I agree with the
23 architect testifying. I believe he has to be
24 licensed in order to represent --

25 MR. SCHLOSSER: But we're limited under

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2 this bill to applying for permits. Our service is
3 traditionally of going way beyond that.

4 COUNCILMAN KENNEY: Two issues we're
5 discussing right now.

6 MR. SCHLOSSER: Yes.

7 COUNCILMAN KENNEY: Your effort in
8 obtaining permits or any of the activities, I
9 guess, in the concourse of the Municipal Services
10 Building, you would be exempted from the
11 provisions of this bill, okay?

12 MR. SCHLOSSER: That is correct.

13 (Unintelligible -- parties speaking
14 over each other at the same time.)

15 COUNCILMAN KENNEY: And Mr. Pollack has
16 described the appeal board issue --

17 MR. SCHLOSSER: We're not exempted from
18 that.

19 COUNCILMAN KENNEY: You're not exempted
20 from that.

21 MR. SCHLOSSER: We're not exempted from
22 that.

23 COUNCILMAN KENNEY: But you're not
24 prohibited from appearing as an expert witness and
25 offering testimony.

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2 COUNCILMAN COHEN: That's right.

3 COUNCILMAN KENNEY: You're not exempted
4 from that. So that if an individual represented
5 by an attorney wanted to hire you to present
6 expert testimony to the Zoning Board, you would be
7 permitted to do that.

8 COUNCILMAN COHEN: Right.

9 COUNCILMAN KENNEY: But you wouldn't be
10 permitted to go to the Zoning Board without a
11 lawyer.

12 MR. SCHLOSSER: Let me tell you about
13 my last case.

14 We do work for School District of
15 Philadelphia. As you know, almost any large
16 project requires some kind of variances and
17 appearances before all these boards.

18 I asked the School Board, do you want
19 to have an attorney, you know, represented here,
20 you know? And the answer came back no, we think
21 you're fully competent to answer for us in all of
22 these questions.

23 COUNCILMAN KENNEY: But the converse of
24 that example would be --

25 MR. SCHLOSSER: I mean, I wasn't a

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2 witness; I presented the case.

3 COUNCILMAN KENNEY: But the converse of
4 that example would be that if the School District
5 was required to send an attorney, they would have
6 sent a staff attorney with you, you would have
7 still testified to the ability of the expertise,
8 and been a -- they would have still been your
9 client.

10 MR. SCHLOSSER: That's correct.

11 COUNCILMAN KENNEY: Okay. So it
12 wouldn't have caught you any more money to have a
13 lawyer from the School District to accompany you
14 to the Zoning Board.

15 MR. SCHLOSSER: It's one more cost, you
16 know, that the School District would have to bear.

17 COUNCILMAN COHEN: He can't be --

18 COUNCILMAN KENNEY: He can't be there
19 by himself.

20 COUNCILMAN COHEN: Yeah, as I
21 understand it --

22 MR. SCHLOSSER: I was there by myself.

23 COUNCILMAN KENNEY: Under this bill,
24 you can't be there by yourself.

25 COUNCILMAN COHEN: Yeah.

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2 COUNCILMAN KENNEY: Under this proposed
3 ordinance, you wouldn't be able to be there by
4 yours.

5 MR. SCHLOSSER: That's right. That's
6 the way I read this.

7 COUNCILMAN KENNEY: Is that agreed,
8 Commissioner?

9 UNIDENTIFIED SPEAKER: Councilman, if I
10 could.

11 COUNCILMAN KENNEY: Please.

12 MR. AUERBACH: I'm Eric Auerbach,
13 Senior Attorney, with the Law Department.

14 I think your reading of the bill is
15 correct. The bill states that no one other than a
16 licensed attorney may represent a person before
17 the boards or otherwise engage in the practice of
18 law.

19 The intent of that provision was simply
20 to restate the provision of state law -- that's a
21 criminal statute -- that says that no person other
22 than a licensed attorney may engage in the
23 practice of law.

24 The definition of practice of law is
25 not always entirely clear, but representing a

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2 client before a court or before an administrative
3 agency, such as the L&I Review Board, the Zoning
4 Board, is within the core of practice of law.

5 MR. SCHLOSSER: Does that apply to the
6 Historic Commission?

7 COUNCILMAN COHEN: These can get very
8 sticky. There are zoning boards --

9 (Unintelligible -- parties speaking
10 over each other at the same time.)

11 MR. SCHLOSSER: I mean, it gets absurd
12 and expensive.

13 MR. AUERBACH: It can get sticky and
14 expensive.

15 MR. SCHLOSSER: The question is --

16 COUNCILMAN KENNEY: Let him finish.

17 MR. AUERBACH: I think the important
18 point is that while the line drawn may be
19 difficult, this bill is not drawing the line.
20 This bill says you may not engage in the practice
21 of law. It leaves the definition of "practice of
22 law" to the State criminal statute, which the
23 courts have interpreted.

24 COUNCILMAN KENNEY: But in front of --
25 in this bill, in front of specific boards or --

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2 MR. SCHLOSSER: You know, which
3 boards? I mean, it --

4 COUNCILMAN KENNEY: Well, it says it.
5 It says the Board of Building Standards, the Board
6 of Licenses and Inspections Review, the Zoning
7 Board of Adjustment, the Board of Safety and Fire
8 Prevention, the Accessibility Advisory Board.

9 It does not include the Historic
10 Commission in this bill or any other entity that's
11 not mentioned in this bill.

12 MR. SCHLOSSER: No, I understand that.
13 What I'm just trying to demonstrate is if you
14 continue this logic that only a lawyer can
15 represent anyone in some -- in an agency or a
16 board that has control over things that might have
17 legal implications.

18 That would then eliminate even other
19 boards where, you know, you never take a lawyer,
20 you know.

21 COUNCILMAN KENNEY: Well --

22 MR. SCHLOSSER: You know, let me tell
23 you something. If there -- I always ask my
24 client, you know, in advance, and I think that's
25 an important decision that maybe should be left to

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2 the client, you know, who should represent them at
3 these things.

4 COUNCILMAN KENNEY: But the clients --

5 MR. SCHLOSSER: If we ever think there
6 are major issues of law, we would certainly feel
7 as though we're disqualified. Many cases aren't
8 tried on the basis of the legal arguments.

9 COUNCILMAN COHEN: Most cases.

10 MR. SCHLOSSER: Pardon me?

11 COUNCILMAN COHEN: The overwhelming of
12 cases are not involved in--

13 MR. SCHLOSSER: Yes. It's the impact
14 on the neighborhood, whether it's legally or not
15 legally involved, you know. And it's -- frankly,
16 it's the architectural arguments and the
17 presentation of how good this is going to be for
18 the community or for your neighbor, you know,
19 that's going to win the argument. It's not the
20 legal decision.

21 COUNCILMAN KENNEY: But that's an issue
22 of the finding of facts of the particular board,
23 not what we're really discussing here, which is
24 the appropriateness or the eligibility of an
25 individual to appear to represent someone before

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2 that board.

3 What the Zoning Board decides or
4 determines is a matter of their reading of the
5 facts as presented to them. We didn't get to that
6 point yet, we're just talking about the presenters
7 of the facts and who's eligible to be a presenter.

8 COUNCILMAN COHEN: Well, in this
9 connection, Mr. Chairman --

10 MR. SCHLOSSER: I understand what
11 you're saying but I, at least personally -- I
12 don't know whether it represents the AIA's
13 position now because we -- the amendments came
14 late.

15 COUNCILMAN KENNEY: I understand.

16 MR. SCHLOSSER: And I think it
17 definitely needs further examination before the
18 AIA wants to make its last formal statement about
19 where they stand on this bill.

20 COUNCILMAN KENNEY: Councilmember
21 Cohen.

22 COUNCILMAN COHEN: With -- this also
23 refreshes my memory. In recent days, there have
24 been questions raised sometime by the board, the
25 Zoning Board particularly, when a community

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2 organization has appeared in protest. I think on
3 some occasions, it's been very difficult to permit
4 the community organization to testify because if
5 any member or officer went forward, they were not
6 attorneys and were not regarded as appropriate
7 representatives.

8 And so I'm very concerned about that
9 area. In other words, if only attorneys are going
10 to be permitted to represent before the Zoning
11 Board, then the president, say, of an association
12 could not represent or a zoning chairman of a
13 neighborhood association who's not an attorney
14 wouldn't be able to represent.

15 Now, is there anything Commissioner, as
16 far as you know, or, Mr. Auerbach, as far as you
17 know, is there anything that deals with that
18 situation?

19 What happens when an unincorporated
20 association --

21 MR. AUERBACH: Right. I don't think
22 this bill addresses that issue, the issue of how
23 an association --

24 COUNCILMAN COHEN: Is there anything --
25 well, if only attorneys can represent --

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2 MR. AUERBACH: My understanding -- I'm
3 not an expert in this area. Mr. Pollack might be
4 able to assist us, but my understanding is that a
5 Pennsylvania corporation can only appear through
6 an attorney.

7 MR. POLLACK: Well, first of all,
8 Council, if I may -- Steven Pollack.

9 And again, an agent is defined as any
10 person employed -- employed or compensated. So if
11 you talk about -- if you're a representative from
12 a community group, I don't think you're employed
13 or compensated.

14 COUNCILMAN COHEN: Right.

15 MR. POLLACK: The other thought is,
16 I've used Mr. Schlosser as an expert witness, and
17 I will gladly use him again no matter what he
18 says.

19 It's clear that I cannot submit an
20 architectural drawing and put a seal on it, okay.
21 I am not allowed to do that.

22 Now, what we are saying -- and again,
23 everybody says lawyers are expensive. I think
24 you'll find that lawyers are just as economically
25 competitive as anybody else out there. The notion

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2 that attorneys are only for the rich, you know,
3 may be permeated or magnified by Johnny Cochran
4 and O.J. Simpson, but I don't think that's the
5 case with what goes on here.

6 I think what you have is -- people can
7 represent themselves or people can have an
8 attorney who's going to call Mr. Schlosser as the
9 expert witness within his area of expertise but,
10 as Mr. Auerbach has pointed out, there is a
11 criminal statute that's been on the books for
12 years and years and years about the unauthorized
13 practice of law.

14 This Council can, under the Letag case,
15 can say you can't expand or you can't contract
16 what is the practice of law or anything like that.

17 But I think for your question is, I
18 think you have somebody who's not compensated or
19 employed.

20 COUNCILMAN KENNEY: Let me ask a
21 question.

22 COUNCILMAN COHEN: Well, you haven't
23 answered my question at all, or even come close to
24 it.

25 My question was: An unincorporated

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2 community association, who could speak for it?

3 MR. POLLACK: They can come up and they
4 can represent -- I think they could represent
5 themselves.

6 COUNCILMAN COHEN: Well, who is
7 "themselves"? They're members of a corporate
8 association --

9 MR. POLLACK: They would represent --

10 COUNCILMAN COHEN: -- and they want to
11 express the views of the association?

12 MR. AUERBACH: I'm going to not answer
13 that question as well. I apologize I don't know
14 the answer to that question.

15 But I think the important thing is this
16 bill is not addressing that question. Who can or
17 cannot appear for a community group at the Zoning
18 Board is a question for interpreting the
19 unauthorized practice of law statute, the Zoning
20 Board's practices.

21 This bill is to require a license to be
22 an expeditor. And I think, as Mr. Pollack pointed
23 out, you would not need a license -- an
24 expeditor's license to appear --

25 COUNCILMAN COHEN: I'm raising another

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2 question, Mr. Auerbach. If we're going to be
3 regulating who appears, then I think we have to be
4 ready to deal with every question that exists.

5 And one of the questions to the extent
6 that this bill adds further the limitation to
7 attorneys to appear before the Zoning Board, it
8 raises even more severe questions for community
9 associations in the neighborhood.

10 MR. AUERBACH: But, again, this bill is
11 not what prohibits non-attorneys from appearing.
12 It's the State law that prohibits non-attorneys
13 from appearing.

14 MR. SCHLOSSER: Why do we have to --

15 MR. AUERBACH: To represent their
16 clients.

17 COUNCILMAN KENNEY: But let me on
18 expand on Councilmember Cohen's question for a
19 moment. I, as a citizen, have the option under
20 State law to represent myself before.

21 MR. AUERBACH: You always have the
22 option to represent yourself.

23 COUNCILMAN KENNEY: As then acting as
24 my own attorney, do I then have the opportunity,
25 acting as own attorney, to hire Mr. Schlosser as

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2 an expert witness?

3 MR. AUERBACH: Sure.

4 COUNCILMAN KENNEY: So where is -- I
5 don't understand what the limitation is. It
6 doesn't require me to hire a lawyer.

7 COUNCILMAN COHEN: No.

8 MR. AUERBACH: No.

9 COUNCILMAN KENNEY: So I -- I mean, I
10 as an individual, wanting to build a third story
11 on my house can represent myself, or the president
12 of the community association can represent
13 themselves without attorney and call expert
14 witnesses.

15 COUNCILMAN COHEN: No, the --

16 MR. AUERBACH: They can represent
17 themselves. Whether they can represent in the
18 sense that a lawyer represents a big organization,
19 I don't think so, but I'm not certain.

20 COUNCILMAN KENNEY: But the other
21 question, then, is: If I want to represent
22 myself, I'm an individual homeowner who wants to
23 build a third story on my house, and I don't want
24 to hire a lawyer, I want to go in and give my own
25 case, I then also have the opportunity to hire a

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2 licensed expediter to make -- to represent me
3 there to.

4 If the person's licensed under this
5 law, if the individual is licensed by the City, I
6 can call that person in as an expert witness to
7 come in and to assist me representing myself as a
8 witness.

9 MR. AUERBACH: As an expert witness,
10 yes.

11 COUNCILMAN COHEN: So where's the
12 limitation?

13 MR. SCHLOSSER: The limitation is
14 you're adding the -- as an expert witness to it,
15 you know, the cases that I've talked about where I
16 have personally experienced it is where I was the
17 only one presenting the case before the Zoning
18 Board of Adjustment. The School District had no
19 representative. They were fully aware of that,
20 and I had, you know, their permission to do that.

21 COUNCILMAN KENNEY: Well, I think, when
22 it comes to agencies like the School District of
23 Philadelphia and others, they, under the
24 provisions of this bill, would send a lawyer with
25 you. I mean, I don't see that that -- they have a

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2 lot of lawyers over there. I think they could
3 find one to send with you.

4 But the issue is, I -- I, as a citizen,
5 am not precluded from representing myself and
6 hiring you.

7 MR. SCHLOSSER: I understand that.

8 COUNCILMAN COHEN: Or hiring a licensed
9 expediter.

10 COUNCILMAN COHEN: Mr. Chairman, the
11 Zoning Board -- and I always speak of that one
12 'cause it's the one board that I've had a lot of
13 experience with.

14 The Zoning Board may very well feel --
15 and I personally feel that an architect is fully
16 authorized to represent a case before the Zoning
17 Board in a case that involves architectural
18 problems. Many of the cases only involve that.

19 MR. SCHLOSSER: That's correct.

20 COUNCILMAN COHEN: And I think it would
21 be wrong to require in such a case that an
22 expediter or an attorney be added. I think Mr.
23 Schlosser's problem is that the role of the
24 architect as a profession may be limited if the
25 architect is not recognized as an architect but

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2 must be become an expediter in order to represent
3 a client

4 COUNCILMAN KENNEY: No, I don't read --
5 we don't read it that way. I mean, the expert --

6 COUNCILMAN COHEN: Well, he can't
7 represent; he has to have a lawyer with him.

8 COUNCILMAN KENNEY: No, he can have a
9 citizen who is appearing, who is applying for a
10 variance, come in and represent themselves before
11 the board and hire Mr. Schlosser as an expert
12 witness.

13 COUNCILMAN COHEN: Yeah, but many
14 citizens are not -- they don't feel comfortable
15 doing that.

16 MR. SCHLOSSER: They don't.

17 COUNCILMAN COHEN: And I don't think we
18 ought to impose that burden on them.

19 COUNCILMAN KENNEY: But the same effect
20 is there. Because whether Mr. Schlosser comes in
21 ahead of the client, or the client comes in ahead
22 of Mr. Schlosser, they're both still in the room
23 together. And he is still providing the same
24 services at the client's request. I don't see how
25 the client's limited.

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2 COUNCILMAN COHEN: He -- under your
3 ruling, he would only be able to testify as an
4 architect. And if Mr. Kelly, the Chairman of the
5 Board, wanted to raise a general question, Mr.
6 Schlosser couldn't answer it because it's not an
7 architectural problem.

8 COUNCILMAN KENNEY: It's outside the
9 scope of his knowledge.

10 COUNCILMAN COHEN: Yeah. And the
11 citizen might not feel qualified to answer the
12 question.

13 COUNCILMAN KENNEY: Then he needs a
14 lawyer.

15 COUNCILMAN COHEN: Well, what we're
16 saying is we don't want to increase the burden of
17 expenditure on a citizen, and we don't want to
18 increase the burden on the board. They're a very
19 busy board.

20 COUNCILMAN KENNEY: I just want to make
21 -- we're going around the block on this and all
22 the different scenarios.

23 But, again, as an individual citizen
24 applicant representing him or herself could
25 represent Mr. Smith, the expediter, to assist them

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2 I have --

3 COUNCILMAN COHEN: Isn't that true, Mr.
4 Schlosser? Can't you serve currently?

5 COUNCILMAN KENNEY: Before you answer,
6 what else are you qualified to talk about but
7 architectural issues?

8 I mean, not that you don't know
9 anything else, but what else are you qualified
10 professionally to do?

11 MR. SCHLOSSER: Believe me, I feel very
12 qualified --

13 COUNCILMAN KENNEY: I mean
14 professionally.

15 MR. SCHLOSSER: -- to answer many
16 zoning issues because we have -- we know and read
17 the zoning codes and are expected to comply to the
18 zoning codes, our State licensure says you will
19 know everything about every code.

20 COUNCILMAN KENNEY: It all relates to
21 your architectural profession.

22 MR. SCHLOSSER: It all relates to the
23 architectural business.

24 COUNCILMAN KENNEY: Right.

25 MR. SCHLOSSER: And so in these

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2 particular arenas, you know, such as zoning, I
3 think we're pretty qualified, in most of
4 instances.

5 It's the one where there's huge
6 opposition or something, or there are going to be
7 later appeals or stuff, I would never even, you
8 know, really want to engage in that kind of
9 procedural or legal kinds of things.

10 But certainly, I can express an opinion
11 on what the legal codes --

12 COUNCILMAN KENNEY: Even through this
13 whole --

14 MR. SCHLOSSER: -- or zoning code is.

15 COUNCILMAN KENNEY: But even through
16 this whole dialogue, I still don't understand -- I
17 still don't see where you're limited or the
18 expediter licensed under this bill is limited or
19 the lawyer's limited or the citizen's limited from
20 appropriate representation under the terms of this
21 bill.

22 MR. SCHLOSSER: What this bill says is
23 that -- the exceptions is licensed contractors,
24 architects, engineers, and other persons may apply
25 for permits under which such they will perform and

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2 need an expediter, didn't need an architect.

3 MR. SCHLOSSER: I think many of those
4 same people would be more comfortable with an
5 architect than an attorney.

6 COMMISSIONER EGAN: Councilman, if I
7 could add to the discussion.

8 (Unintelligible -- parties speaking
9 over each other at the same time.)

10 COMMISSIONER EGAN: If I could add.
11 The issue really is here -- I'm sorry, what's your
12 name?

13 MR. SCHLOSSER: Neil Schlosser.

14 COMMISSIONER EGAN: Mr. Schlosser, what
15 he's really saying is -- well, he is totally
16 exempted from having to apply for a license as an
17 expediter, that's what he's exempted from.

18 But what his concern is, that he,
19 according to this bill, he will no longer be able
20 to, on his own, represent a client before any of
21 these board of records. That's what his concern
22 is, he couldn't go by himself anymore.

23 But this is the point. This is already
24 in State law. And what's already in state law is
25 now being reiterated in this bill.

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2 COUNCILMAN COHEN: What is already in
3 State law?

4 COMMISSIONER EGAN: Now --

5 COUNCILMAN COHEN: What is already in
6 state law? I don't understand that.

7 COMMISSIONER EGAN: Okay, I'm being
8 told it's already a part of a City Council's code.

9 COUNCILMAN KENNEY: Would the Law
10 Department -- Mr. Auerbach, could you offer
11 testimony as to what your interpretation of the
12 State law is, as representing the Law Department?

13 MR. AUERBACH: Just if I may, Mr.
14 Pollack is pointing out that the current zoning
15 code also says that any party may appear in person
16 or by his attorney.

17 So the current zoning code also is
18 consistent with the notion that the State law says
19 to act as an attorney, to represent someone is --

20 COMMISSIONER EGAN: Okay, but can I
21 just add this? 'Cause this was my point.

22 COUNCILMAN COHEN: I'm going to be
23 advocating a change in that.

24 COMMISSIONER EGAN: But this is the
25 point. The practice, however, of the board has

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2 not been to enforce that provision.

3 COUNCILMAN COHEN: Enforce that, but
4 now that it's been raised, we can't go on the
5 basis of what the practice is, and we've got to
6 clarify the law.

7 COUNCILMAN KENNEY: See, I would argue
8 that the multiple, multiple times I've been to the
9 board, in that room, two-thirds or more of the
10 people who come before that board on minor issues
11 come before that board without attorneys. There
12 were very, very few times that I've seen where
13 there was a lawyer representing someone.

14 So if the vast majority of people in
15 Philadelphia that come before that board are
16 representing themselves, they're in complete
17 compliance with State law, correct?

18 COMMISSIONER EGAN: That's my opinion,
19 too.

20 COUNCILMAN KENNEY: All right.

21 MR. SCHLOSSER: To get off to the other
22 issue (reading) architects, engineers, and other
23 persons may apply for permits under which such
24 they will perform or supervise work and take other
25 action necessary to obtain permits.

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2 Supervision is not what architects
3 generally do. Supervision is something that's
4 generally done by a superintendent hired by the
5 contractor. We do periodic inspections of work.

6 Under the normal AIA contract
7 modifications -- common modifications of the
8 standard AIA contract is that you can hire for
9 full-time observation. You can also eliminate the
10 construction administration fees, which is the
11 period during which do these inspections. We
12 don't think that either should disqualify you in
13 order to apply for permits.

14 COUNCILMAN KENNEY: Okay, okay. Is
15 that the conclusion of your testimony, Mr.
16 Schlosser?

17 MR. SCHLOSSER: That's about it.

18 COUNCILMAN KENNEY: That will do it for
19 this panel right now.

20 And what I'd like to do is to move
21 forward. If you could, Commissioner and Mr.
22 Auerbach, could remain, I'd like to call -- is
23 there a Jody -- I'm sorry, hold on a second.

24 Jody Pessolano and Mr. Beller. Mr.
25 Beller, do you still want to testify?

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2 MR. BELLER: Yes, I do.

3 COUNCILMAN KENNEY: Well, what we'll do
4 is have Ms. Pessolano come up, and you can take
5 the seat next to her.

6 If you could identify yourself for the
7 record, and proceed.

8 MS. PESSOLANO: My name is Jody
9 Pessolano. I'm a professional engineer. I
10 practice independently in the City of
11 Philadelphia.

12 COUNCILWOMAN VERNA: Sorry, could you
13 pull the microphone closer to you because we can't
14 hear you.

15 MS. PESSOLANO: Oh, sure.

16 COUNCILWOMAN VERNA: Thank you.

17 MS. PESSOLANO: My name is Jody
18 Pessolano. I practice structural engineering in
19 the City of Philadelphia, Commonwealth of
20 Pennsylvania.

21 And I just want to say that I expedite
22 my own projects through L&I. I walk engineering
23 or architecturally-related projects through L&I,
24 deal with the people there as far as the technical
25 problems, code requirements. I act as a liaison

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2 between the owner and the L&I people. If they
3 have problems with the plans, I can speak with
4 them and find alternatives to codes or find a way
5 for the owner to resolve a problem L&I may have
6 with it.

7 Now, of course, I, and most engineers,
8 I believe, I'm not speaking for any engineers
9 association, we're opposed to the former bill,
10 which made no mention of architects and engineers,
11 no provision for them to walk before a board, walk
12 plans through a board unless they were a licensed
13 agent.

14 And I'm happy -- from the amendment I
15 just heard, it sounds like something in the right
16 direction, although I'm surprised why we were
17 given no notice. The Association of Expeditors
18 was given no notice of this amendment.

19 COUNCILMAN COHEN: That's the purpose
20 of a public hearing.

21 MS. PESSOLANO: Okay.

22 COUNCILMAN COHEN: And the City's
23 taking advantage of the public hearing to
24 introduce amendments to the bill which they want
25 the committee to consider. The amendments don't

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2 become technical amendments unless this committee
3 accepts them.

4 MS. PESSOLANO: Okay.

5 COUNCILMAN COHEN: These are merely
6 proposals made by the City to the committee of
7 Council to consider these as amendments, but we
8 have not acted on that proposal.

9 MS. PESSOLANO: I understand.

10 I don't want to beat a dead horse here.
11 I know we've spent a lot of time discussing
12 whether architects and engineers can appear by
13 themselves before the Zoning Board and other
14 boards.

15 COUNCILMAN COHEN: What is your opinion
16 on that?

17 MS. PESSOLANO: I believe we should be
18 allowed to because there's often instances where
19 an architect or engineer has to discuss the
20 technical problems or the considerations in
21 putting a building at a certain place or zoning at
22 a certain usage or whatever. And --

23 COUNCILMAN COHEN: Well, I happen to
24 agree with you. I never understood that it was
25 intended by this bill to denigrate the professions

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2 of architecture or engineering and to take away
3 from them rights they have historically performed.

4 MS. PESSOLANO: Well, with all due
5 respect, I think that would be rather presumptuous
6 for the City of Philadelphia to make restrictions
7 on architects and engineers that the rest of the
8 nation doesn't do.

9 COUNCILMAN COHEN: Well, I'm not -- I
10 can't comment on that because I don't know what's
11 happening in any other areas, you know, what other
12 states, how they treat them.

13 MS. PESSOLANO: Well, nor do I.

14 COUNCILMAN COHEN: But both
15 architectures and engineers are recognized
16 professions. And in Philadelphia, those
17 recognized professions, together with the
18 profession of law, have historically been
19 permitted to represent clients before the Zoning
20 Board.

21 MS. PESSOLANO: Absolutely.

22 COUNCILMAN COHEN: And it just seems to
23 me that to take away rights from them doesn't add
24 anything to the solution of the other problems
25 we're talking about, which is the question of

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2 expeditors.

3 I understood we were going to consider
4 the regulation of expeditors because it was felt
5 there may be an untrained group of people who are
6 handling things, and that's what we were looking
7 into.

8 But I would think both your professions
9 ought to object very strenuously to any effort by
10 anybody to indicate that professionals that are,
11 you know, members of the engineering and
12 architectural professions be denied any basic
13 rights.

14 MS. PESSOLANO: Absolutely.

15 COUNCILMAN COHEN: And I would not
16 support any legislation that took away any of your
17 rights.

18 And I don't know what you two really
19 having to be here. I never thought it was ever
20 contemplated to change the status of engineers and
21 architects.

22 MS. PESSOLANO: Well, the original
23 bill, I just found out, whatever, 20 minutes ago,
24 that apparently, there's good moves in the
25 direction of not doing that.

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2 COUNCILMAN COHEN: Well, bills -- you
3 know, bills are prepared by a Councilmember who
4 accepts responsibility. They don't represent the
5 final view of City Council until they go through
6 the Council process and get voted on.

7 So it represents the work of one, maybe
8 two or three Councilmembers, if they work
9 together. And this hearing process is aimed at
10 doing what doing we're doing here today -- testing
11 these bills to see whether they actually
12 accomplish the purpose for which they were
13 intended.

14 MS. PESSOLANO: Very well. May I say
15 that even assuming that we will not be restricted
16 in any way by this bill, we architects and
17 engineers, I would still object to the kind of
18 severe restrictions you're placing on expeditors
19 because --

20 COUNCILMAN COHEN: Why?

21 MS. PESSOLANO: I have used the in the
22 past. And want to say that, to be frank, when I
23 first heard the word "expediter," I kind of
24 cringed. I thought, Well, here's somebody who
25 knows somebody who knows somebody, or pays money

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2 under the table, and it didn't sound good to me.

3 But with the experience I've had over
4 the years and recently with this organization, I
5 found them to be people who just know the codes,
6 know the process, good people that just walk plans
7 through, help people fill out the forms in the
8 best way they know how because they've been
9 experienced in doing it. And that's all they do.

10 And they help expedite development in
11 the City of Philadelphia. And in my opinion, if
12 you're going to just shut them out of the process,
13 which I think you'll effectively do by requiring
14 some onerous insurance requirements, you're going
15 to slow down development in the City of
16 Philadelphia. And that's not a good thing.

17 COUNCILMAN COHEN: Well, we're
18 interested, Mr. Schlosser --

19 (Applause.)

20 COUNCILMAN COHEN: That's the kind of
21 evidence, pro or con, that we'd like to hear.

22 So your testimony is that the system,
23 as it currently exists, is working well.

24 MS. PESSOLANO: I think so.

25 COUNCILMAN COHEN: And working in the

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2 interest of the public?

3 MS. PESSOLANO: I believe so.

4 Now, nobody seems to know exactly how
5 many expeditors there are. Again, there were 15
6 to 18 that showed up to our meetings. Some of
7 those were architects and engineers. Perhaps 10
8 or 12 were purely expeditors.

9 But I'm no expert in this area. I
10 would just think that there's a good percentage of
11 work that they move through the City, half maybe?
12 Something approaching that. A great deal of work
13 that they help expedite through L&I.

14 And if you shut them out of the
15 process, you're really slowing down development in
16 the City of Philadelphia and gumming up the works
17 for owners and contractors and developers.

18 COUNCILMAN COHEN: Well, I've been in
19 City Council for about 21 and a half years
20 covering service that covers a 30-year period.
21 And I have to state for the record that I have yet
22 to receive my first complaint about an expeditor.

23 MS. PESSOLANO: That's a good point.

24 COUNCILMAN COHEN: I never had a
25 complaint.

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2 (Applause.)

3 COUNCILMAN COHEN: And I'm trying to
4 find out, is there a problem, or is there no
5 problem?

6 MS. PESSOLANO: I didn't see a problem.

7 COUNCILMAN COHEN: And if there's no
8 problem, we shouldn't try to fix something that
9 doesn't need fixing.

10 MS. PESSOLANO: Exactly.

11 COUNCILMAN COHEN: But if there is a
12 problem, I'd like to know what that problem is,
13 and that's my search -- to see if there is a
14 problem.

15 MS. PESSOLANO: I have not been aware
16 of a problem. I've heard some rumors about a
17 particular individual or two recently, but I've
18 heard of no problems since then.

19 COUNCILWOMAN VERNA: Commissioner --

20 COUNCILMAN COHEN: Commissioner, could
21 we have you and Mr. Campbell back for --

22 MR. BELLER: My testimony is not in
23 joint -- Mr. Kenney asked me to sit down. I'm
24 separate, and I'm going to talk about the problem
25 and answer some of the questions that you've asked

1 RULES COMMITTEE - RESOLUTION NO. 970713

2 that you said that you haven't had answered.

3 COUNCILMAN COHEN: Yeah, I --

4 MR. BELLER: I just want you to
5 understand I'm not sitting here idly by. I'm an
6 attorney, and I'm going to answer those questions.

7 COUNCILMAN KENNEY: Could you identify
8 yourself for the record.

9 MR. BELLER: Well, I just want her to
10 finish her testimony.

11 COUNCILMAN COHEN: Commissioner --

12 COUNCILWOMAN VERNA: I'm sorry. I
13 don't know whether you were in the room, but the
14 Councilman called the Commissioner up to the table
15 so that --

16 COUNCILMAN COHEN: What is the problem
17 that exists, Commissioner, that we're trying to
18 correct?

19 COMMISSIONER EGAN: The problem is we
20 have a business activity that's gone on
21 unregulated and unlicensed for all time, and it's
22 about time we regulated it.

23 COUNCILMAN COHEN: Well, except for the
24 conclusion that it's about time we regulated it,
25 what is the history that indicates the need for

1 RULES COMMITTEE - RESOLUTION NO. 970713

2 regulation?

3 COMMISSIONER EGAN: The consumer who is
4 making use of this type of business has no
5 recourse if there is some kind of problem with the
6 type of service performed for that consumer.

7 COUNCILMAN COHEN: Do we have any
8 record of complaints from consumers?

9 COMMISSIONER EGAN: I can't present you
10 with documents -- you know, with specific
11 documents.

12 However, even just since the time I've
13 been a there, which is, you know, a little less
14 than two years now, Councilpeople have complained
15 to me about problems they've had with citizen
16 complaints that they've received regarding
17 dealings with expeditors. We've received
18 complaints at the Department about dealings of
19 expeditors.

20 And they're of the nature exorbitant
21 costs for a service that then was not performed.

22 COUNCILMAN COHEN: I just stated -- you
23 may have been out room -- that in the 21 and a
24 half years -- I think I'm accurate, I may be off a
25 little bit -- that I've served in City Council, I

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2 have never received a complaint about an
3 expediter.

4 I've heard these vague rumors like the
5 engineer, a moment before, testified, the word
6 "expediter" does not have a nice connotation
7 because people think it's a form of fixing
8 something or other.

9 But I've never had a complaint in my
10 office from anyone with respect to the dealing.
11 Now, that doesn't mean that there aren't
12 complaints, but I've never run into any of them.

13 And trying to find out before we fix
14 something, we ought to know the nature of the
15 problems.

16 The complaints that you get in your
17 department, are any of them in writing? You know,
18 if there are complaints, I think they ought to be
19 dealt with whether -- sometimes they don't have to
20 be dealt with necessarily by legislation unless
21 they are large in number and indicate the need for
22 regulation.

23 COMMISSIONER EGAN: Councilman, I --

24 COUNCILMAN COHEN: I mean, it sounds
25 strange. I'm usually accused of being --

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2 COMMISSIONER EGAN: I don't know how to
3 say this --

4 COUNCILMAN COHEN: -- one of those
5 folks who think government is always good.

6 COMMISSIONER EGAN: The problem is --

7 COUNCILMAN COHEN: I think the
8 government does a lot of good things, but I've
9 never heard of regulating something that --

10 COMMISSIONER EGAN: The problem is not
11 documenting the complaints; the problem is that we
12 have a business activity in Philadelphia that's
13 unregulated.

14 MS. PESSOLANO: May I ask, why is that
15 we must regulate simply for the sake -- because
16 someone's unregulated? Shouldn't there be a
17 reason to regulate?

18 COMMISSIONER EGAN: What does --

19 COUNCILMAN KENNEY: Hold it, hold it,
20 hold it.

21 (Applause.)

22 COUNCILMAN KENNEY: First of all,
23 understand the process of the hearing. All
24 questions need to be asked through the Chair and
25 then we will ask the individual to respond.

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2 Sir, I'm sorry (addressing Mr. Morley),
3 we can't keep coming -- I mean, you've had your
4 testimony and if you want additional testimony,
5 you can give it to me in writing, but we can't
6 have this. It's not a debate; it's testimony.
7 I'm sorry.

8 Councilmember, did you have a question
9 for Commissioner Egan?

10 COUNCILMAN COHEN: Well, I think she's
11 answered it. Apparently, there is no specific
12 written documentation of any complaints but she
13 does testify that from time to time, there have
14 been complaints that she has received. And she
15 understands that various Council offices have
16 communicated complaints to her.

17 Is that about right, Commissioner?

18 COMMISSIONER EGAN: And the Department
19 has received complaints too. I don't have that
20 specific documentation in front of me.

21 COUNCILMAN COHEN: Well, I'll tell you,
22 I would like, if it's possible, to see if there
23 could be any compilation, you know, of complaints,
24 if that exists or if it doesn't, because
25 regulating -- you know, we're under the

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2 responsibility, I think, to regulate where
3 regulations are required, and I think we're under
4 an equal responsibility not to regulate if there's
5 no need to do so.

6 The engineer, Mr. Chairman, you may
7 have been out of the room. The witness in the
8 middle is a licensed engineer, and she testified
9 that she does, you know, processes things all the
10 way through the Department, has represented
11 people, and that on occasions, there she uses
12 expeditors.

13 And she spoke very strongly that her
14 experience is that expeditors serve a very useful
15 purpose. Is that accurate?

16 MS. PESSOLANO: That's correct.

17 COUNCILMAN KENNEY: Could I ask you a
18 question then?

19 MS. PESSOLANO: Certainly.

20 COUNCILMAN KENNEY: Give me an example
21 of what would you, as an engineer, would hire
22 expeditor to do.

23 MS. PESSOLANO: Well, I don't hire them
24 in particular. I put a plan together, an
25 engineering plan or an architecturally-related

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2 engineering plan, and my client may want it done
3 quickly or done by somebody who's more familiar
4 with the process than I am; I'm not an expert on
5 licenses and inspections.

6 And so they hire an expeditor, and the
7 expediter would work with me on the plan.

8 COUNCILMAN KENNEY: So this is to
9 obtain a permit?

10 MS. PESSOLANO: That's correct.

11 COUNCILMAN KENNEY: Or to have plans
12 examined.

13 MS. PESSOLANO: That's correct.

14 COUNCILMAN KENNEY: Do you have any
15 idea what the fee is for that?

16 MS. PESSOLANO: Well, I. . .

17 I have been asked by good friends not
18 to answer that question, and I'm going to honor
19 that request.

20 COUNCILMAN KENNEY: Well, Mr. Beller,
21 can you tell me what you charge an hour?

22 MR. BELLER: Let me identify myself.

23 COUNCILMAN KENNEY: Identify yourself
24 for the record.

25 'Cause I understand -- where I'm going

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2 in --

3 MR. BELLER: I'll narrow it down.

4 COUNCILMAN KENNEY: If this is -- hold
5 it. If this is an absolutely necessary service,
6 okay, I want to know exactly what the service is
7 and then what people get paid to perform the
8 service. I don't think that's something that
9 would be necessarily secret. Are there varying
10 fees?

11 MR. BELLER: Yes.

12 COUNCILMAN KENNEY: Are there specific
13 fees for permit-obtaining? Is there a specific
14 fee to stand in line, is there a specific fee to
15 get a plan exam?

16 I mean, architects charge specific
17 fees, engineers charge by the hours, lawyers
18 charge by the hour. How much does it cost?.

19 MS. PESSOLANO: Well, generally, I and
20 other expeditors charge a flat fee or an hourly
21 fee, depending on whether the job is complex or
22 not.

23 COUNCILMAN KENNEY: Okay. Are you an
24 expediter or an engineer or both?

25 MS. PESSOLANO: I am an engineer, and I

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2 expedite my own plans when the client allows me

3 to.

4 COUNCILMAN KENNEY: All right.

5 MS. PESSOLANO: When the client allows

6 me to.

7 COUNCILMAN KENNEY: Okay, all right.

8 Mr. Beller, could you identify yourself

9 for the record?

10 MR. BELLER: I'll identify myself. For

11 the record, my name is Joseph Beller,

12 B-E-L-L-E-R.

13 I'm a practicing attorney in the City

14 of Philadelphia and have been so since 1960 and

15 had the privilege to serve as an assistant in this

16 very Council chamber for two and a half years, in

17 the early sixties. I got my break in on

18 legislation.

19 And so today's melee is not a surprise

20 to me. I sat as a secretary to the Law

21 and Government Committee. And I must tell you

22 that I honor all of the questions coming from the

23 panel, but I think we're getting far afield.

24 As a practicing lawyer who specializes

25 in zoning cases, I am very happy to tell this

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2 panel that I do use expeditors and will continue
3 to use expeditors but I don't use them to replace
4 me in the areas where I should be involved.

5 And you've had heard a lot of
6 testimony. I have used architects, and will
7 continue to use architects. I have used
8 engineers, and I will continue to use engineers.
9 Because I'm not going to build a house and I'm not
10 going to design a house.

11 And I hope to God that Mr. Schlosser
12 doesn't take my appeal to the Supreme Court when I
13 get in trouble, 'cause although he seems like a
14 very intelligent man, he appeared for the School
15 Board. If the issues before the Zoning Board were
16 strictly questions of architecture, God bless him,
17 there is no question he's a better witness than I
18 could ever be -- I have trouble drawing straight
19 lines.

20 But the problem that you have, and
21 let's start and face it now, the Zoning Board of
22 Adjustment and many of the other boards are boards
23 of record.

24 And Councilman Cohen, I've seen you,
25 Councilman Kenney, Councilwoman Verna, and I

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2 appreciate your input on behalf of citizens, and
3 you come in. And you know quite well, Councilman
4 Cohen, because this very Council passed
5 legislation that gave civic groups, civic
6 associations particular privileges before the
7 board, including free copies of notes of
8 testimony. I don't always love civic groups when
9 I'm there for the applicant, but God knows, they
10 get to testify.

11 Now, let's come back to where we have
12 to be. The Zoning Board of Adjustment in
13 particular and the L&I Review Board are boards of
14 record. And as an attorney for those in the
15 audience who don't know this, if you lose before
16 the Zoning Board, you appeal to the Common Pleas
17 Court. The Common Pleas Court does not take
18 additional testimony.

19 So if somebody who presented the case,
20 including a lawyer who may have forgotten, if he
21 didn't present an issue of vested rights, if he
22 didn't distinguish between the need for a
23 certificate or a need for a variance, that judge
24 could be the most sympathetic, wonderful person in
25 the world. And I dare say, if you, ladies and

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2 gentlemen, appeared in support of that poor person
3 who lost, he still couldn't overturn the Zoning
4 Board. And you have to wait a year to go back.

5 Now, I am not -- I am telling you, I
6 use expeditors. The process is complicated, the
7 wait is complicated. My hourly rate is too much
8 for me to sit downstairs in the Municipal Services
9 Building and wait two or three hours or an hour,
10 or whatever the wait is, to obtain a permit or to
11 even file an application which is going to
12 subsequently be refused and then addressed to the
13 Zoning Board.

14 And my expeditors do the following for
15 me: They check the record, and they're competent
16 to do that, the ones I use.

17 They bring me back the information
18 that's the history of the zoning.

19 They check such things such as what
20 this very body does. You have zoning legislation
21 in which the Italian Market -- and you're all
22 familiar with that -- in which every corner in
23 South Philadelphia, just about was C2 when I was
24 first practicing law. Today, because of Council,
25 it's now C1.

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2 C1 and C2 are very different, and you
3 can't put a restaurant in a C1, but you can in C2.

4 Now, my expeditors, who are efficient
5 and competent and bright and honorable bring me
6 that information. And they save four or five
7 hours of time for my client. And I pay them their
8 hourly or whatever bill they charge me.

9 Now, I don't want to see expeditors
10 done away with, but I don't want to see
11 non-lawyers practice law. And the reason is the
12 same thing you're worried about, Councilman Cohen,
13 protection of the public.

14 If somebody presents a case who is not
15 familiar with the law and the requirements of the
16 Zoning Board, and that when you say to them
17 14-1605 and they don't know what you're talking
18 about -- and well they shouldn't. Or if they
19 think they know it and they don't know the
20 distinction between a certificate and a zoning, a
21 refusal or a referral, that case is not in a
22 posture, and that poor person will have to go to
23 the court and back to the Zoning Board a second
24 time. And I don't care how cheaply somebody
25 works, it's double or triple.

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2 Now, what you have to keep in mind what
3 Councilman Kenney said. It is absolutely true
4 that the average citizen can bring someone in to
5 advise him, to help him to write notes for him, to
6 help him prepare his case, and I have no
7 objection.

8 And my expeditors often, the ones that
9 I am privileged to use, and I use that word
10 sincerely, 'cause I have worked with some very
11 nice people, some of whom are in this room today.

12 And they come with me very often to the
13 Zoning Board and they help me get petitions and
14 they help me set up meetings with the
15 Councilperson who then sets up civic meetings.
16 There is an absolute need for that.

17 And the dollars that they charge
18 generally are less than what a lawyer and what an
19 architect charges and what an engineer charges.

20 But let's focus on this bill the way it
21 should be. L&I wants people who appear before
22 them to be regulated. As a citizen, I think
23 that's wonderful idea.

24 I don't think that it should be
25 onerous. I'm with you, Councilman Cohen. A

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2 person shouldn't spend 50 percent of his income to
3 be insured, but I'll bet you that the City
4 division that looks into that can come up with
5 either private insurance or bonding, the way you
6 do now, for various things like newsstands and so
7 forth.

8 I like the competent people that work
9 with me, and I want them to continue to work with
10 me. And I hope I don't offend them today, but I
11 don't want them standing up before the Board and
12 arguing legal issues.

13 They can testify as my witness to some
14 area of the plumbing code which, to me, is arcane
15 but, to them, is understandable, and they can be
16 my witness. And I can win the case, I can win the
17 case with their help.

18 But if I have an expediter who doesn't
19 know the law -- and I'm not saying some do or
20 don't. But if I have an expediter who does not
21 know the law and does not build that record, that
22 citizen loses. And that's where the problem is.

23 I'm not going to perform an operation
24 and I'm not going to build a building. I'm
25 licensed to practice law, and I hope, please God,

1 RULES COMMITTEE - RESOLUTION NO. 970713

2 that I'll be able to do it for many more years.

3 I'm not going to become an expediter tomorrow and

4 I'm not going to become an architect tomorrow.

5 Each of us has our own place.

6 But please don't misunderstand when

7 someone says "I can help someone." You had some

8 testimony. I'm sorry he walked out 'cause I don't

9 like to call names when they're not here, but

10 Councilman Tayoun -- former Councilman Tayoun sat

11 here and said he's a courier, and then he said he

12 goes to the Zoning Board.

13 And he talked about a case, Well, we

14 would have lost the case anyway because the City

15 Councilman was there against us and the

16 neighborhood was against us.

17 Well, I'd like to think --'cause I've

18 won some of those cases and, by the way, with the

19 help by very nice expediters back there. I have

20 lost cases before the Zoning Board where the Right

21 Honorables have been there, and we took it to

22 court and we won.

23 And we won because the legal basis for

24 that grant was there. And the fact that the

25 Zoning Board was swayed by 40 people and 2 to the

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2 contrary, respectfully notwithstanding, we won in
3 the courts.

4 And the reason we won in the courts is
5 because I had a damn good expeditor who got me my
6 petitions and who got me the background and who
7 got the parking problems fixed up that I couldn't
8 have done myself. And two or three of them are
9 sitting back there now.

10 So let's narrow that issue down. Let
11 there be expeditors. Let them be properly
12 regulated. Let them continue to do their jobs and
13 do their jobs well and assist me, and I hope that I
14 can assist them sometime.

15 But let me practice before the Board.
16 Don't have a record before the Board that can't be
17 appealed.

18 COUNCILMAN KENNEY: Thank you. I just
19 want to divert for one moment. We have some
20 business to do.

21 We're going to recess the public
22 hearing of the Rules Committee, we're going to
23 convene our public meeting.

24 - - -

25 (Public meeting convenes.)

1 RULES COMMITTEE - PUBLIC MEETING

2 for a motion on Bill 970395.

3 COUNCILWOMAN VERNA: Thank you, Mr.
4 Chairman.

5 I move that Bill No. 970395 be reported
6 out of committee with a favorable recommendation.
7 Also a recommendation that the rules of Council be
8 suspended so as to permit first reading at our
9 next session of Council.

10 (Duly seconded.)

11 COUNCILMAN KENNEY: Moved and seconded.
12 All in favor, aye.

13 There are none opposed.

14 Bill No. 970395 will be reported out of
15 this committee with a favorable recommendation,
16 and a request will be made for rules suspension to
17 allow for first reading at our next Council
18 session.

19 The Chair recognizes Councilwoman Verna
20 for a motion on Bill No. 970778.

21 COUNCILWOMAN VERNA: Mr. Chairman, I
22 move that Bill No. 970778 be reported out of
23 committee with a favorable recommendation. Also a
24 recommendation that the rules of Council be
25 suspended so as to permit first reading at our

1 RULES COMMITTEE - PUBLIC MEETING

2 next session of Council.

3 (Duly seconded.)

4 COUNCILMAN KENNEY: Moved and seconded.

5 All in favor, aye.

6 There are none opposed.

7 Bill No. 970778 will be reported out of
8 this committee with favorable recommendation, and
9 a request will be made for rules suspension to
10 allow for first reading at our next Council
11 session.

12 The Chair recognizes Councilwoman Verna
13 for a motion to approve Resolution No. 980251.

14 COUNCILWOMAN VERNA: Mr. Chairman, I
15 move that Resolution No. 980251 be reported out of
16 committee with a favorable recommendation.

17 (Duly seconded.)

18 COUNCILMAN KENNEY: Moved and seconded.

19 All in favor, aye.

20 There are none opposed.

21 Resolution No. 980251 will be reported
22 out of this committee with a favorable
23 recommendation.

24 We will now recess the public meeting
25 and reconvene the public hearing.

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3 (Public hearing reconvened.)

4 COUNCILMAN KENNEY: Mr. Beller, I think
5 -- Councilmember Cohen -- Councilman Cohen.

6 MR. BELLER: Yes, sir.

7 COUNCILMAN COHEN: The way it works
8 now, are there activities engaged in by expeditors
9 that you think are wrongful?

10 MR. BELLER: Absolutely.

11 COUNCILMAN COHEN: Would you tell us
12 what they are.

13 MR. BELLER: Appearing before boards of
14 record and acting as legal counsel to people who -
15 when they are, in fact, not lawyers and not
16 trained in the law -- irrespective of knowledge
17 that they may have since some of them may have
18 superior knowledge to many lawyers who don't do
19 this kind of work, there's no question.

20 But the point is that a lawyer who is a
21 lawyer who is a good lawyer is trained to be able
22 to learn those issues and to argue the cases.

23 The Zoning Board has very, very precise
24 requirements for the approving of a variance, for
25 instance. And that's a legal matter. The factual

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2 situation, it can be done by the expediter.

3 So that's the problem I have. I have
4 no problem with expediters in general. And, as I
5 say, they perform a fine function.

6 COUNCILMAN COHEN: But your position is
7 that an expediter ought not to have the right to
8 present the whole case to the Zoning Board or to
9 any board of record.

10 MR. BELLER: That's exactly right.

11 COUNCILMAN COHEN: Now, what is your
12 position with respect to the professional engineer
13 and/or the professional architect?

14 MR. BELLER: It is exactly the same.
15 Unless the engineer is trained in the law, unless
16 the architect is trained in the law, they should
17 not conduct the hearing.

18 They should be given the 100 percent
19 credit that they deserve if they're good
20 architects and good engineers, and the attorney
21 ought to question them.

22 Or, as Councilman Kenney said, the
23 homeowner says, Listen, members of the board, I
24 brought with me my architect, I brought with me my
25 engineer, I brought with me my sprinkler guy. I

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2 don't know how the hell you put on a sprinkler --
3 pardon my French. So I'm going to let her tell
4 you exactly how this is designed. And she has a
5 right to do that.

6 What she doesn't have a right to do and
7 probably -- and I say this respectfully -- isn't
8 trained to do is to cross-examine the protestant
9 who may be very well talking about issues of
10 hardship, saying, Listen, we don't care how well
11 you designed that wonderful sprinkler system, I
12 don't want a warehouse there. I think that should
13 be a candy store, I think that should be a
14 residence, and you haven't proved hardship.

15 Now, hardship, as far as I know, is a
16 very technical zoning legal term. It is not an
17 engineering term. And that's --

18 And so, I don't see why you, Mr. Cohen,
19 would question whether an architect or an engineer
20 should expose themselves to violating the criminal
21 law of practicing law without a license anymore
22 than you would want me to practice architecture,
23 which would be in violation of the law and I could
24 go to jail for.

25 COUNCILMAN COHEN: Well, for one thing,

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2 the courts have recognized that zoning is a very
3 special function, that the Municipal Authority,
4 meaning the government of the City of
5 Philadelphia, has a right to regulate, even to the
6 extent of setting forth the rules for appeal from
7 the Zoning Board to the courts. There's a court
8 decision making that very, very clear.

9 MR. BELLER: And you --

10 COUNCILMAN COHEN: If you'll please
11 permit me to finish.

12 Secondly, we're in a situation where
13 there are many, many cases where many people have
14 simple matters to present in which they cannot
15 afford attorneys or believe they cannot afford
16 attorneys, and the expediter has served the useful
17 role in the past.

18 I think in those cases what may be
19 important is not preparing the record for appeal
20 because most zoning cases never get appealed; most
21 zoning cases are decided right at the board level.

22 So secondly. I think the professions
23 of architecture and engineering are not qualified
24 cases in general before a court. In the cases
25 where there are special areas of architectural law

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2 or engineering law, I think they're very well
3 qualified to present their cases.

4 Now is that the reason you asked why I
5 do that?

6 MR. BELLER: I'm going to answer you,
7 Councilman Cohen. We've worked on cases where
8 you've been helpful and other cases where you came
9 in and protested.

10 COUNCILMAN COHEN: And I don't you won
11 a single case.

12 MR. BELLER: Against you?

13 COUNCILMAN COHEN: Against me.

14 MR. BELLER: Only on appeal. But let's
15 forget that for the moment.

16 COUNCILMAN COHEN: I don't think so,
17 even on appeal.

18 MR. BELLER: Let me say this,
19 Councilman. I have persuaded you -- well, maybe
20 I'll put it the other way.

21 You've persuaded me that in those
22 cases, I thought to do things like put a fence and
23 some trees and a different exit and entrance, and
24 then you've changed your opinion, and I thank you
25 for that, thank you for working with me.

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2 But you're making a grave error, sir,
3 and I say this with all due respect, because I
4 know you care about people.

5 What makes you think that the architect
6 or the engineer is in there for free? 'Cause you
7 talked about money, number one.

8 And, number two, I represent many, what
9 you and I would call, "average citizens," the
10 neighborhood beauty parlor, the neighborhood candy
11 store, the neighborhood restaurant. I don't
12 represent the Pyramid Club every day.

13 And I want to tell you something, that
14 the truth of the matter is that an architect or an
15 engineer who knows the architecture and
16 engineering requirements still is not trained in
17 the issue or variance certificate, vested rights.

18 Now, they may have picked it up along
19 the way, but how do you suppose they're in there
20 for free? The last time --

21 COUNCILMAN COHEN: Well, I don't
22 suppose they're in there for free.

23 MR. BELLER: -- I paid an architecture
24 bill, it was pretty heavy.

25 Suppose you hire a lawyer just for the

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2 hearing and that lawyer presents the case
3 properly, using the architect and the engineer as
4 his witness or her witness. And then on the legal
5 issues, convinces the Board that it is a proper
6 place for variance. That's his proper function.

7 I don't want to usurp the function of
8 the engineer or the architect, but they have no
9 right to usurp mine. And, with due respect, this
10 Council doesn't have the right to give them right
11 to practice law. You can't give me right to right
12 to practice engineering, and you can't give them
13 the right to practice law.

14 And I'm being as respectful as I can.
15 You're mixing the issue. Engineers and architects
16 belong there, but when it comes to the law -- and
17 I'm just going to say one instance.

18 I appeared before L&I Review on a case,
19 and I don't want to tell war stories, but I'm
20 going to tell you this -- that that case turned
21 not on the code, not on the City Solicitor's
22 interpretation of the code, but it turned on a
23 little piece of paper called the Constitution of
24 the United States.

25 That was the issue, due process. And

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2 you tell me how many architects and engineers are
3 trained to argue a due process case. And that
4 case was won on that basis and that basis alone.

5 And sometimes, although very rarely,
6 even Council can make a mistake and pass an
7 unconstitutional act.

8 COUNCILMAN COHEN: That can happen.
9 And there are also gradations of lawyers, and
10 people have to who lawyers based upon their
11 economic ability to pay.

12 So that just having a lawyer doesn't
13 mean you're going to get full protection.

14 MR. BELLER: No.

15 COUNCILMAN COHEN: There are levels of
16 quality of.

17 What I'm saying is we're dealing
18 service with a board that, together with the
19 Traffic Court, probably is one of those most used
20 by ordinary people on a day-to-day basis, and
21 we're trying to make those services available to
22 people.

23 Now if they can afford lawyers,
24 wonderful. We're talking about groups that may
25 not be able to afford lawyers or may not have had

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2 enough experience with lawyers to believe that
3 they can find a lawyer that's both competent and
4 affordable.

5 MR. BELLER: Okay. And Councilman
6 Kenney, a half hour ago, answered that question
7 beautifully.

8 If a man named Kenny wants to build
9 third floor, he can hire this lady or he can hire
10 Mr. Schlosser, and he takes them into the Board,
11 and he says, Members of the board, I really want
12 to put a third floor in. My family is growing, I
13 need the extra space, and now I'm going to have my
14 architect, Mr. Schlosser, explain to you why it's
15 good, why it doesn't hurt anybody else, why
16 there's enough air and light, why I don't block
17 the next door neighborhood, why I won't block fire
18 engines from getting in.

19 Mr. Schlosser, go get 'em.

20 COUNCILMAN COHEN: He could do that.

21 MR. BELLER: Go get 'em.

22 COUNCILMAN COHEN: But it might be a
23 citizen who's not prepared to just go through what
24 you've just said. It might be a citizen who, when
25 he or enters the room, or she enters the room,

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2 becomes intimidated just by the solemnity.

3 They're not used to it in their life, and they
4 need somebody with them that they feel knows
5 something about the process.

6 And it's in that kind of situation that
7 I'm raising the issue. I haven't finally resolved
8 in my own mind, you know, the specific items.

9 MR. BELLER: But you're raising it the
10 wrong way. What you're saying is they don't have
11 -- why should they pay for attorney when they can
12 pay for an architect. So how have you solved the
13 average citizen's problem?

14 COUNCILMAN COHEN: No, they may hire an
15 expediter who's neither an engineer, nor an --

16 MR. BELLER: And the expediter -- and
17 the expediter can get them ready for the hearing
18 and he could tell him everything he has to tell
19 him and he could sit by their side.

20 COUNCILMAN COHEN: But not as well as
21 attorney.

22 MR. BELLER: But he can't get up there
23 and argue the case. And he shouldn't be allowed
24 to.

25 And now let's talk about the

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2 (unintelligible).

3 MS. PESSOLANO: May I interject
4 something?

5 COUNCILMAN COHEN: I mean, we don't
6 need to repeat those. We understand your
7 position.

8 COUNCILMAN KENNEY: Let me make a
9 suggestion as Chairman of the committee. It is
10 now 5 after 4.

11 COUNCILMAN COHEN: Yeah. And I have to
12 leave.

13 COUNCILMAN KENNEY: Councilman Cohen
14 has to leave. We're obviously not going to move
15 this bill out of committee today.

16 I have a suggested date to reconvene
17 the hearing on this bill, which is Thursday, at 1
18 o'clock, June 4th. And if that's okay, we'll have
19 a couple weeks to talk about. We don't have the
20 members here to vote it out anyway.

21 And the amendments have been offered,
22 we can continue to discuss this. I'm sure we'll
23 have contact from various sources discussing
24 this. And then we can come back on the 4th and
25 finish up testimony and go one way or the other.

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2 Is that okay?

3 MR. BELLER: Thank you.

4 COUNCILMAN KENNEY: Is that all right
5 with everybody?

6 Thank you very much for your
7 attendance. It's been very interesting, and we
8 will recess.

9 So it's clear for the record, I'm going
10 to recess this hearing to a date certain of June
11 4th, Thursday, at 1 o'clock.

12 MR. BELLER: Thank you for your
13 courtesy, Mr. Chairman.

14 COUNCILMAN KENNEY: Thank you.

15 (Adjourned at 4:02 p.m.)

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RE: COUNCIL COMMITTEE ON RULES

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BILL NO.'S 970092, 970395, 970778, 970713
RESOLUTION NO. 980251

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JOSEPHINE CARDILLO, RPR

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