

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

5 - - -
6 Room 696, City Hall
7 Philadelphia, Pennsylvania
8 Tuesday, 6/4/02
9 2:20 p.m.
10 - - -

11 BILL NO. 020281 - an ordinance amending Title 4 of

12 BILL NO. 020310 - an ordinance amending Title 4 of
13 the Philadelphia Code, the Philadelphia Building
14 Construction Occupancy Code...

15 BILL NO. 020313 - an ordinance amending Title 4 of
16 the Philadelphia Code, the Philadelphia Building and
17 Occupancy Code...

18 PRESENT:

19 COUNCILMAN RICHARD T. MARIANO, Chair
20 COUNCILMAN MICHAEL A. NUTTER, Vice Chair
21 COUNCILMAN DARRELL L. CLARKE
22 COUNCILMAN DAVID COHEN
23 COUNCILMAN FRANK DICICCO
24 COUNCILWOMAN JOAN KRAJEWSKI
25 COUNCILMAN ANGEL ORTIZ
COUNCILMAN FRANK RIZZO

- - -

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COUNCILMAN MARIANO: This is the public hearing of the Committee of Licenses and Inspections to consider Bill 020281, 020310, and 020313.

Councilman Nutter, it's my understanding that you're withdrawing 020281; is that correct?

COUNCILMAN NUTTER: That is correct, Mr. Chairman. That bill was introduced prior to Bill 020313, and I wish to formally withdraw that bill. I appreciate you listing it. And I move the bill be withdrawn.

COUNCILMAN MARIANO: Thank you, Councilman. I want to say we have a quorum. Present is Councilman Rizzo, Councilman Nutter, Councilman Cohen, Vice Chair Councilman Clarke, myself Councilman Mariano, Councilman Ortiz and Councilman DiCicco. Did I miss anybody?

Will the Clerk will please read the title Bill No. 020310.

COUNCILMAN RIZZO: Mr. Chairman, I'd like to leave my vote for aye for all business before this committee today and also the amendments. Does that cover it all?

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2 COUNCILMAN MARIANO: I think so.

3 Thank you, Councilman. You're excused.

4 THE CLERK: Bill No. 020310, an
5 ordinance amending Title 4 of the Philadelphia
6 Code, the Philadelphia Building Construction
7 Occupancy Code, sub-code PM, the Philadelphia
8 Property Maintenance Code, by amending Section
9 PM-304.0 entitled, "Exterior Structure," and by
10 amending Section PM-307, entitled "Unsafe and
11 Unfit Structures and Equipment," by adding
12 provisions regulating the maintenance and
13 inspection of piers and other waterfront
14 structures, all under certain terms and
15 conditions.

16 (Witnesses come forward.)

17 COUNCILMAN MARIANO: State your names
18 for the record, gentlemen.

19 MR. HAIGLER: Good day, Councilman
20 Mariano and Members of the Committee. I am Otis
21 Haigler, Jr., Legislative & Regulatory Affairs
22 Manager for the Department of Licenses and
23 Inspections. Accompanying me today would be our
24 Deputy Commissioner, David Perry, our Deputy
25 Commission of Construction Services.

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2 Today I am here to provide testimony

3 on Bill 020310, which, if enacted, will amend
4 Section PM304 AND PM307 of the Property
5 Maintenance Code to regulate the maintenance and
6 inspection of piers and similar structures. The
7 Department fully supports this bill in the
8 interest of public safety and in light of the
9 tragedy surrounding the Pier 34 collapse which
10 happened two years ago. Following this tragedy,
11 the Department requested that the owners of all
12 piers and similar structures submit engineering
13 inspection reports attesting to the structural
14 integrity of the piers for public safety. We
15 have been successful in obtaining reports from
16 the owners of all occupied piers without the code
17 requirement due to the freshness of the Pier 34
18 collapse. However, in time, this will become
19 more difficult without the legal basis of an
20 ordinance.

21 We have worked diligently to identify
22 and classify all piers in the City and to notify
23 the responsible parties of the City's desire to
24 have their piers inspected for safety. As
25 previously mentioned, we received cooperation

3 for inspection reports and were able to compile a
4 listing of these structures for future reference.

5 The Department thanks Councilman
6 Mariano for his assistance and sponsorship of
7 Bill 020310 and is prepared to enforce the
8 provisions of the bill should Council vote for
9 its passage and the Mayor signs it into law.

10 Thank you. I will be happy to answer
11 any questions at this time.

12 COUNCILMAN MARIANO: Thank you,
13 Mr. Haigler.

14 Mr. Perry, do you want to testify?
15 Please state your name for the record.

16 MR. PERRY: David Perry, Deputy
17 Commissioner, Department of Licenses and
18 Inspections.

19 COUNCILMAN MARIANO: You don't want
20 to testify?

21 MR. PERRY: No.

22 COUNCILMAN MARIANO: You sure,
23 Mr. Perry? You got your big suit on. Thank you.
24 Any questions for these witnesses?

25 COUNCILMAN DICICCO: Yes.

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2 COUNCILMAN MARIANO: Councilman
3 DiCicco.

4 COUNCILMAN DICICCO: Thank you, Mr.
5 Chair.

6 Good afternoon, Mr. Haigler, you
7 testify that you were able to notify all
8 responsible parties. I assume those are the pier
9 owners?

10 MR. HAIGLER: That's correct.

11 COUNCILMAN DICICCO: You'll have to
12 speak into the mic.

13 MR. HAIGLER: That's correct.

14 COUNCILMAN DICICCO: A large portion
15 of these piers are in my district.
16 Unfortunately, I was not given the opportunity to
17 work with you and Councilman Mariano concerning
18 this very serious issue because, you know, when
19 the piers collapsed, I was one of the first
20 people out there that said we need to do
21 something different about this, the way we either
22 inspect piers or don't inspect piers. Do you
23 happen to know what the cost involved on an
24 average basis would be for these inspections to
25 the owners of the piers?

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2 MR. PERRY: For a typical finger
3 pier, the costs are coming in at about

4 approximately \$15,000. And that would be an
5 inspection and report that needs to be performed
6 once every three years.

7 COUNCILMAN DICICCO: Once every three
8 years. And is once every three years in the
9 opinion of the experts who are the pier
10 inspectors, is that sufficient? Is that a
11 sufficient number of times? Is it ones every
12 three years or should it be even more frequent
13 than that?

14 MR. PERRY: Well, we feel based on
15 the research that we've done that once every
16 three years is sufficient, provided that the pier
17 is in good condition. Obviously, if a pier is in
18 poor condition, the engineer providing the report
19 can put provisions in there for more frequent
20 re-inspections.

21 COUNCILMAN DICICCO: You do list a
22 number of conditions from very good through
23 critical. And you just mentioned a poor as a
24 possible trigger, if you will, to cause some
25 action. Is that the threshold that we will use

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2 if the condition is than fair or is it if it's
3 less good or very good for a follow-up or to post
4 a property as potentially dangerous, being

5 dangerous.

6 MR. PERRY: There are several
7 conditions that we've determined for the purpose
8 of coming up with consistent definitions of the
9 quality of the pier, and they rate from very good
10 to critical. If a pier's in very good or good
11 condition, basically, it can maintain itself with
12 its current occupancy without the need for
13 additional interim inspections or for any
14 repairs. Once a pier would fall to the fair
15 category, we're asking -- the definition of that
16 is that there would be necessity for certain
17 repairs to be done. And those repairs are
18 required to be done within nine months. If a
19 pier is in worse condition than that, if it falls
20 into the poor condition, there's areas of the
21 pier that would have to be posted for a lower
22 occupancy load or barricaded from use. And as
23 you go down through the categories to critical --
24 at critical it's a situation where all occupancy
25 on the pier must cease immediately and be

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2 barricaded until further notice until it can be
3 noted that the pier is safe or dangerous
4 conditions are remedied.

5 COUNCILMAN DICICCO: My concern is --
6 and I appreciate the hard work that went into
7 this. I'm sure it was difficult. My concern is
8 that there may be just too many levels of
9 identifying whether the pier or piers are safe
10 for a human habitation. As an example, without
11 knowing all of the details of Pier 34, just
12 knowing some of the things I read in the paper
13 and assuming that they're accurate, the news
14 reports, it was suggested, I believe, that the
15 engineers who inspected that informed the owners
16 of the pier that the pier was eminently
17 dangerous. It was a matter of the tide or two
18 the pier would collapse. Then there are others
19 who say that the inspection report indicated that
20 the pier had some problems but it was not
21 eminently dangerous. And I think that's my
22 biggest concern is there's a gap between very
23 good and critical which, depending on the
24 circumstances, any one of those things in between
25 may be more critical than fair or poor. And I

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2 don't know if it could be an either or if very
3 good or critical but I'm wondering if there's
4 just too many layers in between that keeps the
5 door open for potential litigation going forward

6 as to in whose opinion is fair, what does fair
7 mean to some person may not be fair in someone
8 else's mind, and I'm wondering if we should be a
9 little bit more stringent.

10 MR. PERRY: When we started receiving
11 the pier inspection reports from the engineering
12 firms, there was an even greater disparity in
13 terms of how the various engineering firms
14 categorized the condition of the pier. What we
15 tried to do with this was be very specific, that
16 if you're going to use certain terminology such
17 as fair, good, critical, or serious, that it be
18 defined in the law as to what those terms mean.
19 At a point where a pier would be in serious or
20 critical condition, there is a provision in this
21 ordinance in which the Department of Licenses and
22 Inspections must be notified within 24 hours so
23 that we can go out there and perhaps close the
24 pier down if that was deemed necessary.

25 COUNCILMAN DICICCO: Again, without

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2 trying to beat up on it too much, I look at
3 "fair," and the definition of "fair," it says
4 moderate defects or deterioration observed,
5 primary structural elements are sound, however,

6 repairs must be completed in order to accommodate
7 the structure's current use and loading
8 conditions.

9 Now, does that mean that you cease
10 and desist using the pier for what it is being
11 used for at that time? And that almost seems to
12 me like it falls in the similar category as
13 "poor."

14 MR. PERRY: In that particular
15 circumstance, most of the reports that came into
16 us talked about the need for certain repairs and
17 we wanted to be able to differentiate between
18 repairs that an engineer is recommending, repairs
19 that are needed over time, versus repairs that
20 are needed immediately to prevent is a disaster
21 from happening. That's why we ended up with the
22 number of categories that we have. I think by
23 having more categorizing, we're able to better
24 define whether or not we need to act immediately
25 than if we had a smaller number of categories and

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2 it was more open to interpretation.

3 COUNCILMAN DICICCO: The other
4 question I have is -- and it may be in the bill
5 and I apologize if it's in here for asking the
6 question. When the inspection is made and the

7 information is put forth, what is L&I's role at
8 that time? Do you go out to the individual pier
9 and see certificate? Is it something that gets
10 mailed into L&I? What is the process? I mean,
11 you have an elevator obviously, it gets inspected
12 on an annual or biannual basis -- I'm not sure
13 how they do it -- and there's a certificate
14 posted in the elevator. How does the public
15 know? How will we know that the owners of the
16 piers have complied? What is the mechanism for
17 penalties or relocation of licenses or what have
18 you? If it's in the bill, I apologize. Again, I
19 really didn't get a chance to read it until a few
20 minutes ago.

21 MR. PERRY: In terms of the process,
22 the engineers are required to file the report
23 with the Department of Licenses and Inspections.
24 Depending on the findings of the engineer,
25 certain documents, additional documents need to

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2 be submitted to the Department. In the event
3 that a report isn't submitted to the Department
4 on time, the pier would be deemed to be unsafe
5 and we would begin to pursue enforcement actions
6 against the pier owner.

7 COUNCILMAN DICICCO: I see
8 Mr. Haigler ready to point to something. Does it
9 give you the time frame for that?

10 MR. HAIGLER: There is no time frame.

11 COUNCILMAN DICICCO: I mean, if the
12 pier is deemed to have something less than good,
13 the condition is less than good, how do we know,
14 how do we know that? How does your department
15 know that? Is the report submitted directly to
16 L&I? Is it the responsibility of the pier owner
17 within a given time frame to submit that report?

18 MR. PERRY: The ordinance has
19 specific dates as to when the first report is due
20 and talks about additional reporting periods.
21 Those reports are --

22 COUNCILMAN DICICCO: That's the
23 August 1st and the September and November dates
24 we're talking about?

25 MR. PERRY: It would be --

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2 the first report under this ordinance would be
3 due January 1, 2003.

4 COUNCILMAN DICICCO: 2003.

5 MR. PERRY: Right. And then the
6 subsequent reports would be three years after
7 that.

8 COUNCILMAN DICICCO: How much time do
9 we have after January 1, 2003, for that report to
10 be -- again, is it submitted to you? What's
11 the -- what are the mechanics? I own a pier, I
12 get it inspected, it's either very good or one of
13 the other five or six conditions. How does that
14 get to you? How do we know what's going on
15 there, how does the City know?

16 MR. PERRY: The reports have been
17 submitted directly to the Commissioner's office.
18 We have a list of all identified piers and
19 waterfront structures in the City and we're
20 keeping running track of which ones have been
21 submitted, which ones are not submitted, which
22 ones have been barricaded from use. The
23 ordinance itself talks about once it defines the
24 conditions as the engineer would determine in
25 part of the investigation, it talks about what

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2 needs to happen. For instance, if a pier is
3 deemed to be in fair condition, you have nine
4 months to make those repairs. But if it's deemed
5 to be in a less condition, there's other actions
6 that need to take place such as barricading
7 certain areas or decreasing the permitted

8 occupant load.

9 COUNCILMAN DICICCO: I just have some
10 concern because this, with all good intentions
11 I'm sure that you had, that it leads to some of
12 the problems that we had at Pier 34 where if the
13 pier owner is given a certain amount of time to
14 make those necessary repairs that the inspector
15 of the piers identifies as being a problem to
16 allow -- we say that we may reduce the number of
17 occupants on a pier. If the pier comes up -- if
18 the condition of the pier comes up as being fair,
19 they got nine months to make the necessary
20 repairs? Unless I'm misunderstanding you, I
21 mean, you know, if the occupancy is a thousand
22 people on the pier and one of the conditions less
23 than good comes up on the certification or the
24 certificate, inspection certificate, what do we
25 do? If we say, Okay, you can only have occupancy

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2 to 500, doesn't that become a burden for your
3 department now to make sure that there's no more
4 than the lawful occupancy of 500 on a pier that
5 was allowed prior to that to have a thousand
6 people? I'm just using people as an example.
7 There's all kinds of weight loads, equipment,
8 machinery. I'm just concerned that we don't

9 leave that window of opportunity where a pier
10 that has some of the integral problems related to
11 it for several months it will take for that pier
12 to be brought up to the code of very good or
13 good, something happens in the meantime, who's
14 liable?

15 MR. PERRY: Well, at all times the
16 building owner, the property owner is liable for
17 any conditions that would exist on his or her
18 property. The fair category is talking about the
19 need to make repairs, but repairs that are not
20 necessary to maintain the existing occupancy on
21 that pier. We tried to be specific so that the
22 role of the Department would be well-defined and
23 our enforcement would be as easy as possible,
24 that if there was a need to lower the occupant
25 load, the engineer would define what portions of

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2 the pier couldn't be occupied and we'd have a
3 definitive answer as to what we're looking for on
4 that particular pier rather than just leaving it
5 wide open. Some of these piers are like Pier 34
6 where they're well-defined. Other type
7 structures are vast complexes and we needed to be
8 considerate to the property owners that have

9 larger waterfront-type properties in that if
10 there's a small condition on one part of his
11 property, he should be allowed to isolate that
12 condition without jeopardizing the ing occupancy
13 and interfering with the course of business for
14 the rest of that particular waterfront structure.

15 COUNCILMAN DICICCO: The only other
16 question I have is, if a pier today is being used
17 as an outdoor entertainment venue with just a
18 small structure on it, a bar, but is occupied by
19 a lot of people, and six months up the road or
20 next year before the certification period in
21 which the inspection has to be resubmitted, the
22 use changes and heavy equipment is now going to
23 be stored on that pier. Obviously, the load
24 bearing is a lot different now. What do we do?
25 I mean, a condition of fair or good with a

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2 thousand people may not be a condition of fair or
3 good for 500 vehicles.

4 MR. PERRY: That's a good question,
5 Councilman. Basically, through other processes
6 that the Department has, if you're to change the
7 occupancy of any building or any pier structure,
8 you're required to obtain a new certificate of
9 occupancy.

10 COUNCILMAN DICICCO: Okay. Just
11 wanted to make sure that that still is in play.
12 MR. PERRY: That process is still
13 there, and we would require a new assessment that
14 the pier could handle the increased occupant load
15 or live loads.
16 COUNCILMAN DICICCO: Let me emphasize
17 again, I'm not being critical of this. These are
18 question if I was a part of the drafting of the
19 legislation which affects a large portion of my
20 district, I certainly would have been able to
21 address those questions at that time.
22 But thank you, thank you for your hard work.
23 COUNCILMAN DICICCO: Any further
24 questions?
25 Councilman Cohen.

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2 COUNCILMAN COHEN: Is this an
3 Administration bill or is this a bill drafted by
4 one of our members seeking to correct conditions?

5 MR. PERRY: It's an Administration
6 bill, Councilman.

7 COUNCILMAN COHEN: So this is the
8 Administration's answer how to prevent what
9 happened in the pier from ever happening again;

10 is that right?

11 MR. PERRY: That's correct.

12 COUNCILMAN COHEN: Was there a time
13 when the City took the position that the safety
14 responsibilities were those of the pier owner and
15 that the City had no responsibility for the
16 conditions on the pier?

17 MR. PERRY: It's still City's
18 position that the pier owners are responsible for
19 all conditions occurring on their particular
20 piers. What this bill does is force them to
21 submit reports on a regular basis to the
22 Department so that we know that the pier is in
23 fact safe.

24 COUNCILMAN COHEN: I'm not sure
25 whether or not the question and the answer match.

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2 I was asking whether there was a time when the
3 City officially took the position that it had no
4 responsibility for conditions on the pier and
5 that the pier owners were the sole ones
6 responsible for the safe use on piers.

7 MR. HAIGLER: Councilman, just like
8 with any other property, the property owner is
9 the responsible party for the condition of their
10 property. The City assumes no responsibility for

11 private property of any property owner in the
12 City, whether it be the piers or building or
13 structure, so it's treated the exact same way.
14 What we are attempting to do by this ordinance is
15 to make sure that the owner of the piers adhere
16 to their responsibility to provide the reports to
17 the Department notifying the Department of the
18 conditions that they have for the maintenance and
19 inspection of their piers.

20 COUNCILMAN COHEN: Well, I guess I'm
21 troubled by the same kind of questions that are
22 being raised today about the homeland security
23 proposals before September 11th. When there were
24 pieces of information lying around but government
25 agencies didn't communicate with each other,

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2 sometimes apparently purposefully withheld
3 information on each other, and nobody applied
4 what I think would be common sense to see, well,
5 there's something going on, maybe we ought to
6 find out about it. But everybody was just busy
7 just checking out the rules in their department.
8 And I sense a situation very similar to that
9 here. Doesn't the L&I look around on its own
10 sometimes and say, There are people going on the

11 pier, it's over water, don't we have a
12 responsibility to make sure that it's safe? It
13 seems to me that's the responsibility of
14 government because I think everybody hat walks
15 onto pier assumes that it's safe and they don't
16 want to rely on a private ownership to give them
17 that guarantee, they're relying on the City
18 taking proper steps. What's your response to
19 that? Because that, to me, is the basic concern.

20 MR. PERRY: The degree of expertise
21 that's involved with a pier inspection, there are
22 certain conditions that are not going to manifest
23 themselves on the surface of the pier, requires
24 an underwater inspection, requires very specific
25 technical background. And there's those type of

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2 items that the Department simply cannot perform
3 those inspections on our own. We have to rely on
4 outside agencies, the engineering community to
5 perform those inspections. And the cost for
6 doing those inspections lie with the property
7 owner.

8 COUNCILMAN COHEN: Well, I don't know
9 that that even comes close to dealing with the
10 question. From what I remember of the incident,
11 had anybody gone on the pier and just used the

12 cane I have in my hand and tapped a few times,
13 they'd find that certain spots there seemed to be
14 something like nothing's underneath the cane,
15 there was just a piece of tin covering an open
16 area.

17 I just find a lot of words, but I
18 don't find of kind of diligence that it seems to
19 me government has to be concerned with to give
20 people a basis for really having confidence that
21 the government's on top of everything and that if
22 somebody advertises a social affair somewhere
23 that it's going to be a safe place to go. That's
24 what concerns me and why I'm raising these
25 issues.

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2 MR. PERRY: I understand, Councilman.
3 With all due respect, I believe this ordinance
4 goes a long way to assuring the public that if
5 they're on a waterfront structure that they're
6 safe. What better way than to determine if it's
7 safe than have engineering community do an
8 inspection and provide citizens, the government
9 of the City of Philadelphia with reports on the
10 condition of the particular structure.

11 COUNCILMAN COHEN: Is there going to

12 be a follow-up of these reports? Does somebody
13 examine them, read them question them, say What
14 does this really mean?

15 MR. PERRY: Absolutely.

16 COUNCILMAN COHEN: Who's going to be
17 doing that?

18 MR. PERRY: The Department will be
19 reviewing the inspection reports that are
20 required to be submitted to L&I. We've reviewed
21 the ones that have come in so far. We followed
22 up on various recommendations and findings that
23 have been brought forth in those reports. If
24 there's any questions on any particular piers, I
25 mean, we're still available to go out and do

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2 inspections with our own forces. But keep in
3 mind that we're limited to doing a topside
4 inspection rather than doing an underwater
5 inspection.

6 COUNCILMAN COHEN: Well, I'm just
7 troubled by -- I think there ought to be some
8 measure by which citizenry are assured of
9 professional examinations made. And if people
10 pay attention to the reports, question them, and
11 don't lay to rely and say, Well, there were
12 indications of problems but they didn't seem to

13 be severe enough to warrant our attention. And
14 that's what I'm concerned about.

15 MR. PERRY: That's one of the reasons
16 why we got very specific as to the rating
17 category so that an engineer duly licensed by the
18 Commonwealth of Pennsylvania puts his profession
19 on the line by declaring a pier structure to be
20 one of the designated classifications. It's
21 incumbent upon his professionalism, his
22 background, to make that determination for us.

23 COUNCILMAN COHEN: Well, I have to
24 tell you I lost a lot of confidence in Licenses
25 and Inspections when the L&I inspector testified

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2 in a court hearing with respect to necessary
3 demolition at Ogontz Manor at Ogontz and Olney
4 Avenue and L&I employees took the stand and
5 testified that four buildings were eminently
6 dangerous, had to be eliminated, there was
7 absolutely no question in their minds they had to
8 move quickly to evacuate the tenants and then a
9 couple of weeks later a private company appeared
10 on the scene and suddenly the danger disappeared.
11 And with a relatively low-cost the four buildings
12 were salvaged for this private operator. And so

13 I'm just very concerned that decisions be made on
14 a professional basis and not on an accommodation
15 basis to satisfy somebody's personal needs. And
16 that's the reason I've begun to question how, to
17 what extent do we use professionalism and common
18 sense in L&I? I certainly hope you're moving in
19 that direction.

20 Thank you, Mr. Chairman

21 COUNCILMAN MARIANO: Thank you,
22 Councilman.

23 Councilman Ortiz?

24 COUNCILMAN ORTIZ: Thank you,
25 Mr. Chairman.

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2 You know, going along on the same
3 line, the procedure is going to be that you're
4 going to hire some outside consultant to do the
5 inspection; is that right?

6 MR. PERRY: That's incorrect. The
7 pier owner is required to hire the outside
8 consultant.

9 COUNCILMAN ORTIZ: So the pier owner
10 will hire outside consultant, he will hire the
11 divers, they will make the inspection and they
12 will send you a report.

13 MR. PERRY: That is correct.

14 COUNCILMAN ORTIZ: And there is going
15 to be no individual independent verification of
16 that report.

17 MR. PERRY: The engineers in the
18 Department of Licenses and Inspections will
19 review the findings of the third-party engineer,
20 but we will not attempt to recreate an underwater
21 inspection to verify that engineer --

22 COUNCILMAN ORTIZ: Usually when you
23 inspect a building and you go in for an inspector
24 electrical works that have been done, usually you
25 send an inspector that is a certified

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2 electrician, he looks at it and he confirms that
3 the contractor has done all of the work that
4 needs to be done according to the specifications
5 that L&I has put forward; is that correct?

6 MR. PERRY: Technically, with
7 electrical work, the inspection is made by a
8 third-party inspection agency and the
9 Department's role has been to audit the work done
10 by the third-party agencies, but we do not get
11 out to every single electrical --

12 COUNCILMAN ORTIZ: But you do get out
13 to projects to verify and visually assure the

14 Department and City that the work has been done
15 in a manner that is required by code.

16 MR. PERRY: That is correct.

17 COUNCILMAN ORTIZ: So you have that
18 verification.

19 And in this case, that is not going
20 to happen? You're not going to have a team of
21 SCUBA divers that are -- and I'm a certified
22 SCUBA diver, so I can -- you're not going to have
23 a team of SCUBA diver go down to inspect and make
24 sure that the work has been done according to the
25 specifications that we require.

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2 MR. PERRY: There are no plans for
3 the Department to hire an underwater outfit to go
4 back and check the reports submitted by the
5 independent engineers --

6 COUNCILMAN ORTIZ: You're just going
7 to take the report, you're going to analyze it,
8 but there's going to be really no visual
9 independent verification of the work that is in
10 that report has been done to the specifications
11 that we require.

12 MR. PERRY: Without being --

13 COUNCILMAN ORTIZ: We're going to
14 trust this reputation that this person is putting

15 forward and so on that he's going to do the work
16 in the right way.

17 MR. PERRY: Out of necessity, we have
18 to do that

19 COUNCILMAN MARIANO: Point of order
20 from Councilman Nutter.

21 COUNCILMAN NUTTER: Thank you.

22 Councilman, I would like to suggest,
23 because I'm sure that many people don't know,
24 Deputy Commissioner Perry and -- you should be
25 aware that there may be a unique opportunity here

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2 to, in the best sense of the word, have Council
3 oversight in this particular area of inspection
4 and underwater activity. You may not know that
5 Councilman Ortiz is board-certified --

6 COUNCILMAN MARIANO: Scuba diver

7 COUNCILMAN NUTTER: -- in scuba
8 diving, has extensive experience off of the Coral
9 reef of Puerto Rico.

10 COUNCILMAN ORTIZ: And Frank DiCicco,
11 too, by the way.

12 COUNCILMAN NUTTER: I was not aware
13 of that.

14 COUNCILMAN MARIANO: Point of

15 information, Councilman. They don't go in tandem
16 when they do it jus so you know.

17 COUNCILMAN NUTTER: This may be an
18 excellent opportunity for the Department to take
19 advantage of vast skill set of many members of
20 City Council. They will provide the
21 certification, and I will gladly watch both of
22 them go down underwater and wait to see if they
23 ever come back up.

24 COUNCILMAN ORTIZ: The Delaware is
25 too cold.

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2 COUNCILMAN NUTTER: I just thought
3 you might need to know about that.

4 COUNCILMAN ORTIZ: I appreciate --

5 COUNCILMAN NUTTER: You may want to
6 talk to Commissioner McLaughlin about that and
7 have a new Council inspection program.

8 COUNCILMAN ORTIZ: I appreciate the
9 recommendation of my brother colleague and a
10 former friend.

11 (Laughter.)

12 COUNCILMAN ORTIZ: No, but --

13 COUNCILMAN MARIANO: Councilman,
14 neither of the Councilmen forementioned by
15 Councilman Nutter have anything to worry about.

16 I'm in charge of the oxygen tanks, so you neither
17 of you have to worry about anything.

18 (Laughter.)

19 COUNCILMAN ORTIZ: So you're in
20 essence trusting that the contractor or the
21 engineer is going to give us a very truthful
22 report and we just wait on that.

23 MR. PERRY: We're relying on an
24 engineer that's certified and licensed by the
25 Commonwealth of Pennsylvania --

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2 COUNCILMAN ORTIZ: We've had
3 engineers been certified and have cut corners
4 before in the City and with the foregoing
5 tragedies that is occur when that happens. In
6 this situation, and going back in terms -- the
7 fact that there is not going to be at least an
8 independent from our side is quite a little bit
9 troublesome on this. I understand what we're
10 trying to do, but it is -- because of contractors
11 across the history of this country have been
12 known to cut corners at times. And if you cut
13 corners in the type of project of this manner,
14 it's hundreds of lives that may go under.

15 MR. PERRY: To try to address your

16 concerns, Councilman, if you look at new
17 construction, there's very specific, very highly
18 technical inspections that need to be done,
19 whether it's doing soil-borne reports to make
20 sure that the foundation of a new building is not
21 going to sink, whether it's doing welding
22 inspection or structural steel inspection, those
23 types of activities, the Department does not have
24 specifically trained inspectors to perform that
25 work. We're forced to, we have to rely on the

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2 engineering profession to provide us with the
3 expertise, knowledge, and the integrity to do
4 those inspections on behalf of the owner and on
5 behalf of the City. There's really no other way
6 around it.

7 COUNCILMAN ORTIZ: Okay, thank you.

8 COUNCILMAN MARIANO: Was going to be
9 a point of order, Mr. Perry, but maybe this will
10 alleviate Councilman Ortiz or myself. What
11 happens to an engineer that gives you a bad
12 report? They're liable?

13 MR. PERRY: There's a professional
14 board, and in the past we have sent complaint
15 cases to the board on engineers that provided us
16 with incorrect information on building plans or

17 otherwise maybe not represent themselves
18 properly.

19 COUNCILMAN DICICCO: And if do that
20 are they liable for criminal and civil penalties?
21 It's criminal really.

22 MR. PERRY: Depending on the severity
23 of the action. I would assume that it would
24 raise to the level of criminal activity.

25 COUNCILMAN ORTIZ: In relation to the

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2 question that Councilman Mariano just asked,
3 those engineers, what has been the result of the
4 complaints and what has been the punishment, if
5 any, or the sanctions that have been taken, if
6 any? A letter of reprimand?

7 MR. PERRY: Engineers, doctors,
8 lawyers, these are professions that are regulated
9 at the State level. We can present evidence to
10 go against someone's license but the actual
11 repercussions would happen at the state level.

12 COUNCILMAN ORTIZ: Well, I know. I'm
13 an attorney and I know what happens along those
14 lines. But you know the results. You said you
15 have referred made some complaint on certain
16 firms or engineers that have tried to skirt our

17 regulations or our contract. All I'm saying is,
18 what, if any, the results of those complaints
19 have been and have any of those individuals that
20 you have referred before, those complaints, have
21 they subsequently been contracted by the City?
22 Or once do that, do we place these individuals,
23 these engineers and contractors in a list that
24 says, "You fooled me once but; you ain't gonna
25 fool me again," and put them aside.

35

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2 MR. PERRY: We've been, in the last
3 several years been have is we have been in the
4 past locally pursuing litigation against
5 contractors that have something the code.

6 COUNCILMAN ORTIZ: Could I see that
7 list?

8 MR. PERRY: Sure, I can send you --

9 COUNCILMAN ORTIZ: Could you send it
10 the Chair, Councilman Mariano?

11 MR. PERRY: Okay.

12 COUNCILMAN ORTIZ: And I would like
13 to know if any of those contractors have been
14 given other contracts later on.

15 MR. PERRY: We're not in a position
16 in terms of doing construction review to think
17 about contracts.

18 COUNCILMAN ORTIZ: Well, I mean
19 whether the City has hired them. Not you, but if
20 the City hired them again.

21 MR. PERRY: The ones that I'm
22 familiar with were hired by private owners to do
23 specific jobs, and I would haven't any knowledge
24 if the owner rehired them for new projects.

25 COUNCILMAN ORTIZ: Do we have any way

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2 of saying, This individual so many complaints
3 against him, we have referred to him and so on,
4 that we give to independent contractors that say,
5 These individuals are not trustworthy?

6 MR. PERRY: When we receive
7 complaints concerning contractors, we'll look at
8 the complaints. And we have an administrative
9 hearing procedure that the Department puts in
10 place to investigate the claims and to make
11 recommendations for specific punitive actions
12 against the contractor.

13 COUNCILMAN ORTIZ: Thank you.

14 COUNCILMAN MARIANO: Councilman
15 DiCicco.

16 COUNCILMAN DICICCO: Thank you.

17 Will this legislation apply to

18 publicly-owned facilities as well as far as
19 inspections, the same criteria, the same calendar
20 and everything?

21 MR. PERRY: Yes, that's correct.

22 COUNCILMAN DICICCO: In the bill, it
23 provides for exceptions in certain situations and
24 one that I finding a little bit disturbing. I'm
25 wondering what the logic behind it was. It says,

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2 "The reporting requirements shall not apply to
3 pipeline, bridges, dams, utility towers, tram
4 towers, etc."

5 Why secluding bridges and tram
6 towers. The only tram tower is the one that is
7 actually under construction that I know of at,
8 hopefully, the entertainment center if that ever
9 gets built. And I'm a betting man and I'm
10 betting it doesn't get done. That's a switch.
11 I'm sure Tony Romeo will want to talk to me about
12 that later.

13 I was just curious as to why we would
14 not have the same criteria apply to a tram which
15 is basically used to transport people across the
16 River.

17 MR. PERRY: We were looking to
18 seclude items that otherwise covered by other

19 statutes, ordinances, or other agencies that
20 already perform those types of inspections. A
21 tram tower in the middle of the Delaware would be
22 outside of the purview of the Department of
23 Licenses and Inspections. It's not an item that
24 we would either permit nor provide ongoing
25 maintenance inspections.

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2 COUNCILMAN DICICCO: But the
3 foundation that supports the tower on both sides
4 of the river, in this case we're talking about
5 the Philadelphia side, the Pennsylvania side, is
6 actually connected to a facility that is part of
7 the Penn's Landing Corporation Authority which is
8 a quasi-government agency and it's basically
9 public land or semi-public land, whatever your
10 refer to it as. I'm not a lawyer. But it's not
11 out in the Delaware, it's connected to a pier
12 that has other and will have other activities on
13 that pier.

14 MR. PERRY: In that particular case,
15 we would expect the tram station. We would
16 inspect everything but the actual operation of
17 the tram itself

18 COUNCILMAN DICICCO: I know there

19 were piles, I think, that were driven in prior to
20 the concrete foundation of the tram tower, the
21 base of the tram tower. Are they now exposed,
22 those piles?

23 MR. PERRY: I'm going to have to
24 check on this. I believe that entire tram
25 project with the exception of the station itself

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2 that through the Law Department there was an
3 agreement that another agency would be
4 responsible for the safety inspection

5 COUNCILMAN DICICCO: Would that be
6 the Delaware River Port Authority since they're
7 paying for it?

8 MR. PERRY: I believe it is, but I'm
9 going to have to make some phone calls.

10 COUNCILMAN DICICCO: Could let us
11 know?

12 MR. PERRY: Sure.

13 COUNCILMAN DICICCO: Because I think
14 it's important that some sort of inspection,
15 obviously, apply to that, whether it's through us
16 or the other agency, and I'd like to see that as
17 well.

18 And bridges --

19 MR. PERRY: Bridges are inspected by

20 PennDOT, by the Streets Department. They're in
21 the right-of-way. They're not on private
22 property.

23 COUNCILMAN DICICCO: All of our
24 bridges?

25 MR. PERRY: To the best of your

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2 knowledge they are.

3 COUNCILMAN DICICCO: Girard Avenue
4 Bridge, Schuylkill Falls, are they state-inspected
5 as well?

6 MR. PERRY: To the best of my
7 knowledge, we've never issued permits or
8 otherwise took responsibility for any public
9 bridge structure in the City. Occasionally,
10 we'll see a private bridge on someone's personal
11 property, but that's very rare. Any of the
12 public bridges are already inspected by other
13 agencies.

14 COUNCILMAN DICICCO: And if you can
15 supply that information as well. I mean, I'm
16 sure that there are in various parts of this City
17 where you have streams and creeks which are
18 either a part of our Fairmount Park Commission
19 land, come under the Fairmount Park land

20 management -- Councilwoman Krajewski isn't here,
21 but I have to assume that there may be some
22 places in her district that are up in the
23 Wissinoming Creek area that have some sort of a
24 footbridge. I know they can go on and on forever
25 with these things, but I just have a concern that

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2 we're not leaving anyone out, any facility out.

3 MR. PERRY: (Nods head.)

4 COUNCILMAN DICICCO: Thank you. I
5 have no further questions.

6 COUNCILMAN MARIANO: All right,
7 Councilman?

8 Any other questions for these
9 witnesses?

10 (No further questions.)

11 COUNCILMAN MARIANO: Do we have any
12 other witnesses? Any other witnesses on this
13 bill?

14 (No further witnesses on this bill.)

15 COUNCILMAN MARIANO: Seeing none,
16 we'll move to the next bill.

17 The clerk will read the title of the
18 next bill.

19 THE CLERK: Bill 020313, an ordinance
20 amending Title 4 of the Philadelphia Code, the

21 Philadelphia Building and Occupancy Code, by
22 requiring that special certificates of inspection
23 be issued in connection with structures in Youth
24 Group E, the Educational Use Group on an annual
25 basis in order for such structures to be occupied

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2 establishing certain reporting requirements
3 regarding the inspections performed in connection
4 with applications for such certificates and
5 making certain lead paint requirements applicable
6 to such structures, under certain terms and
7 conditions.

8 COUNCILMAN MARIANO: Do we have any
9 witnesses for this bill?

10 Please come up to the front.

11 (Witness comes forward.)

12 MANAGING DIRECTOR RICHMAN: Good day,
13 Councilman Mariano and Members of the Committee
14 on Licenses and Inspections. I am Estelle
15 Richman, Managing Director for the City of
16 Philadelphia and I am here to provide testimony
17 on Bill No. 020313.

18 If enacted the bill will add a new
19 Section A --

20 COUNCILMAN MARIANO: Excuse me,

21 Managing Director. Councilman Nutter has a
22 question or a point of information.
23 COUNCILMAN NUTTER: Just to ask the
24 Chairman, is there testimony that's available?
25 COUNCILMAN MARIANO: Is this any

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2 testimony to be given out here?
3 COUNCILMAN NUTTER: Because I have
4 not seen any.
5 COUNCILMAN MARIANO: Thank you.
6 MANAGING DIRECTOR RICHMAN: It's very
7 hot off the press.
8 COUNCILMAN NUTTER: I bet. But it's
9 better at this moment in our hands than in
10 Miss Carolyn's.
11 (Testimony distributed.)
12 COUNCILMAN MARIANO: Go ahead.
13 MANAGING DIRECTOR RICHMAN: If
14 enacted, the bill will add a new Section A-703 to
15 the Administrative Code to regulate the
16 inspection on an annual basis of buildings
17 classified as Use E, Educational, as defined by
18 the Building Code.
19 The Administration has no
20 disagreement with the spirit and the intent of
21 the legislation and supports having schools

22 inspected regularly to ensure the safety of
23 children and staff. In fact, the Department of
24 Licenses and Inspections currently inspects
25 public and parochial schools annually and

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2 provides notification to the responsible parties
3 of violations uncovered during our inspections.

4 The School District has a long and
5 consistent history and relationship of working
6 with L&I in addressing code violations to ensure
7 the safety of our schools. For example, L&I in
8 conjunction with the School District just
9 completed inspecting 300 schools and have been
10 redressing the violations based on a priority
11 list. Additionally, the Department of Health
12 works with representatives from the School
13 District to ensure safety in te drinking water.
14 The health and safety of the students, faculty
15 and staff of Philadelphia schools is one of the
16 most fundamental building blocks to overall
17 educational success and, therefore, it is an
18 issue that the Administration takes very
19 seriously.

20 However, I have several concerns
21 regarding the legislation, including the fact

22 that some of the provisions of this ordinance are
23 so broadly drawn that practical enforcement may
24 be difficult and the remedies available to the
25 schools who are unable to obtain a special

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2 certificate under the proposed legislation. The
3 Administration is currently in the process of
4 fully analyzing the full scope and impact of this
5 legislation. The complexity of the School
6 District governed by the Federal, State, and
7 local policies and codes necessitates that we
8 take our time in analyzing the impact that an
9 annual extensive inspection will have on the
10 School District's ability to comply. Oversight
11 of the School District's building not only a
12 local matter, but also involves the Pennsylvania
13 Department of Education and the Pennsylvania
14 Department of Labor and Industry. The
15 Pennsylvania Department of Labor and industry,
16 for example, conducts extensive annual
17 inspections of all pressure vessels such as
18 boilers and the School District receives is a
19 certificate of inspection before opening each
20 building.

21 I respectfully would propose that
22 members of the Administration and from my office

23 partner with the bill's sponsor, Councilman
24 Nutter, to craft amendments to the legislation
25 that will reach effective and practical solutions

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2 to our shared interest in promoting the health
3 and safety of Philadelphia's students, faculty,
4 and staff. Even as it is drafted, it must be
5 pointed out additional resources will be needed
6 to ensure that this ordinance is currently
7 enforced. For example, for representatives from
8 Licenses and Inspections to effectively inspect
9 all schools, public, parochial, charter, and
10 private within the allotted time for inspection
11 as prescribed bit ordinance, it is estimated that
12 four additional commercial and industrial
13 inspectors will be needed to maintain service
14 levels and coverage. The initial cost of the
15 four additional inspectors we estimate to be
16 \$50,000 per inspector for a total of \$200,000
17 which include salary and benefits. After the
18 initial implementation of the ordinance, the
19 aforementioned positions will have to be
20 incorporated into the Department's Operating
21 Budget to continue inspections as required on an
22 annual basis.

23 The Health Department estimates that
24 anywhere between three and four additional
25 inspectors need to be hired at a cost for \$41,000

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2 per inspector, which would mean a total cost of
3 approximately \$124,000 to \$166,000 annually.
4 Additionally, the Health Department estimates
5 that in addition to the new staff, current staff
6 would need to be redirected which would create a
7 loss of revenue of about \$67,000. That revenue
8 is currently generated by inspections of
9 commercial food establishments. Like the
10 Department of Licenses and Inspections, after the
11 initial implementation of the ordinance, the
12 aforementioned positions will have to be
13 incorporated into the Department's Operating
14 Budget to continue inspections as required on an
15 annual basis.

16 While the value of the health and
17 safety of Philadelphia's children and teachers
18 could never been measured in dollars and cents,
19 it is important to keep these costs and
20 expenditures in mind as we work to develop a
21 solution that will have a genuine effect on the
22 lives of students, faculty, and staff.

23 I would like to close by, again,

24 respectfully proposing that Members of the
25 Administration and from my office partner with

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2 the bill's sponsor, Councilman Nutter, to craft
3 amendments to the legislation that will reach
4 effective and practical solutions to our shared
5 interest in promoting the health and safety of
6 Philadelphia's students, faculty, and staff.

7 The sheer complexity of the multiple
8 jurisdictions that oversee the School District
9 requires us to look closely before we act to
10 create a special certificate for school
11 buildings. One avenue I'm exploring is perhaps
12 to institute a comprehensive public safety
13 building safety survey on school conditions to be
14 conducted annually. Evaluation of all major
15 building systems and rating of the building based
16 on overall safety and structural integrity,
17 probably useful life and need for repair or
18 replacement and maintenance.

19 Thank you for the opportunity to
20 testify today. And I would be happy to answer
21 any questions this Committee would have.

22 COUNCILMAN MARIANO: Any questions
23 for the this witness?

24 Councilman Nutter.

25 COUNCILMAN NUTTER: Two things, Mr.

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2 Chairman. One, based on the discussion that you
3 and I had and with at least one other member,
4 there is one amendment that I will seek to put
5 forward during the public meeting to address an
6 issue that you and I discussed.

7 Madam Managing Director, let me ask a
8 couple questions. When do the school buildings
9 get inspected presently?

10 MANAGING DIRECTOR RICHMAN:

11 Throughout the school year.

12 COUNCILMAN NUTTER: Throughout the
13 school year.

14 MANAGING DIRECTOR RICHMAN: Yes.

15 COUNCILMAN NUTTER: So when is the
16 start of the inspection period? Does it ever end
17 or is it --

18 MANAGING DIRECTOR RICHMAN: I'm not
19 sure if there's a start and end. I think it's an
20 ongoing process that's probably conducted
21 approximately a year since they've had their
22 previous one. So ones that have been conducted
23 over the past several months, couple of months,
24 may be conducted next April and May and June. So

25 ones that were done in January, maybe would be

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2 done in January. So it's not a confined period.

3 COUNCILMAN NUTTER: Well, it's my
4 understanding that the inspections generally
5 start somewhere around November of a year and go
6 into the next year. That's my understanding.
7 That's why the bill was drafted the way it was
8 drafted, in concert with the people who actually
9 do this work.

10 How often are the buildings inspected
11 and what are they inspected for?

12 MANAGING DIRECTOR RICHMAN: They are
13 inspected annually, and I can't answer that. I
14 can get back to you.

15 COUNCILMAN NUTTER: Now, your
16 testimony says that L&I in conjunction with the
17 School District just completed inspecting 300
18 schools and they've been addressing the
19 violations based on a priority list. The 300
20 schools that were inspected...

21 MANAGING DIRECTOR RICHMAN: Yes.

22 COUNCILMAN NUTTER: Are they safe?

23 MANAGING DIRECTOR RICHMAN: I don't
24 have the full report in front of me so I can't

25 give you that. We can certainly get that

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2 information for you.

3 COUNCILMAN NUTTER: Who decides if a
4 school building is safe for school children to
5 attend that building?

6 MANAGING DIRECTOR RICHMAN: It
7 depends on what factor L&I who determine only on
8 those issues that L&I's responsible for. It's
9 not an integrative comprehensive inspection at
10 this point.

11 COUNCILMAN NUTTER: Why is that?

12 MANAGING DIRECTOR RICHMAN: Because
13 the L&I does one part of it, Health would do
14 another part, and there's not one inspection that
15 is done at this point that I would consider
16 integrative.

17 COUNCILMAN NUTTER: Well, who is
18 ultimately responsible for the inspections of the
19 school buildings and any kind of certification or
20 comfort level that we can give to parents and
21 teachers that the building that they're either
22 learning in or doing their job in is a safe
23 building?

24 MANAGING DIRECTOR RICHMAN: I don't
25 think there's any one entity at this point that

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2 does that. And at this point, we're doing public
3 buildings, not private or charter, I believe. So
4 there's not one entity that has overall
5 responsibility. This is why we believe that --

6 COUNCILMAN NUTTER: We don't inspect
7 charter schools

8 MANAGING DIRECTOR RICHMAN: I don't
9 believe we inspect all schools at this point in
10 time. This is why we have no problem with the --

11 COUNCILMAN NUTTER: Shouldn't we?

12 MANAGING DIRECTOR RICHMAN: I don't
13 think a problem with either the spirit or intent.
14 We would just like to see it defined further so
15 that we have an integrative report as opposed to
16 a report by five different departments that were
17 done separately.

18 COUNCILMAN NUTTER: Well, yeah, I
19 think that's the purpose of the bill because
20 ultimately it ends up in the L&I Commissioner's
21 office and the various entities have to make
22 certain certifications and the L&I Commissioner
23 has to sign on whether --

24 MANAGING DIRECTOR RICHMAN: I would
25 suggest that it be done --

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2 COUNCILMAN NUTTER: On whether the
3 building meets substantial compliance with the
4 Code.

5 MANAGING DIRECTOR RICHMAN: My
6 suggestion is that it not end up within L&I, that
7 it end up in a more integrated fashion either
8 through the Managing Director's Office with the
9 signatures of all the involved parties, but not
10 in any one department but in a place that is
11 responsible for integration of all of the those
12 departments.

13 COUNCILMAN NUTTER: Well, I mean --

14 MANAGING DIRECTOR RICHMAN: But those
15 are the --

16 COUNCILMAN NUTTER: Well, that's fine
17 with me. That's --

18 MANAGING DIRECTOR RICHMAN: Those are
19 the kinds of things that --

20 COUNCILMAN NUTTER: (continuing) the
21 Administration's prerogative.

22 MANAGING DIRECTOR RICHMAN:
23 (continuing) where the bill needs to be refined
24 and detail indeed a little different way.

25 COUNCILMAN NUTTER: Let me ask you

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2 this question: Does the bill require any
3 inspections that are not currently being done?

4 MANAGING DIRECTOR RICHMAN: I can't
5 tell you that off the top of my head.

6 COUNCILMAN NUTTER: Why can't the
7 inspection for the special certificate be done at
8 the same time that these -- you've already
9 testified that there are annual inspections that
10 are being done. I don't understand why you have
11 to hire more people. If we have people doing
12 inspections already, why can't they do this
13 inspection?

14 MANAGING DIRECTOR RICHMAN: I'm not
15 sure they're doing every school every year. I
16 know they have explained that to me, but I have
17 not seen it. From my own perspective, I would
18 require that I eyeball all of these to see both
19 their comprehensiveness and their detail before I
20 would agree that they're all doing the same
21 level.

22 COUNCILMAN NUTTER: So your testimony
23 is at present, you are not sure --

24 MANAGING DIRECTOR RICHMAN: Right.

25 COUNCILMAN NUTTER: -- that every

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2 school building in our City --

3 MANAGING DIRECTOR RICHMAN: That's
4 right.

5 COUNCILMAN NUTTER: -- is actually
6 being inspected on an annual basis?

7 MANAGING DIRECTOR RICHMAN: That is
8 correct.

9 COUNCILMAN NUTTER: And why don't you
10 have that comfort level?

11 MANAGING DIRECTOR RICHMAN: I just
12 like to see things for myself.

13 COUNCILMAN NUTTER: I understand
14 that.

15 MANAGING DIRECTOR RICHMAN: If I
16 haven't seen it for myself, then I usually have
17 to see it for myself to believe it.

18 COUNCILMAN NUTTER: Okay, I can
19 appreciate that.

20 COUNCILMAN ORTIZ: She's from
21 Missouri.

22 MANAGING DIRECTOR RICHMAN: Right.

23 COUNCILMAN NUTTER: Show me.

24 On Page 2 of the testimony as I was
25 reading through as you were reading it, you said

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2 that some of the provisions of the ordinance are
3 so broadly drawn that practical enforcement may
4 be difficult and the remedies available to
5 schools who are unable to obtain the special
6 certificate under the proposed legislation. What
7 are the practical enforcement issues?

8 MANAGING DIRECTOR RICHMAN: One of
9 the issues was the term of water quality. And it
10 was the feeling of both the Water Department and
11 the Health Department as they work together that
12 there needed to be something around plumbing
13 materials and that lead comes from plumbing
14 materials and we need to look more deeply than
15 just water quality and that needed to have a
16 different level of definition. They didn't give
17 me all of the information. But something around
18 plumbing components should be lead-free, but it
19 was that level of detail they thought the term
20 water quality was just too broad to get to the
21 detail of the issues. They felt that ultimately
22 needed to be addressed.

23 COUNCILMAN NUTTER: Okay. And on the
24 same Page 2, you talk about you need time to
25 analyze the impact that an annual extensive

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2 inspection will have on the School District's
3 ability to comply.

4 MANAGING DIRECTOR RICHMAN: Right.

5 COUNCILMAN NUTTER: Your perspective
6 is that the bill requires an inspection that is
7 more extensive than is presently being provided?

8 MANAGING DIRECTOR RICHMAN: I believe so. As I
9 said, I believe there need to be a very
10 integrative process. We have not talked to the
11 School District and we need to be able to have a
12 dialogue with the School District on what needs
13 to be done, how it would be handled, where would
14 the responsibility lie for completion, and what
15 ultimately will happen if a school has to be
16 closed.

17 COUNCILMAN NUTTER: Right. Now, what
18 is your testimony with regard to whether we
19 should have a more extensive inspection or a less
20 extensive inspection what's your preference?

21 MANAGING DIRECTOR RICHMAN: Again,
22 the Administration likes the spirit and intent of
23 the legislation and is asking for an opportunity
24 to work with you around some of these issues.

25 COUNCILMAN NUTTER: Okay.

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2 Mr. Chairman, can I have an
3 opportunity to ask Mr. Haigler some questions,
4 please?

5 COUNCILMAN MARIANO: Yes, you can.

6 Mr. Haigler, would you approach the
7 bench, please?

8 (Mr. Haigler comes forward.)

9 MR. HAIGLER: Good afternoon.

10 COUNCILMAN NUTTER: Good afternoon.

11 Can you provide based on you experience, both
12 current and in the past, what's the schedule of
13 inspections for the different school buildings
14 and how often are they done?

15 MR. HAIGLER: Generally, Councilman,
16 we inspect throughout the year all schools. We
17 do have an inspection program that we generally
18 start around November, but we continue that
19 inspection program throughout the year. We also
20 receive complaints periodically on different
21 issues that may come up, and we go back and
22 inspect on those issues as well. We conduct
23 re-inspections on the initial inspections,
24 follow-up inspections. So I would say that the
25 inspection is ongoing.

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2 COUNCILMAN NUTTER: Okay. Is it true
3 that many of the school inspections -- I guess
4 you just said that. You usually start somewhere
5 in the November time period?

6 MR. HAIGLER: Generally for the
7 program inspections, we generally start around
8 November. But again, the inspection is ongoing.

9 COUNCILMAN NUTTER: I understand.
10 There was concern about somehow that
11 the time of the inspections would be compressed
12 to some extent by the provisions in this bill.

13 MR. HAIGLER: Could you explain
14 compressed?

15 COUNCILMAN NUTTER: That the
16 inspection time, I guess, would be shortened. If
17 you're doing year-round inspections, I assume
18 that means you're taking advantage of the full 12
19 months of the year. In this particular
20 provision, what we're basically saying is that
21 the inspection period is November 1 to August.

22 COUNCILMAN ORTIZ: That's correct.

23 COUNCILMAN NUTTER: Which is nine
24 months?

25 MR. HAIGLER: Roughly nine months.

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2 COUNCILMAN NUTTER: In order to allow
3 for then the inspection period to completed and
4 then a reporting period because obviously the
5 department has to compile a certain amount of
6 information. Is it your perspective that that
7 would have a tremendous impact on the
8 Department's ability to inspect the schools?

9 MR. HAIGLER: I believe so. As the
10 Managing Director stated, we currently conduct a
11 certain type of inspection now. Our inspection
12 right now primarily consist of fire safety type
13 inspections because the inspections that are
14 conducted are conducted by our commercial
15 industrial fire unit and their primary concern is
16 issues related to the Fire Prevention Code.
17 That's their primary sole responsibility. What
18 the bill entails would be more comprehensive
19 because it requires additional type of
20 inspections for lead quality as well as water
21 quality. We have not been coordinating our
22 inspections in the past with other departments.
23 We primarily schedule our inspections. There is
24 a scheduling component where we do have to
25 contact the schools in advance to let them know

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2 that we are coming and that we are coming to do
3 the inspections. We just don't show up on a
4 given day to disrupt --
5 COUNCILMAN NUTTER: I understand
6 that. I appreciate that.
7 Now, from your perspective and based
8 on your experience, is it better to have a more
9 extensive inspection or a less extensive
10 inspection?
11 MR. HAIGLER: I don't understand
12 exactly -- extensive to the extent that what we
13 currently conduct, we conduct an extensive
14 inspection under the jurisdiction of L&I.
15 Whether or not you're speaking of other
16 entities --
17 COUNCILMAN NUTTER: Well, I think
18 what we're talking about is a more coordinated
19 and more extensive inspection process at the
20 schools. Is that a good thing or is that a bad
21 thing?
22 MR. HAIGLER: I will defer that to
23 the Managing Director to address that.
24 COUNCILMAN NUTTER: Okay. That was
25 smart.

2 Now, the inspections that we're
3 talking about, are the people who do whatever
4 inspections they do, are they somehow limited
5 either by time, background, experience that they
6 can't do the kinds of inspections that are laid
7 out in the bill simultaneously?

8 MR. HAIGLER: Well, from an L&I
9 perspective, our inspectors are specifically
10 trained to detail to deal with inspections that
11 we cover under the code that we enforce. We're
12 not trained to deal with inspections outside of
13 our purview.

14 COUNCILMAN NUTTER: And those are?

15 MR. HAIGLER: The inspections that we
16 currently conduct are inspections that are
17 covered by the Fire Prevention Code and Property
18 Maintenance Code. That's what we have training
19 to deal with.

20 COUNCILMAN NUTTER: So who covers
21 General safety issues, electrical system, lead
22 paint --

23 MR. HAIGLER: Lead paint would be --

24 COUNCILMAN NUTTER: Hold on for
25 second. You've made reference to and the

2 Managing Director has made reference to the water
3 quality issue. I've, one, talked to the Health
4 Commissioner about that. Two, we tried to cover
5 that but if we didn't cover it completely by
6 making reference to the protocol that's already
7 in place with the Health Department that they
8 worked out with EPA. Certainly, we can make some
9 adjustment there. No one has put forward any
10 language that would rectify that particular
11 problem. That's an issue that was just raised
12 about three weeks ago. So who covers all these
13 other issues?

14 MR. HAIGLER: Lead paint, lead issues
15 are covered by the Health Department on a
16 referral to L&I, but the Health Department would
17 be the primary --

18 COUNCILMAN NUTTER: Is that on a
19 complaint basis or is that on an annual
20 inspection basis?

21 MR. HAIGLER: It would be on a
22 referral basis. I don't know what they do in the
23 way of inspections.

24 COUNCILMAN NUTTER: Define
25 "referral."

3 virtue if you allow me to go back to my seat and
4 obtain my copy of the Property Maintenance Code.
5 I can read that section of the Property
6 Maintenance Code.

7 COUNCILMAN NUTTER: I don't need the
8 textbook definition of it. Do you mean by
9 referral that someone has actually made a
10 complaint?

11 MR. HAIGLER: No, but there's a
12 section in the Property Maintenance Code that
13 specifically deals with lead paint and the
14 responsibilities of the Health Department and
15 their responsibility to L&I would just like to
16 read that section.

17 COUNCILMAN NUTTER: Okay, yeah.
18 Before do you that, the Managing
19 Director expressed a concern. So are all of the
20 buildings inspected every year?

21 MR. HAIGLER: Councilman, I cannot
22 say to a certainty that all buildings are
23 inspected on an annual basis. I know that we do
24 get around --

25 COUNCILMAN NUTTER: Why can't you

3 MR. HAIGLER: I just really can't. I
4 do not have that information with me presently.

5 COUNCILMAN NUTTER: Based on your
6 experience, do you believe that every building is
7 inspected every year?

8 MR. HAIGLER: Based on my experience,
9 I would say with the resources that the
10 Department has, possibly no.

11 COUNCILMAN NUTTER: Really?

12 MR. HAIGLER: The same commercial
13 industrial inspection unit, I might want to point
14 out for the record, that the same commercial
15 industrial inspection unit also inspects oil
16 refineries, day care centers, nursing homes.
17 There are only 20 inspectors in this unit that do
18 all those types of inspection as well as high
19 rise buildings, so...

20 COUNCILMAN NUTTER: Do you do any
21 plumbing inspections?

22 MR. HAIGLER: Do we do any plumbing
23 inspections?

24 COUNCILMAN NUTTER: Mm-hmm.

25 MR. HAIGLER: We currently don't have

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2 any plumbing inspectors in the Department.

3 COUNCILMAN NUTTER: You don't have

4 any plumbing inspectors in the Department?

5 MR. HAIGLER: The Department
6 currently has no plumbing inspectors -- I take
7 that back. We do have one inspector possibly
8 left, but the rest of them have been dismissed
9 from the Department so we have no plumbing
10 inspectors other than the one inspector who we
11 currently still have employed in the Department.

12 COUNCILMAN NUTTER: Oh. Is this
13 because of the -- okay, all right, sorry.

14 COUNCILMAN ORTIZ: Councilman Nutter,
15 if I may?

16 COUNCILMAN NUTTER: What is that, a
17 temporary relocation to another jurisdiction?

18 COUNCILMAN MARIANO: Point of
19 information from Councilman Ortiz.

20 COUNCILMAN NUTTER: Yes.

21 COUNCILMAN ORTIZ: As it relates to
22 the schools, have you been keeping -- because we
23 need to be able to be very much aware of what the
24 reform commission is doing. Are you aware that
25 currently the reform commission as such is facing

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2 out the maintenance workers that we have within
3 the school system?

4 MANAGING DIRECTOR RICHMAN: No. I
5 have not been involved in that and I have not
6 monitored that.

7 COUNCILMAN ORTIZ: But you're not
8 aware of that situation?

9 MANAGING DIRECTOR RICHMAN: No.

10 COUNCILMAN ORTIZ: That they have
11 decided almost that they will be contracting out
12 for asbestos, other issues, and they actually
13 have been given pink slips to a lot of the
14 workers that maintain the buildings that we have.

15 MANAGING DIRECTOR RICHMAN: No, I was
16 not aware of that.

17 COUNCILMAN ORTIZ: All right, thank
18 you.

19 MR. HAIGLER: Councilman, I would
20 just like to read that section for the record
21 that I had referred to earlier related to lead
22 paint.

23 COUNCILMAN MARIANO: Please do,
24 Mr. Haigler, just read it.

25 MR. HAIGLER: It's found in the

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2 Property Maintenance Code, Section PM-305.6
3 titled "Lead Paint," and it states that lead
4 paint as defined by Section 6-403, subsection 1,

5 subsection a. of the Philadelphia Health Code
6 shall not be permitted to remain on interior
7 structures of any dwelling, rooming house,
8 dwelling unit, or rooming unit occupied by
9 children when the Department of Public Health
10 determines that its presence creates a health
11 hazard. Failure by the owner to remove the
12 hazard shall authorize the Department to declare
13 the premises unfit pursuant to Section PM-307.3.

14 And if I could interpret that section
15 for you. The Department of Health makes the
16 determination regarding the hazard of lead paint,
17 but the Department of Licenses and Inspections
18 based on the determination by the Department of
19 Health and the referral from the Department of
20 Health pursues the other enforcement remedies of
21 this section related to declaring the premises to
22 be unfit.

23 Your bill also includes educational
24 use groups in this category, and those use groups
25 would be declared unsafe instead of unfit because

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2 unfit exclusively only applies to residential
3 properties and unsafe applies to any structure.

4 COUNCILMAN ORTIZ: Last a year and a

5 half ago -- actually, more than that. I held
6 extensive hearings on the problem of lead in the
7 water in the school system. And there was very
8 little knowledge about that problem from the
9 City's side and there was very little information
10 that was forthcoming from the Health Department
11 as to what was the problem in terms of water and
12 what the inspections that were being held. And
13 we still at this date and time, we still don't
14 have a full answer as to what the solution has
15 been in terms of that problem and whether all of
16 the schools have been inspected by the City to be
17 able to -- because I know the EPA was involved,
18 but I don't know whether the city has done all of
19 the inspections that are necessary to certify
20 that the water in every school is safe.

21 MANAGING DIRECTOR RICHMAN: The City,
22 the EPA, the Water Department, and the School
23 District have been working together on this one
24 for about the last two years and we can produce
25 for you a full report on the status of what's

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2 been done to remediate those schools where
3 there's been found to be an unacceptable level of
4 lead in the water.

5 COUNCILMAN ORTIZ: I believe that

6 perhaps this bill might be a part of the reaction
7 that we had to the hearings that I held here and
8 that really there were very little answers
9 forthcoming on this problem. And as you say, the
10 report is still to be done and --

11 MANAGING DIRECTOR RICHMAN: No, we
12 haven't been required to give a report, but all
13 of the information is there. All we have to do
14 is compile it.

15 COUNCILMAN ORTIZ: But we still have
16 schools in which water is given to students in
17 bottles because the plumbing is not fully
18 corrected.

19 MANAGING DIRECTOR RICHMAN: Right.
20 Some of it is a plumbing problem and the EPA
21 basically arranged a schedule for how this is to
22 proceed. The City's job was to monitor that
23 arrangement. We do have them on a monitoring
24 format to make sure that they're staying on the
25 schedule that EPA put out. This is a joint

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2 process where the City monitors the agreement
3 reached with EPA.

4 COUNCILMAN ORTIZ: Do you have a list
5 of the schools that are still not in compliance?

6 MANAGING DIRECTOR RICHMAN: Yes. I'm
7 sure that the Health Department has that.
8 COUNCILMAN ORTIZ: Can you please
9 make that available?
10 MANAGING DIRECTOR RICHMAN: Yes.
11 COUNCILMAN ORTIZ: Thank you,
12 Councilman Nutter.
13 COUNCILMAN NUTTER: Thank you.
14 Madam Managing Director, let me just
15 mention, this is actually the second version of
16 this bill and the water quality issue that's been
17 mentioned on a couple of occasions now, I did
18 ask when the concern was raised about terminology
19 and what certain things mean, I did ask a while
20 ago for any proposed amendments or adjustments or
21 clarifying language on that particular point.
22 Just so you have an understanding, I do not have
23 anything at this moment and I'm certainly open to
24 that discussion. But you need to have at least
25 that background information that a request was

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2 made. If somebody's got a better way of
3 explaining this, I'd be glad to hear it.
4 MANAGING DIRECTOR RICHMAN: My
5 understanding, Councilman, is that they did
6 receive that and they are currently working on

7 it. They had not completed it. It was a little
8 bit more complex, my understanding was in talking
9 to folks, and they want to do make sure that they
10 had it right.

11 COUNCILMAN NUTTER: Okay. Well, I
12 can appreciate that.

13 All right. So, what I'm taking out
14 of this is, we cannot say today with certainty
15 that all of the buildings get inspected on an
16 annual basis. We cannot state with certainty,
17 some may just have to do with information
18 available at the moment that all of the buildings
19 are safe. I'd be glad to work with you on these
20 issues. And at the same time, I think the record
21 should at least be made clear, the requirement
22 for this proposed certificate does not go into
23 effect until August 1, 2003. I think that there
24 was some concern -- I can understand a concern,
25 but quite honestly, it is, you know, not

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2 necessarily needed at this point that somehow
3 there is going to be a direct impact on the
4 opening of schools in September. One, Lord
5 knows, there will be already, I'm sure, enough
6 confusion with regard to schools in September.

7 But this is a start of a process, and the only
8 thing that would be required at the moment is the
9 reporting requirement based on information that
10 at least, according to Mr. Haigler, much of it is
11 probably either gathered or in the process of
12 being gathered and it's not required to be put
13 together until later on this year. So, I mean,
14 one, I'm certainly more than pleased to work with
15 you on it; two, I'd certainly like to get
16 something that makes some sense done. But also
17 I think that any of us should certainly feel
18 somewhat compelled to be able to with certainty
19 say that the buildings are being inspected on an
20 annual basis, that it is someone's coordinated
21 job and responsibility to do it, and that we can
22 tell parents and kids and teachers to have a
23 certain comfort about what kind of en condition
24 their buildings are in.

25 Let me ask this question: Is there a

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2 specific reporting requirement about deficiencies
3 at buildings when an inspection is made? Who has
4 a responsibility for corrective action and where
5 can these reports be viewed?

6 MR. HAIGLER: To answer your
7 question, Councilman, the reporting requirements

8 are that we do issue violations notices to the
9 persons when we uncover violations of the Code.
10 We follow the enforcement procedures that are in
11 the Code as far as taking those persons through
12 the enforcement process if they do not comply to
13 violation within the allotted time period for
14 compliance. Any person can obtain a copy of any
15 violation that's written against any building by
16 visiting our Department's Central Clerical Unit.
17 We do provide copies of violations against
18 buildings, structures. If you even have a
19 computer that's linked to the City's information
20 system, you can view just by putting in the
21 address any violations that may have been listed
22 against a particular property. So that
23 information is available out there.

24 COUNCILMAN NUTTER: Are the school
25 personnel at the building level aware of what the

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2 violations are in their building and do they get
3 a copy of the notice?

4 MR. HAIGLER: The notice does go to
5 the responsible party of the school, if that
6 should be the superintendent or the building
7 facilities manager, whoever's listed as the

8 person in charge of taking whatever corrective
9 steps.

10 COUNCILMAN NUTTER: I understand
11 that. I understand that. There are a lot of
12 people who are in charge or responsible. What
13 I'm asking is, I mean, fundamentally, at the
14 building level, the principal is responsible for
15 what goes on at the building.

16 MR. HAIGLER: That's correct.

17 COUNCILMAN NUTTER: My question is, a
18 violation notice is written. It goes wherever
19 it goes, it can go to Mr. McGlinchey, it can go
20 to Jim Doosey, it can go to Mr. Nevels, it can go
21 to the Governor of the Commonwealth of
22 Pennsylvania. All I'm asking is does it go to
23 the principal of the school so that he or she
24 knows what's going on at their school or not
25 going on at their school?

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2 MR. HAIGLER: Yes.

3 MANAGING DIRECTOR RICHMAN: The
4 answer seems to be yes.

5 COUNCILMAN NUTTER: Okay. We at
6 least agree on that today, okay.

7 All right, who's going to work on
8 this in terms of whatever the concerns may be or

9 any proposed amendments or anything?

10 MANAGING DIRECTOR RICHMAN: I will

11 appoint one of the people in my office to oversee

12 the process and bring the relevant people

13 together to put together and to work with you.

14 COUNCILMAN NUTTER: Okay, all right.

15 Well, what I'd like to do is there is one

16 amendment that needs to be made. I would like to

17 move the bill. We're going to work on the bill

18 and we'll make whatever amendments we need to

19 make later on.

20 MANAGING DIRECTOR RICHMAN: I think

21 we know of one amendment now. My concern is

22 there may be others that need to be worked on

23 with this as we go through it.

24 COUNCILMAN NUTTER: You have one now?

25 MANAGING DIRECTOR RICHMAN: No.

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2 That's the problem. Since I don't have any of

3 the reports from the operating departments --

4 COUNCILMAN NUTTER: Right, I

5 understand.

6 MANAGING DIRECTOR RICHMAN: I don't

7 feel comfortable saying that it's okay without

8 having their review.

9 COUNCILMAN NUTTER: Well, I
10 understand that. What I'm saying to you on the
11 record is, you're saying you're going to
12 designate someone to work with us. I'm prepared
13 to work with you. There is one amendment. I'd
14 like to make that amendment, move the bill out,
15 it's going to sit and then we're going to work on
16 it and make whatever amendments we need to make
17 later on. But I would like to keep a certain
18 level of attention to this.

19 Thank you, Mr. Chairman.

20 COUNCILMAN MARIANO: Councilman
21 Clarke.

22 COUNCILMAN CLARKE: Thank you.
23 Thank you, Mr. Chairman.

24 Good afternoon. I have some
25 questions, and I'm not sure that you'll be able

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2 to answer them, but I have some concerns about
3 the implementation -- although I, like you, agree
4 with the spirit and intent of this bill, but
5 given the uncertainty of the Philadelphia School
6 District in particularly any code compliance that
7 is required may fall -- obviously will upon the
8 School Reform Commission, I'm assuming. Are they
9 in the loop at all in this process? Are they

10 familiar with this bill? Have you all had any
11 discussions?

12 And I guess I should ask the bill
13 sponsor also that. I just want -- because
14 ultimately, as is stated here just about every
15 Thursday when there's a speech by the majority,
16 it's quite clear that we don't have a clue as to
17 what it is the SRC is going to do with our
18 Philadelphia School System which is of obvious
19 concern. I'm just not clear as to, first of all,
20 their ability to resolve any of the code
21 compliances or their willingness to resolve any
22 of the code violations, what role they will play
23 in this process.

24 MANAGING DIRECTOR RICHMAN: One of my
25 concerns, Councilman, is we have not had an

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2 opportunity to talk with the School Reform
3 Commission or the State around the implications
4 if there are code violations. That's one of the
5 groups that I would like to engage in any kind of
6 conversation, given that there may be code
7 violations and they do have to be dealt with at
8 the authority of both the School Reform
9 Commission and the State.

10 COUNCILMAN CLARKE: All right.
11 Another issue. With respects to, I guess, the
12 ultimate closure or non-opening of a school is
13 discussed in the terms of, I guess, the L&I
14 Commissioner making that determination, it talks
15 about substantial compliance. Do you have a
16 sense of what that could possibly be?

17 MR. HAIGLER: (Shakes head.)

18 MANAGING DIRECTOR RICHMAN: I would
19 definitely not have a sense of what that would
20 be. And I think those are the kind of details,
21 again, that we would like to both discuss and
22 work out to a level of detail where people know
23 and going in what we're looking for, what is the
24 definition of substantial compliance, what
25 happens, what are the time lines for completion

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2 of any code violation, and at what point is the
3 building considered safe for our children and
4 faculty and staff to be in although there may be
5 substantial compliance without a hundred percent
6 compliance.

7 COUNCILMAN CLARKE: Okay. And under
8 the current form, the L&I Commissioner would make
9 the determination based on his expert analysis?

10 MANAGING DIRECTOR RICHMAN: I'm

11 sorry, I have a four-alarm fire that I'm trying
12 to follow at the same time.

13 COUNCILMAN CLARKE: Oh.

14 MANAGING DIRECTOR RICHMAN: I believe
15 that there needs to be an integrative group as
16 all of these don't fall under the purview of the
17 L&I Commissioner and that there needs to be
18 someone who takes full responsibility of all of
19 the departments that might be involved. And from
20 a quick survey, it looks like the Water
21 Department, L&I, the Health Department, and
22 perhaps the Fire Department.

23 COUNCILMAN CLARKE: Okay. I guess I
24 don't know how I can do this and I guess I have
25 to really address it to the sponsor.

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1 6/4/02 - LICENSES AND INSPECTIONS - BILL 020313

2 Councilman? In the earlier
3 testimony, you've referenced the fact that this
4 bill, the special certificate would not be
5 required until 2003, is that --

6 COUNCILMAN NUTTER: Yes, August 1,
7 2003.

8 COUNCILMAN CLARKE: August 2003?

9 COUNCILMAN NUTTER: Yes.

10 COUNCILMAN CLARKE: And you also

11 indicated that you would like to move the bill
12 today?

13 COUNCILMAN NUTTER: Yes.

14 COUNCILMAN CLARKE: I do have a small
15 concern that there apparently seems to be a
16 substantial number of issues or amendments that
17 need to be addressed and I'm wondering why since
18 the August 2003 date is the date for
19 implementation why we wouldn't simply wait and do
20 the amendments --

21 COUNCILMAN NUTTER: Because there's a
22 reporting requirement later on this summer,
23 Councilman, about any information that the
24 department may have on buildings they've already
25 inspected on August 15th that has no impact on

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1 6/4/02 - LICENSES AND INSPECTIONS - BILL 020313
2 school operations.

3 COUNCILMAN CLARKE: We require an
4 ordinance for that?

5 COUNCILMAN NUTTER: I can't hear you.

6 COUNCILMAN CLARKE: Are you saying we
7 requiring an ordinance to get the information
8 that I'm understanding that if not in place soon
9 will be in place?

10 MANAGING DIRECTOR RICHMAN: Right. I
11 mean, we're willing --

12 COUNCILMAN NUTTER: I didn't hear the
13 question.

14 COUNCILMAN CLARKE: I'm saying are we
15 required to have an ordinance to get this
16 information the from the Administration or the
17 SRC or whomever.

18 COUNCILMAN NUTTER: No. People can
19 agree to give us whatever they want to give us
20 whenever they want to give it to us. I mean, you
21 asked me a question about a timing issue. There
22 is a reporting requirement for this upcoming
23 August 15th, and I do want to keep attention on
24 this particular bill. I'm not going to be
25 irresponsible in seeking to do something with the

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1 6/4/02 - LICENSES AND INSPECTIONS - BILL 020313
2 bill and I'm assuming that we're working in good
3 faith. On the other hand, if we're able to work
4 something out, there's no reason not to move the
5 bill to the next step. But I clearly understand
6 that there is additional work to be done, and if
7 we're able to reach some level of agreement,
8 that's fine. I understand that the Managing
9 Director and a couple of the departments may have
10 some concerns. I would expect they would based
11 on the information put on the record today, but a

12 bill like any other bill.

13 COUNCILMAN CLARKE: And I actually
14 have some concerns and I'm probably a partner in
15 some of the process that has taken place as it
16 relates to reporting bills out of committee. I
17 think that we too often report bills out of
18 committee with work to be done and it finds
19 itself on the final reading. And at the end of
20 the day, the consensus may be reached or may not
21 be reached. It's simply a matter of a person
22 being able to get enough votes to pass the bill.
23 And the spirit of the discussion at the public
24 hearing, it was thought that a consensus would be
25 reached prior to the final passage, but I found

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1 6/4/02 - LICENSES AND INSPECTIONS - BILL 020313
2 that not to be the case on several occasions.
3 And because of the importance of the bill,
4 because I truly believe in what is you're
5 intending to do with this bill, I', just a little
6 concerned about proceeding out of committee --
7 you're sponsor so it's your right to ask to have
8 that done with all these open ended issues. From
9 what I understand, based on this dialogue over
10 the last 45 minutes, there's a substantial amount
11 open-ended issues.

12 COUNCILMAN NUTTER: We may have one

13 difference of opinion about how substantial
14 either the amount of outstanding information is
15 or how substantial some of the issues are, but as
16 I said, Councilman, I'm going to be responsible
17 on this matter and work through those issues. I
18 want to keep attention focused on this. I
19 believe that the Managing Director and all the
20 other agency heads will do that. At the same
21 time, I feel very, very strongly about the issue
22 of safety in the schools both for the children
23 and the people who work there. And I don't think
24 I can in this record completely express the depth
25 and seriousness of my concern about this

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1 6/4/02 - LICENSES AND INSPECTIONS - BILL 020313
2 particular issue. I will do it to the best of my
3 ability, but I do not want to lose focus on this
4 particular issue and I do feel strongly about it
5 and feel compelled to keep the issue in the
6 forefront of the attention and minds of the
7 people who need to pay attention to it, and I'll
8 certainly do my best to exercise good judgment in
9 terms of when the bill is ready to go and when
10 those unanswered questions have been answered in
11 a going-forward basis.

12 COUNCILMAN CLARKE: Councilman, I,

13 like you, think this is a very important issue,
14 feel equally as strong. I'm just simply
15 referencing the fact that there have been a
16 number of questions that were asked by you, in
17 particular, that the individuals testifying
18 couldn't answer. And I actually had some of
19 those same questions. Fortunately, you got to
20 them before I did.

21 COUNCILMAN NUTTER: I understand.
22 That does happens sometimes.

23 COUNCILMAN CLARKE: But I'm just
24 wondering because of the timing issue, and I
25 understand that you said there is a reporting

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1 6/4/02 - LICENSES AND INSPECTIONS - BILL 020313
2 requirement in August and I understand that from
3 the Managing Director that she's fully willing to
4 comply with that requirement separate and aside
5 from this particular bill. I'm just simply
6 wondering why we can't hold it and work our the
7 kinks.

8 COUNCILMAN NUTTER: Councilman, I
9 have to admit to you that, quite honestly, some
10 of the responses or the inability to respond --
11 this is no comment about our Managing Director
12 who knows that I respect her deeply. But the
13 inability to answer some of these questions,

14 quite honestly in the course of the hearing, made
15 me that much more compelled to seek action and to
16 have some movement on this particular bill. I
17 will also share with you that today is the first
18 day that there has been any formal response to
19 any of the issues that have been raised since the
20 initial bill was introduced on May 2 or since the
21 bill in front of us presently, the second bill,
22 was introduced on May 9th. Had these issues been
23 raised at that time or shortly thereafter, we
24 don't introduce bills in secret, we do them on
25 Thursday in an open public session. I would have

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1 6/4/02 - LICENSES AND INSPECTIONS - BILL 020313
2 been working from the afternoon of May 9th or May
3 2nd on these particular issues and maybe we'd
4 actually have answers to all of these questions
5 today.

6 COUNCILMAN MARIANO: Councilman,
7 Councilman Nutter.

8 COUNCILMAN NUTTER: Yes.

9 COUNCILMAN MARIANO: Point of
10 information. This thing started an hour late. I
11 know it wasn't your fault, but you are a rather
12 speaker and you are part to blame for that so you
13 need to be punished for that a little bit.

14 COUNCILMAN NUTTER: I understand.
15 COUNCILMAN MARIANO: How would you
16 feel, considering Councilman Clarke's concern --
17 COUNCILMAN NUTTER: I'm assuming that
18 will be added to my time in purgatory.
19 COUNCILMAN MARIANO: How about if we
20 vote this out of Committee, if that's all right
21 with you if you would promise to hold it on the
22 calendar until you work out with the Managing
23 Director -- I think you put an undue time
24 restraint for August 15th, and that date's not
25 important --

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1 6/4/02 - LICENSES AND INSPECTIONS - BILL 020313
2 COUNCILMAN NUTTER: I think that was
3 pretty much my offer 15 minutes ago.
4 COUNCILMAN MARIANO: Would that be
5 okay?
6 COUNCILMAN NUTTER: Yes.
7 COUNCILMAN MARIANO: What if that
8 doesn't get to that August 14th date, though? Do
9 you think we can do it by then, Managing
10 Director?
11 MANAGING DIRECTOR RICHMAN: We are
12 willing to work with the August 14th date. And
13 Councilman, people have been working on this.
14 Unfortunately, they're working on a lot of other

15 things at the same time and to do a thorough job
16 doesn't mean they should drop everything else
17 they're doing for any one bill.

18 COUNCILMAN NUTTER: Madam Managing
19 Director, I don't expect anybody to drop anything
20 for me. As long as we're all going to respect
21 each other's time. I'm a little busy, too.

22 MANAGING DIRECTOR RICHMAN: Right.
23 But this has gotten attention. People did not
24 ignore it

25 COUNCILMAN NUTTER: All right.

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1 6/4/02 - LICENSES AND INSPECTIONS - BILL 020313

2 MANAGING DIRECTOR RICHMAN: People
3 have been working on it and people are struggling
4 to come up with the right recommendations

5 COUNCILMAN NUTTER: Okay. Everybody
6 comes to work ever day, everybody's busy,
7 everybody's doing whatever it is they're doing.
8 I don't expect any special preferential
9 treatment, I don't expect anybody to drop
10 anything for me, but if you want to come and play
11 and talk about something, then, you know, be
12 prepared.

13 COUNCILMAN MARIANO: So do we have an
14 agreement on that between both sides here?

15 COUNCILMAN NUTTER: Yep.
16 COUNCILMAN MARIANO: Thank you,
17 Councilman, managing Director
18 Any other questions for these
19 witnesses from the Members on the Committee?
20 Seeing none, this concludes the
21 public hearing.

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COUNCIL OF THE CITY OF PHILADELPHIA

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PUBLIC MEETING

4

COMMITTEE ON LICENSES AND INSPECTIONS

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Tuesday, June 4, 2002

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Public Meeting conducted by the
Committee on Licenses and Inspections, held in
9 Room 696, City Hall, Philadelphia, Pennsylvania,
on the above date, to consider action on the
10 following:

BILLS 020310, 020313

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PRESENT:

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COUNCILMAN RICHARD T. MARIANO, Chair

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COUNCILMAN MICHAEL A. NUTTER, Vice Chair

COUNCILMAN DARRELL L. CLARKE

16 COUNCILMAN DAVID COHEN
COUNCILMAN FRANK DICICCO
17 COUNCILWOMAN JOAN KRAJEWSKI
COUNCILMAN ANGEL ORTIZ
18 COUNCILMAN FRANK RIZZO

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1 6/4/02 - LICENCES AND INSPECTIONS - PUBLIC MEETING
2 COUNCILMAN MARIANO: We'll now go
3 into the public meeting.
4 The Chair recognizes Councilman
5 Nutter for the purpose of withdrawing Bill
6 020281.
7 COUNCILMAN NUTTER: Thank you
8 Mr. Chairman. I move that Bill No. 020281 be
9 formally withdrawn from consideration.
10 (Duly seconded.)
11 COUNCILMAN MARIANO: Thank you. It's
12 been duly seconded.
13 All those in favor?
14 (Aye.)
15 COUNCILMAN MARIANO: All right,

16 that's withdrawn.

17 I also recognize Councilman Nutter
18 for a motion regarding Bill 020310.

19 COUNCILMAN NUTTER: Mr. Chairman, I
20 move that Bill No. 020310 be reported out of this
21 committee with a favorable recommendation and a
22 further recommendation that the Rules of Council
23 be suspended so as to permit First Reading at the
24 next session.

25 (Duly seconded.)

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1 6/4/02 - LICENCES AND INSPECTIONS - PUBLIC MEETING

2 COUNCILMAN MARIANO: It was duly
3 noted and seconded.

4 All those in favor, aye.

5 (Aye.)

6 COUNCILMAN MARIANO: The ayes have
7 it.

8 The Chair recognizes the illustrious
9 Councilman Nutter for a motion on Bill No.
10 020313, I believe it's an amendment, Councilman.

11 COUNCILMAN NUTTER: First, Mr.
12 Chairman, I'd like to propose an amendment. If
13 you look -- the easiest way to describe this is
14 on Page 2 under A-703.1. It presently reads
15 "Special occupancy requirement for structures in

16 Use Group E: No structure in Use Group E, the
17 Educational Use Group as defined in subcode B of
18 Title 4," insert "owned or operated by an entity
19 to which the City provides substantial funding,"
20 that's the entirety of the amendment. Mr.
21 Chairman, I move the adoption.
22 (Duly seconded.)
23 COUNCILMAN MARIANO: The amendment
24 has been moved and duly seconded.
25 All those in favor?

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1 6/4/02 - LICENCES AND INSPECTIONS - PUBLIC MEETING
2 (Aye.)
3 COUNCILMAN MARIANO: The ayes have
4 it.
5 The Chair recognizes Councilman
6 Nutter for a motion on the amended Bill 020313.
7 COUNCILMAN NUTTER: Thank you, Mr.
8 Chairman. I move that Bill No. 020313, as
9 amended, be reported out of this committee with a
10 favorable recommendation and further
11 recommendation that Rules of Council be suspended
12 so as to permit First Reading at our next
13 session.
14 (Duly seconded.)
15 COUNCILMAN MARIANO: Duly noted and
16 seconded.

17 All those in favor?
18 (Aye.)
19 COUNCILMAN MARIANO: Nobody opposed.
20 It's unanimous. That's it this concludes the
21 meeting of the Committee on Licenses and
22 Inspections.
23 Thank you very much, ladies and
24 gentlemen.
25 (Committee proceedings end at

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1 6/4/02 - LICENCES AND INSPECTIONS - PUBLIC MEETING
2 4 o'clock p.m.)
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CERTIFICATE

I HEREBY CERTIFY that the foregoing
proceedings of the Council of the City of
Philadelphia's meeting of the Committee on
Licenses and Inspections of Tuesday, June 4,
2002, are contained fully and accurately in the
stenographic notes taken by me, and that this is
a true and correct transcript of same.

_____,
Josephine Cardillo
Registered Professional Reporter
and Notary Public

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20 (The foregoing certification of this
21 transcript does not apply to any reproduction of
22 the same by any means, unless under the direct
23 control and/or supervision of the certifying
24 reporter.)

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