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CITY COUNCIL

CITY OF NEW YORK

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THE TRANSCRIPT OF THE MINUTES

of the  
COMMITTEE ON HOUSING And BUILDINGS

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June 23, 2003  
Start: 10:10 a.m.  
Recess: 5:00 p.m.

City Hall  
Council Chambers  
New York, New York

B E F O R E:

MADELINE PROVENZANO  
Chairperson,

COUNCIL MEMBERS: Joel Rivera  
Diana Reyna  
Tony Avella  
Gale Brewer  
Leroy Comrie  
Lewis Fidler  
Robert Jackson  
Melinda Katz  
Kendall Stewart  
James Oddo

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2 A P P E A R A N C E S

3

COUNCIL MEMBERS:

4

5 Charles Barron

John Liu

6 Philip Reed

Margarita Lopez Dennis Gallagher

7 James Gennaro

Peter Vallone, Jr.

8 Gale Brewer

Albert Vann

9 Miguel Martinez

Public Advocate Betsy Gotbaum

10 Speaker Gifford Miller

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2 A P P E A R A N C E S (CONTINUED)

3

Thomas R. Frieden, M.D., M.P.H.  
Commissioner  
NYC Department of Health and Mental Hygiene

5

Jessica Leighton  
Assistant Commissioner, Environmental Disease  
NYC Department of Health and Mental Hygiene

7

Jerilyn Perine  
Commissioner  
NYC Department of Housing Preservation  
And Development

10

Harold Schultz  
Special Counsel  
NYC Department of Housing Preservation  
And Development

12

Jim Lonergan  
Senior Director, Division of School Facilities  
NYC Department of Education

14

Stanley Michels  
Former City Council Member

16

Preston Niblack  
Deputy Director  
NYC Independent Budget Office

17

William C. Thompson, Jr.  
Comptroller  
City of New York

20

Lee Chong  
Office of Manhattan Borough President  
C. Virginia Fields

21

Andrew Cuomo  
Former Secretary  
Housing And Urban Development

24

25

- 1
- 2 A P P E A R A N C E S (CONTINUED)
- 3 Gilbert Ross, M.D.  
Medical Director
- 4 American Council on Science and Health
- 5 Ronay Menschel  
Phipps Houses
- 6  
Carol Lamberg
- 7 Executive Director  
Settlement Housing Fund
- 8  
Dr. John F. Rosen
- 9 Professor of Pediatrics  
Head, Division of Environmental Sciences
- 10 The Children's Hospital at Montefiore  
The Albert Einstein College of Medicine
- 11  
Dr. Dennis McBride
- 12 Health Director of Milford, Connecticut
- 13 Yvonne Henry
- 14 Leslie Powell
- 15 Blanca Quito
- 16 MarySol Rodriguez  
Partnership for New York City
- 17  
Marolyn Davenport
- 18 Real Estate Board of New York
- 19 Dan Margulies  
Community Housing Improvement Program
- 20  
Hazel Dukes
- 21 NAACP
- 22 Charles E. Gilbert, Ph.D  
Vice President
- 23 Director of Environmental and  
Occupational Health Services
- 24 Enviroscience Consultants, Ronkonkoma, New York
- 25 John Keenan  
Local 78, Laborers

1 COMMITTEE ON HOUSING AND BUILDINGS

2                   CHAIRPERSON PROVENZANO: Good morning,  
3 again. My name is Madeline Provenzano, and I chair  
4 the Committee on Housing and Buildings. I want to  
5 thank the members of the public and my colleagues  
6 for being present at today's proceeding.

7                   Today we will conduct a first hearing  
8 on Proposed Intro. No. 101-A, in relation to  
9 Childhood Lead Poisoning Prevention.

10                   We are expecting that this hearing  
11 will draw an extremely large crowd of potential  
12 witnesses and observers. The large number of  
13 witnesses presents significant time constraints. In  
14 order to move things along, all witnesses have been  
15 asked to be concise, as brief as possible and focus  
16 on the bill.

17                   We have also asked that only one  
18 spokesperson testify from each group or  
19 organization.

20                   This could be a very emotional  
21 hearing, but I hope we can conduct it in a dignified  
22 manner. You may not agree with all of the comments  
23 made, but please allow everyone to testify without  
24 comments, boos or heckling.

25                   I would hope you grant the same

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2 courtesy to others that you would expect to be given  
3 to yourself.

4                   The Committee expects to hear from  
5 the Commissioner of Housing Preservation and  
6 Development, the Commissioner of Health and Mental  
7 Hygiene, elected officials, representatives of the  
8 medical profession, representatives of the real  
9 estate industry, representatives of tenant  
10 organizations, and other interested people.

11                   I expect many points of view and  
12 information will be presented today.

13                   I will defer from making any  
14 comments, whether pro or con, as the merits of this  
15 proposed bill.

16                   The current law that was passed, also  
17 the current law that was passed in 1999, namely  
18 Local Law 38, or with regard to the current  
19 litigation which is still pending.

20                   If you wish to speak, remember that  
21 you must sign in with the Sergeant-At-Arms. And, of  
22 course, we will only be hearing testimony on  
23 proposed Intro. No. 101-A.

24                   I will introduce my colleagues.  
25 Starting on my left, Councilman Tony Avella;

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2 Councilman Gallagher; Councilwoman Quinn.

3 Over to my right, Councilwoman  
4 Margarita Lopez; Council Member Barron; Council  
5 Member Perkins; Council Member Robert Jackson;  
6 Council Member Jim Gennaro; and we're also honored  
7 by the presence of our Speaker, Gifford Miller, who  
8 will say a few words.

9 SPEAKER MILLER: I just want to  
10 welcome everyone here to the City Council, thank the  
11 Chair for scheduling this hearing, and say that this  
12 is obviously an incredibly important issue to  
13 thousands of children and tens of thousands of  
14 families in this City.

15 Any level of lead poisoning of  
16 children in this City is an unacceptable level of  
17 lead poisoning. The only focus of this hearing and  
18 this bill and any other bill should be to try to  
19 make sure that every child is as protected as  
20 possible, and that the fewest, that any level of  
21 lead poisoning is reduced, and whatever measure this  
22 Council could take in order to address those issues  
23 we will take, but the focus must and should be on  
24 the children, and that's where I hope today will  
25 remain, and I look forward to hearing testimony and

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2 staying for as much as I can stay, but certainly  
3 looking forward to a very vigorous and healthy  
4 process in which advocates on all sides of this  
5 issue are given a fair hearing in which people  
6 really go to the substance of what the issues are  
7 that are affecting communities, particularly  
8 communities of color in this City, and that we work  
9 with the Administration and advocates on all sides  
10 in the end to ensure that everything that can be  
11 done to protect children from the terrible effects  
12 of lead poisoning is being done.

13 Thank you.

14 CHAIRPERSON PROVENZANO: The sponsor  
15 of the bill, Council Member Perkins, would like to  
16 make a few brief remarks.

17 COUNCIL MEMBER PERKINS: Thank you  
18 very much, Madam Chair.

19 Let me just first make a quick  
20 announcement for those who are Spanish speaking and  
21 need the assistance of an interpretation, there is  
22 an interpreter that will be on the balcony and we  
23 would recommend that those who would need that  
24 service go to the balcony so that they can get the  
25 hearing translated into Spanish.



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2                   Let me first express my deep  
3 gratitude to the victims, to the children who have  
4 been poisoned and their families who have suffered  
5 the indignity of this lead poisoning and have  
6 persevered, have allowed their pain to be turned  
7 into a movement to correct the indignity of them  
8 suffering, and of others suffering as well. It is  
9 because of them that we have finally arrived at a  
10 point in this institution when we can look at this  
11 problem and fix it.

12                   I want to share with you a brief  
13 story of a constituent of mine by the name of Leslie  
14 Powell whose child is lead poisoned and who recently  
15 had the occasion of meeting with our Speaker, and  
16 with her child, to obviously advocate for this bill,  
17 Intro. 101-A. And in that meeting she shared with  
18 the Speaker the trials and tribulations of her child  
19 and dared the Speaker to allow his children, the  
20 same age as her children, to stay in her home, to  
21 understand the problem that her children and she  
22 were going through.

23                   She wanted to personalize it. She  
24 wanted to make the point from a very personal point  
25 of view, and quite to his credit, this Speaker

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2 understood that point, and obviously did not think  
3 it was appropriate for his children to share her  
4 home for that month that she offered.

5                   And, so, what I'm asking today of the  
6 Commissioners of Health and the Commissioners of HPD  
7 and my colleagues and all others, is to personalize  
8 this.

9                   If it's not good enough for your  
10 children, if it's not good enough for your cousins  
11 or your brothers or any other family members, then  
12 it's not good enough for anybody else's children.  
13 And to suggest otherwise, in terms of Local Law 38  
14 working, is an insult to yourself and is an insult  
15 to your children and is an insult to this  
16 institution and to this great City.

17                   The Independent Budget Office has  
18 already informed us that from a fiscal point of view  
19 this is doable.

20                   And we know that in these times of  
21 fiscal crisis and limited resources, that we have to  
22 make touch decisions. But it's also a time when we,  
23 in making those decisions, have to provide  
24 leadership, a leadership that in many respects will  
25 define our legacy as an institution and as a City.

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2                   This is legacy time. This is a time  
3 when this institution and this leadership has to  
4 step up to the plate and fix the problem that is  
5 fixable.

6                   It is clear that those who live in  
7 silk stocking districts do not suffer this problem.  
8 It is clear that 95 percent of those that suffer  
9 this problem are children of color, black, Latino  
10 and Asian.

11                   It is in effect a systemic racist  
12 policy that we are allowing to infect these  
13 children. It is those of us who are at the helm of  
14 government in the Council and in the Administration,  
15 whether it is in one of these agencies or not, that  
16 are responsible for this systemic racism, if we do  
17 not do something to change it. It is absolutely our  
18 responsibility.

19                   And if these children were of any  
20 other neighborhood, any other class, I do not  
21 believe that this problem would continue as it has  
22 been, and I do not believe that we would be here  
23 today.

24                   I would like to say that I am  
25 grateful for the fact that we are finally having a

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2 hearing, but I'm not grateful, I do not think that  
3 it is a moment of gratitude for us in this  
4 institution to finally be having a hearing on this  
5 particular piece of legislation that has been  
6 bottled up for almost a year now, over a year now.

7                   And I do not think for it is a time  
8 for us to be pleased. It is a time for us to be  
9 expeditious. It is a time for us to make a  
10 difference for these children who are being infected  
11 20 to 30 a day.

12                   Thank you very much.

13                   CHAIRPERSON PROVENZANO: Thank you.

14                   We will now call on Jerilyn Perine,  
15 Commissioner of the Department of Housing  
16 Preservation and Development.

17                   You're going to go first. Okay, we're  
18 going to call on Dr. Frieden, Commissioner on Health  
19 and Mental Hygiene.

20                   COMMISSIONER FRIEDEN: Good morning.

21 I'm Dr. Thomas Frieden, Commissioner of Health and  
22 Mental Hygiene for New York City.

23                   Good morning, Chairperson Provenzano,  
24 Speaker Miller, Deputy Majority Leader Perkins,  
25 Health Committee Chairperson Quinn and other members

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2 of the City Council, as well as the public.

3                   Chairwoman Provenzano, if you'll  
4 agree, I'll ask that my testimony be read into the  
5 record and then I can speak more fluidly and save a  
6 little bit of time as well.

7                   She agrees. Thank you.

8                   I also have a powerpoint presentation  
9 that I'll just kind of take you through. You all  
10 have copies of it. It will be here as well.

11                   What I would like to do is make sure  
12 that we all are in the same place in understanding  
13 where we are. We may not be in the same place in  
14 understanding where we should be going, but at least  
15 we should understand together where we are, and I  
16 think I have actually quite a bit of agreement on  
17 where we are, and also quite a bit of things that we  
18 need to clarify.

19                   There are major environmental health  
20 challenges for the children of New York City which  
21 persist to this day, and I've listed three of them  
22 here. Obesity and physical activity, according to  
23 the American Diabetes Association may affect at  
24 current trends one out of three children born in the  
25 Year 2000. That's diabetes.

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2                   Asthma affects approximately 300,000  
3 children also disproportionately in these same  
4 neighborhoods in New York City.

5                   Lead poisoning still affects  
6 thousands of children, and this is unacceptable.

7                   I refer to lead poisoning prevention  
8 as an unfinished success story, because we shouldn't  
9 forget that we have had major success.

10                  Thirty years ago there were 2,649  
11 children with lead levels over 60 micrograms per  
12 deciliter. Last year there were eight. This also has  
13 major implications for how we attack the remaining  
14 problems of lead poisoning.

15                  The reasons for the reductions in  
16 lead poisoning are varied. They involve prohibition  
17 on the use of lead in residential paint, gasoline,  
18 canned goods, improvement in renovation repair and  
19 window replacement, education and outreach and early  
20 identification through screening.

21                  Sources of lead include paint,  
22 gasoline, also less commonly but not insignificantly  
23 particularly in some immigrant populations,  
24 lead-glazed pottery, traditional medicines, cultural  
25 practices, and some adult hobbies or occupations.

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2                   There's been some misunderstandings  
3 and some misquotations that I would like to put to  
4 rest right now.

5                   The Health Department follows CDC  
6 recommendations exactly, in terms of the definition  
7 of an elevated blood level, and the definition of  
8 the level at which we take action.

9                   If CDC recommendations change, we  
10 would, of course, consider changing our policies,  
11 but there have been allegations that we don't follow  
12 national guidelines, those are absolutely incorrect.

13                   Both the Centers for Disease Control  
14 and the Health Department define an elevated blood  
15 lead level as ten micrograms per deciliter or  
16 greater.

17                   Both the Health Department and CDC  
18 define an action level and various different types  
19 of actions. So at blood levels from ten to 19, we  
20 undertake the following:

21                   - we send letters to families and  
22 their doctors to encourage follow-up testing;

23                   - we provide lead poisoning  
24 prevention information;

25                   - we provide information and

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2 encouragement on contacting HPD for an inspection if  
3 there is peeling paint in the household.

4                   The next level of concern is what is  
5 called the Environmental Intervention Blood Lead  
6 Level, and that is a level with two measurements of  
7 15 to 19 or one measurement of 20 or more.

8                   We conduct an environmental  
9 investigation and assessment, we do family  
10 education, we do case coordination, we do  
11 enforcement of environmental orders and we  
12 coordinate the care with the doctor of that child.

13                   Lead poisoning prevention efforts  
14 must be based on the data. We collect virtually  
15 every lead level performed in New York City in a  
16 computerized registry that tracks all of the  
17 children. That's more than 400,000 lead level tests  
18 per year. We use the data to characterize the  
19 problems to set the goals to design solutions and to  
20 evaluate our efforts, what's working and what needs  
21 to be working better.

22                   I think we need to be clear about  
23 both sides of the equation. We need to be clear  
24 about the success there has been so far. We also  
25 need to be clear about how much farther we have to



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2 go. In emphasizing one in no way under-emphasizes  
3 the other.

4                   What you can see in this slide is the  
5 number of lead poisoned children has decreased by 79  
6 percent over the past seven years. That is an 18  
7 percent annual reduction in lead poisoning.

8                   There are very few diseases that have  
9 had as rapid or sustained a reduction as this.  
10 That's not to say we don't have much farther to go.  
11 We do and I want to outline some of the things that  
12 we need to do to get there.

13                   The majority of the children with  
14 high levels of lead are under six, and also, these  
15 are the children who are most susceptible to the  
16 damaging effects of lead.

17                   In the Year 2002, 51 percent of  
18 children who were newly identified with levels above  
19 the environmental level were under three and 83  
20 percent were less than six years of age.

21                   Lead poisoning is concentrated in  
22 poor neighborhoods throughout New York City.

23                   You can see the Borough presentation  
24 here, and I think relevantly, in fact, if you divide  
25 New York City into 42 neighborhoods by zip code,

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2 five of those 42 neighborhoods accounted for more  
3 than a third of the cases requiring environmental  
4 intervention. And if you look at these neighborhoods  
5 here, the so-called "lead belt," you know that  
6 Central Brooklyn, in particular, as well as parts of  
7 Queens, parts of the Bronx and elsewhere, suffer  
8 disproportionately, and all of our efforts need to  
9 be focused and targeted on reversing the problem,  
10 and preventing the problem where it currently exists  
11 disproportionately.

12                   Not only is there disproportion in  
13 terms of community, there is disproportion in terms  
14 of race and ethnicity. This is the breakdown of lead  
15 poisoned children in New York City, 37 percent  
16 Latino, 36 percent African-American, 18 percent  
17 Asian.

18                   In addition, it's worth noting,  
19 because it's important in our prevention activities,  
20 that one out of four lead poisoned children were  
21 born out of the United States. That's not to say  
22 that they're lead poisoning necessarily occurred out  
23 of the United States, but it is to say that there  
24 are sources besides those in our communities.

25                   I've worked internationally. I've

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2 worked in Mexico, in Bangladesh, in places where  
3 children are coming from and lead is ubiquitous in  
4 the environment - battery shops, small industry,  
5 there are very high lead levels. What this means is  
6 as with other conditions there will be an  
7 irreducible number of cases among immigrants who are  
8 coming in who are lead poisoned. This is not in any  
9 way to say we should do less, I'm just trying to say  
10 that we should understand where we stand so that we  
11 can make the appropriate outreach and intervention  
12 with each community differently, because there will  
13 be different interventions for communities of  
14 different types.

15                   However, most of the lead poisoning  
16 continues to come from lead paint. That is the most  
17 common source of poisoning. In two-thirds of cases  
18 where there's a lead poisoned child, we find an  
19 identified lead paint hazard in the household.

20                   There are other sources which we  
21 find, sometimes these include pottery, traditional  
22 medicines and occupations.

23                   Screening is a priority. It's a  
24 priority because, remember 1970 we had thousands of  
25 children with levels over six, and at those levels a

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2 doctor, a parent will find symptoms, will find  
3 things that are not normal in the way the child is  
4 appearing or behaving or developing. That is no  
5 longer the case, and I think it's important to  
6 understand that although we recognize that there are  
7 serious consequences of lead poisoning, they're not  
8 consequences that can be determined by clinical  
9 examination.

10                   And, so, it's essential that there be  
11 testing so that we can identify children with high  
12 levels of lead.

13                   New York State law, and it is the  
14 State that regulates the practice of medicine in New  
15 York City, requires that children are tested at one  
16 and two years, and high-risk children up to the age  
17 of six.

18                   Again, a good news/bad news story;  
19 the good news is that 86 percent of children under  
20 three were tested at least once; the bad news is  
21 that only 31 percent were tested at both their first  
22 and second birthdays. And what we need to do in  
23 terms of testing really is to focus on those  
24 high-risk communities and make sure we get to as  
25 close to 100 percent testing for kids at one and two

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2 years, in the risk communities as we can. Testing  
3 again isn't going to solve the problem, what we have  
4 to do is make sure that we're abating and preventing  
5 lead hazards in those areas.

6                   We do extensive outreach to physician  
7 through publications, presentations, consultations.  
8 We also match our data with Medicaid Managed Care  
9 and early intervention to make sure the high-risk  
10 kids are getting tested.

11                   The challenge is to prevent lead  
12 poisoning before it occurs, through safely  
13 mitigating lead hazard paints or safety reducing  
14 those hazards.

15                   Also through outreach, education and  
16 training, the landlords, tenants, doctors,  
17 contractors and community education.

18                   Our efforts to reduce lead paint  
19 hazards include investigating the hazards in homes  
20 of lead poisoned children, and in those buildings  
21 and areas taking the geographic focus. If we know  
22 that an apartment is a problem, one building is a  
23 problem, we'll be more intensive in that area.

24                   Ordering the abatement of lead paint  
25 hazards in these homes, providing information to

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2 contractors, because safe work practices are  
3 extremely important, not only to protect the  
4 contractor but also to protect the household. You  
5 can make things worse, if you don't work safely. And  
6 dust wipe test training.

7                   Our efforts also include monitoring  
8 safe work practices, responding to complaints about  
9 unsafe disturbance of lead paint, responding to  
10 peeling paint complaints in one- and two-family  
11 homes and ordering abatement, educating families and  
12 community organizations.

13                   We provide parent education classes,  
14 we collaborate with schools, day cares, which are  
15 regulated under the Health Code, as well as state  
16 statutes, WIC and Healthy Start Programs. We sponsor  
17 media messages on ways to protect children from lead  
18 poisoning. We coordinate referrals of lead poisoned  
19 children to lead-safe houses, we provide in-service  
20 training to day care providers through a Train the  
21 Trainer Program.

22                   We also provide a pamphlet, which I  
23 think you have a copy of, on Local Law 38. We  
24 follow-up with children in dwellings of Local Law 38  
25 violations. We participate in a HUD-funded primary

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2 prevention lead hazard reduction project.

3                   Local Law 38 is a primary prevention  
4 law, it requires landlords of pre-1960 multiple  
5 dwellings, to send the letter annually to tenants,  
6 to identify children less than six years of age, to  
7 inspect these units and to safely remediate lead  
8 hazards.

9                   Under Local Law 38, Commissioner  
10 Perine will discuss this in more detail. HPD  
11 inspects and orders landlords to remediate. The  
12 Health Department sends letters to families with  
13 Local Law 38 identified hazards to recommend blood  
14 lead testing.

15                   Making any law work, whether it's  
16 Local Law 38 or anything else, requires targeted  
17 education, targeted enforcement and creative  
18 programs.

19                   There are joint HPD and Health  
20 Department education and enforcement efforts in  
21 high-risk buildings, with hardware stores and with  
22 radio campaigns to get people to know that their  
23 rights are. They have the right to have their  
24 apartment lead-safe at no cost to them. And this is  
25 something that we want people to understand and to

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2 take advantage of.

3                   A lot of making the law work means  
4 getting landlords to adhere to the law. As with any  
5 law, it takes time to build the infrastructure,  
6 support, understanding and ensure compliance. In the  
7 three years, since the implementation of Local Law  
8 38, there has been improved enhancement, improved  
9 enforcement in high risk communities.

10                   We've identified about a thousand  
11 buildings that have housed lead-poisoned children.  
12 HPD has ordered landlords to submit records,  
13 documenting that they are complying with the law.

14                   We will be beginning campaigns in  
15 hardware stores, beginning with Home Depot, to  
16 promote safe work practices.

17                   I can't emphasize strongly enough the  
18 way to continue our rapid progress in controlling  
19 lead poisoning is to focus our effort and attention  
20 on communities that still have high levels of lead  
21 poisoning. This is the only way we will continue to  
22 make rapid progress.

23                   Efforts that divert the focus away  
24 from these high-risk communities, these inner-city  
25 areas of Brooklyn, Bronx, elsewhere, however well



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2 intentioned, carries a serious risk of delaying, not  
3 accelerating progress in communities where most  
4 progress is needed.

5                   The hearing today is about Intro.  
6 101-A. Intro. 101-A has been proposed as a solution  
7 to end childhood lead poisoning, unfortunately,  
8 however good the goals, which are our goals as well,  
9 Intro. 101-A is not the answer.

10                   Intro. 101-A is vague, it's hard to  
11 interpret and it would divert resources away from  
12 the communities of greatest need.

13                   We do not agree with the budget  
14 estimate mentioned earlier. We think the cost for  
15 the Health Department under the best assumptions  
16 that we could make would be tens of millions of  
17 dollars. Most of these, or many of these expended in  
18 communities other than those at highest risk.

19                   Intro. 101-A is not consistent with  
20 federal guidelines. It defines lead paint as an XRF,  
21 for x-ray florescence level of 0.7. These are  
22 machines that are calibrated and validated at 1.0.  
23 The federal guidelines are 1.0. Sounds like a small  
24 difference, but it's not. It means that borderline  
25 results would need to be verified by breaking paint,

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2 and analyzing paint chips, this will increase the  
3 number of legal challenges, it will delay the  
4 abatement of much of the housing stock, and it will  
5 increase the litigation risk to the City, since we  
6 basically would be trying to enforce a standard that  
7 is not a national standard, and is not what's  
8 approved for the testing equipment.

9                   It would mandate environmental  
10 investigation at blood lead levels of 15 or greater.  
11 Currently the CDC is two levels of 15 or more.

12                   It's not clear why this change is  
13 being made. It's not consistent with the federal  
14 change.

15                   Intro. 101-A, and this is really my  
16 biggest concern, is not targeted to those at  
17 greatest need.

18                   It would, for example, divert  
19 resources by looking at children up to the age of  
20 seven. I don't know why this is there. The vast  
21 majority of lead poisoned children, and the greatest  
22 risk for lead poison is under the age of three.

23                   The issue of lead dust is a  
24 complicated one, and I want to address it for a  
25 moment. Dust is the most important predictor of

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2 blood lead levels, and conducting dust tests in  
3 areas where painted services are intact, and lead  
4 poisoning risk and levels are low would divert  
5 resources to low-risk communities and high-risk  
6 communities.

7                   Dust doesn't arise from thin air. It  
8 comes from peeling paint, from friction surfaces and  
9 from residual lead in the environment. These are the  
10 sources, and this is where we have to focus.

11                   It's most important that the painted  
12 source causing dust be identified, remediated and  
13 properly cleaned.

14                   Dust testing following such  
15 remediation referred to as dust clearance testing  
16 can provide information on whether the clearing was  
17 adequate, cleaning was adequate. Such dust testing  
18 is most important, especially where lead risks are  
19 most likely, such as under windows and doors.

20                   Intro. 101 duplicates other laws. It  
21 also requires us to make recommendations if lead  
22 levels or lead testing rates do not meet targets  
23 which are defined in the bill.

24                   The state law already mandates  
25 testing of one and two year olds, and because lead

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2 is mostly a problem, in high-risk neighborhoods, the  
3 focus should be on increasing screening rates in  
4 these neighborhoods, through intensified outreach  
5 and education, and really, amendments to the law  
6 aren't going to change the behavior of physicians. I  
7 wish it were possible to change physician behavior  
8 that easily.

9                   The prevention of lead poisoning in  
10 day care and schools is already addressed in the New  
11 York City Health Code.

12                   DOH and HDP are intensifying efforts  
13 to prevent lead poisoning in high-risk  
14 neighborhoods. This is the most effective way to  
15 address the continuing challenge of lead poisoning.

16                   We look forward to working together  
17 toward the goal of eliminating childhood lead  
18 poisoning in New York City.

19                   Thank you very much.

20                   CHAIRPERSON PROVENZANO: I would just  
21 like to introduce some of the other Council Members  
22 that we've been joined by. Council Member Peter  
23 Vallone; Council Member John Liu; and Public  
24 Advocate Betsy Gotbaum.

25                   What we will do is we will let the

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2 three Commissioners that are there testify, and then  
3 we will go to questions, and we have also been  
4 joined by Melinda Katz, and Council Member Reed.

5 Commissioner Perine. Thank you.

6 COMMISSIONER PERINE: Good morning,  
7 Speaker Miller, and Chairperson Provenzano, all the  
8 members of the Housing and Buildings Committee and  
9 everybody interested in this issue today.

10 My name is Jerilyn Perine, and I'm  
11 the Commissioner of the Department of Housing,  
12 Preservation and Development.

13 With me also is, he was on my right,  
14 he's now sitting over here, is Harold Schultz, who  
15 is our Special Counsel.

16 We appreciate the opportunity to  
17 testify today regarding the issue of lead poisoning  
18 prevention, as well as Local Law 38, which has been  
19 in effect since November of 1999, and proposed new  
20 legislation, Intro. 101-A.

21 I'd like to begin with a brief  
22 summary of our efforts to reduce and prevent lead  
23 poisoning as it currently exists in New York City.

24 It's important to understand how we  
25 reduce lead hazards now, if we are to understand the

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2 implications of the proposed legislation, and  
3 whether it is necessary or desirable to change the  
4 existing law which has contributed to the dramatic  
5 reduction in lead hazards.

6                   New York City has one of the most  
7 aggressive programs of primary prevention in the  
8 United States. New York City was among the first to  
9 ban lead paint in 1960.

10                   Our Lead Hazard Reduction Law  
11 preceded federal government's Title 10 rules. We  
12 have spent \$43 million to enforce Local Law 38 in  
13 its first two fiscal years of operation. And we  
14 spend more money than other municipalities on direct  
15 work to reduce lead hazards.

16                   Unlike any other City in the United  
17 States, if you have a child under six and have a  
18 lead hazard in your apartment, such as peeling paint  
19 or cracked and falling plaster, all you need to do  
20 is dial the City's Citizen Service Center at 311 and  
21 an inspector will come to inspect your apartment.

22                   If the owner fails to correct the  
23 lead hazard, the City will send a repair crew to fix  
24 it. We're virtually alone in sending contractors to  
25 repair lead hazards in privately-owned apartments

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2 where there are lead hazards.

3                   Local Law 38 does not require that a  
4 child be lead poisoned in order for this repair work  
5 to take place.

6                   And let me reiterate, we are acting  
7 to correct lead hazards prior to a child becoming  
8 lead poisoned.

9                   Two other trends have also been  
10 instrumental in preventing lead hazards.

11                   One is the City-sponsored  
12 rehabilitation of 175,000 apartments since 1987,  
13 most located in high-risk neighborhoods.

14                   The other is the continuing  
15 improvement in the condition of the overall housing  
16 stock Citywide. The US Bureau of the Census measures  
17 what is called the "dilapidation rate" and found  
18 that only .5 percent of the housing units in New  
19 York City are in dilapidated condition, the lowest  
20 at any point in the 32-year span that have been  
21 measuring that number.

22                   Local Law 38 is designed to correct  
23 hazardous lead conditions in multiple dwellings  
24 which in turn will prevent lead poisoning in New  
25 York City's children.

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2                   Local Law 38 is triggered by three  
3 things: First, it applies to all apartments in  
4 multiple dwellings where a child under six resides.  
5 The child does not need to have an elevated blood  
6 lead level to trigger Local Law 38. And the parents  
7 need not know their child's blood lead level, even  
8 though, of course, New York State Law mandates that  
9 doctors test children's elevated blood lead levels  
10 at both one and two years of age.

11                   The threshold is simply that a child  
12 under six lives in the apartment.

13                   Second, there must be peeling paint  
14 or deteriorated subsurfaces.

15                   Third, any pre-1960 apartment that  
16 becomes vacant is subject to Local Law 38 work.

17                   Under the law, owners of multiple  
18 dwellings must correct lead hazards in apartments  
19 where children under the age of six reside and in  
20 all pre-1960 apartments that become vacant before  
21 they are rerented.

22                   There is also a presumption in Local  
23 Law 38 that paint in apartments is lead-based if the  
24 building was built prior to 1960 and a child resides  
25 in the apartment.



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2                   The reason for the 1960 threshold is  
3 obviously because that's the year that lead paint  
4 was banned. But, obviously, Local Law 38 requires  
5 that any lead hazard be corrected in any apartment  
6 regardless of when the building was built.

7                   The law is designed to prevent  
8 children from becoming lead poisoned. Primary  
9 Prevention, a program to identify and correct  
10 potential lead hazards before a child becomes lead  
11 poisoned, is probably the most extensive of any  
12 local jurisdiction in the United States. The law  
13 requires owners of pre-1960 buildings to notify  
14 tenants of their rights under the law, and obligates  
15 an owner to inspect for and correct lead hazards.

16                   Furthermore, HPD will respond to any  
17 lead hazard complaint received through the 311  
18 Citywide Citizen Service Center.

19                   The law requires owners of pre-1960  
20 builds to, first, comply with annual notification to  
21 all tenants, and to follow up with inspections where  
22 tenants indicate that a child under six resides in  
23 the apartment and that peeling paint or  
24 deterioriated subsurfaces exist.

25                   And, second, in addition to the

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2 annual notification process, to correct the  
3 condition whenever a tenant notifies an owner of  
4 lead hazards and the presence of a child under six.

5                   And, third, whenever apartments in  
6 pre-1960 buildings become vacant, take preventive  
7 lead safety steps, such as fixing peeling paint, and  
8 addressing friction surfaces.

9                   The law requires property owners of  
10 multiple dwellings built at any time to correct the  
11 condition whenever a tenant complains to the City  
12 and HPD places a lead hazard violation.

13                   In all cases, when the owner  
14 undertakes work to correct lead hazards, the owner  
15 must comply with performance standards and safe work  
16 practices set forth in the law.

17                   We testified before this Committee at  
18 length in November of 2002, to quantify our  
19 enforcement work under Local Law 38, and we submit  
20 an annual report on the subject to the Council, so I  
21 will not recount that information now.

22                   In brief, from Fiscal Year 2001,  
23 until April 2003, under Local Law 38, where owners  
24 failed to remediate lead hazard violations, HPD  
25 stepped in to do the work, spending over \$12 million

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2 to correct 9,790 lead-hazard violations.

3                   As the map provided to the Council  
4 before, most of the lead hazard correction work that  
5 HPD has done has been in the high-risk areas of the  
6 City.

7                   An easily accessible complaint-driven  
8 system has been successful in targeting public  
9 resources in these high-risk areas.

10                   There are three way that lead hazards  
11 come to HPD's attention:

12                   First, when tenants call the City's  
13 311 Citizen Service Center.

14                   Second, when our inspectors are in an  
15 apartment responding to a complaint for an unrelated  
16 condition, and see the lead hazard and evidence that  
17 a small child lives in the apartment.

18                   And, third, when the City's  
19 Department of Health and Mental Hygiene makes a  
20 direct referral to us.

21                   I will discuss each. The City's 311  
22 Citizen Service Center operates 24 hours a day,  
23 seven days a week, and offers services in 170  
24 languages.

25                   Before calling 311, the tenants need

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2 not know if their building has been built before  
3 1960, nor do they need to know their child's blood  
4 lead level, nor even suspect that their child is  
5 suffering from lead poisoning. All they need to know  
6 is that they have a child under six living in their  
7 apartment and they see some peeling paint or  
8 deteriorated subsurfaces that worry them.

9                   In addition, when they call 311,  
10 there are 17 other types of complaints from tenants,  
11 other than lead hazards themselves, that will raise  
12 a red flag for the 311 operator.

13                   When a condition such as broken  
14 plaster is reported, the 311 operator will ask  
15 follow-up questions regarding whether the family has  
16 a child under the age of six.

17                   This is done in order for us to  
18 determine whether there is a potential lead hazard  
19 in the apartment, and if so, an inspector is sent to  
20 the apartment to follow-up.

21                   If an inspector notes peeling paint  
22 or deteriorated subsurfaces, during an inspection  
23 for any reason, the inspector will inquire as to the  
24 age of the children in residence and require that  
25 the owner make repairs if there is a child under

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2 six.

3                   HPD also responds to referrals from  
4 the Department of Health and Mental Hygiene's Lead  
5 Poisoning Prevention Program.

6                   HPD makes corrections when the  
7 Department of Health has identified a violation in  
8 the home of a lead poisoned child, but the building  
9 owner has failed to perform the necessary abatement.

10                   Now I'd like to describe what happens  
11 once a lead hazard violation is issued.

12                   The owner has an absolute requirement  
13 to correct. In 23 percent of the cases where HPD  
14 places a lead hazard violation, the owner does the  
15 corrective work and certifies that he or she has  
16 done so with HPD, in a timely manner.

17                   In another 11 percent of the cases,  
18 we believe that the owner did the work, and failed  
19 to complete the necessary paperwork.

20                   Where the owner fails to correct the  
21 hazard, fails to notify HPD within the time  
22 specifications, or falsely certifies that it has  
23 been corrected, HPD's emergency repair program,  
24 corrects the hazard or performs a dust wipe to  
25 ensure that the work the landlord did was done

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2 correctly.

3                   The cost of the emergency repair  
4 program becomes a lien against the property. As you  
5 know, the law applies to all apartments and  
6 buildings where a child under six resides.

7                   Since the law does not require that  
8 apartments be tested for lead, before a lead hazard  
9 violation is issued, but instead presumes the  
10 presence of lead, we wanted to test whether or not  
11 apartments in such pre-1960 buildings actually had  
12 lead-based paint.

13                   We did this in order to make sure  
14 that we were carrying out publicly-funded repairs in  
15 as targeted a manner as possible.

16                   The most effective way for us to test  
17 this was the instances where we, ourselves, would be  
18 doing lead hazard remediation work.

19                   Starting in late 2001, HPD Emergency  
20 Repair Program began to confirm with x-ray  
21 technology, known as XRF, the presence of lead paint  
22 in the areas where violations were written prior to  
23 commencing the repair.

24                   HPD has found that Citywide 76  
25 percent of lead hazard violations tested were found

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2 negative for lead-based paint.

3                   That is very good news. The results  
4 by borough for the same period was as follows:

5                   In the Bronx, 84 percent were  
6 negative upon testing, in Queens 82 percent, in  
7 Staten Island 81 percent and in Manhattan 73 percent  
8 and in Brooklyn 70 percent.

9                   This apartment-specific information  
10 allows us to focus our resource on the apartments  
11 where children's health is truly at risk. It  
12 demonstrates under Local Law 38 we are targeting  
13 public resources to the actual location of lead  
14 hazards.

15                   Reducing lead hazards safely is  
16 complex. In recognition of this, HPD and the Health  
17 Department have taken action to advise tenants of  
18 how to protect their children from lead poisoning  
19 and to help owners understand their obligations  
20 under the law.

21                   I'll talk about outreach to tenants  
22 first. We offer a free course for tenants in  
23 targeted neighborhoods called Environmental Health  
24 Hazards for Tenants. It's a free course. Tenants  
25 will learn how to reduce or eliminate environmental

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2 hazards in their homes. The roles and  
3 responsibilities of both landlords and tenants are  
4 discussed. The session focuses on lead-based paint,  
5 interim controls rehabilitation, maintenance and  
6 renovation.

7                   A seminar is held several times a  
8 month at various locations within targeted  
9 communities.

10                   In addition, our code inspectors  
11 distribute over 400,000 brochures to tenants they  
12 visit in the course of their duties. An additional  
13 brochure is distributed to tenants when Local Law 38  
14 violations occur, and/or to every tenant in a  
15 pre-1960 building upon lease up and lease renewal.

16                   HPD has undertaken extensive efforts  
17 to train owners and contractors in how to properly  
18 and safely do lead paint remediation.

19                   Because of the importance of carrying  
20 out lead hazard reduction work safely, I wanted to  
21 draw your attention to our training activities.

22                   Overall, we have provided training  
23 and safe work practices and environmental health to  
24 over 4,200 owners of private buildings.

25                   Over 3,300 contractors and other



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2 professionals were trained in US Environmental  
3 Protection Agency lead certification courses,  
4 provided free of charge.

5                   As a result, New York City now has an  
6 infrastructure of owners and contractors who are  
7 capable of correcting lead paint hazards safely.

8                   This year HPD is offering seven free  
9 USEPA lead certification courses to further develop  
10 owners' and contractors' expertise in lead hazard  
11 reduction, and we incorporate lead-safe work  
12 practices and lesson plans of all of our core  
13 maintenance and management courses.

14                   We are in the process of designing an  
15 interactive E-Learning course on Local Law 38, which  
16 we anticipate piloting this summer.

17                   HPD reaches out to thousands of  
18 residential owners in neighborhoods across the City,  
19 through owners' nights, owners' services, housing  
20 education and the City's website. Our staff advises  
21 owners about loans to improve their buildings,  
22 including specific loans for lead hazard reduction  
23 and free housing education classes.

24                   HPD Housing Education Program is  
25 providing training, services and outreach to owners

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2 and community groups, both Citywide and in targeted  
3 high-risk communities.

4                   HPD's website also includes specific  
5 materials explaining Local Law 38, how to correct  
6 violations safely, and the certification process.

7                   We've had over 29,000 visitors to  
8 this section of our website.

9                   HPD has also begun to intensify it's  
10 enforcement of Local Law 38. The City has issued 137  
11 subpoenas to residential owners in targeted  
12 high-risk buildings who may have failed to notify  
13 tenants of young children of their right to  
14 inspection, and corrections of lead hazards in their  
15 apartment.

16                   This is part of the City's  
17 enforcement of Local Law 38, which requires owners  
18 to annually inquire of tenants whether they have  
19 peeling paint in their apartment and a child under  
20 six.

21                   Seventeen of the first 37 owners to  
22 receive subpoenas did not comply. We will now go to  
23 Housing Court to seek an order from the judge  
24 compelling the 17 owners to produce the documents  
25 requested. If they fail to comply with the Court

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2 order, we will seek a contempt finding against them.

3                   We expect to continue this initiative  
4 against other owners of targeted high-risk  
5 buildings.

6                   High-risk neighborhoods, where there  
7 are greater numbers of children with elevated blood  
8 lead levels receive targeted lead hazard reduction  
9 funding under the City's HUD-funded primary  
10 prevention program.

11                   The City has been awarded grants  
12 totaling over \$11 million from HUD to treat  
13 apartments in high risk neighborhoods.

14                   The City added 6.9 million in City  
15 capital to the federal government's 11.3 million for  
16 a total of 18.2 million dollars, so that 1,634  
17 apartments in high-risk neighborhoods could be  
18 treated.

19                   We use this funding to offer direct  
20 grants to building owners for lead treatment.

21                   The program gives owners the means to  
22 make their buildings lead safe through low level  
23 interim treatment work. Treatment concentrates on  
24 friction surfaces, door jams, windowsills and wells  
25 and cabinets. Building owners apply for forgivable

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2 loans valued at \$5,000 to \$6,000 per apartment. The  
3 average cost of lead treatment work.

4                   The owners, in turn, hire contractors  
5 who are EPA-certified and state licensed in lead  
6 treatment. HPD inspects the work. To qualify, over  
7 50 percent of the tenants in the building must be at  
8 very low income thresholds and the remaining tenants  
9 must be at low-income thresholds and the owner must  
10 continue to rent to low-income tenants for three  
11 years, in order for the lien to be forgiven.

12                   Of the 1,634 apartments in high-risk  
13 neighborhoods to be treated, 1,257 are now completed  
14 and another 377 are in progress.

15                   These high-risk neighborhoods include  
16 Bedford Stuyvesant, Crown Heights, East New York,  
17 Williamsburg, Bushwick, East Flatbush, Flatbush in  
18 Brooklyn, West Queens in Jamaica, in Queens, Fordham  
19 Road and Bronx Park in the Bronx, and Washington  
20 Heights, Inwood in Manhattan.

21                   We have just applied for a second  
22 outreach program with HUD for the neighborhoods of  
23 Astoria, East Flatbush and Flatbush for an outreach  
24 program designed to get owners to apply to the  
25 existing primary prevention program.

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2                   The program also supports five  
3 community-based organizations who participate in  
4 community education outreach initiatives, such as  
5 offering workshops on work hazard awareness, and  
6 poison prevention to thousands of youth and senior  
7 citizens who often provide day care for young  
8 children.

9                   We expect to apply for additional  
10 funding rounds when they become available. The City  
11 has recently reached out to Home Depot in a new  
12 effort to reach owners and smaller contractors. Many  
13 traditional home repair and remodeling activities in  
14 older buildings can disturb lead paint, releasing  
15 lead paint chips and dust and putting young children  
16 and workers at risk.

17                   Home depot stores in New York City  
18 have agreed to create group displays of lead safety  
19 supplies in their paint aisles. They will  
20 incorporate lead-safe work practices into painting  
21 clinics for staff and customers. We'll be  
22 encouraging all stores in New York City that sell  
23 paint to do the same.

24                   We've been asked to comment on Intro.  
25 101-A. Almost every provision of Intro. 101-A raises

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2 serious questions about interpretation or the  
3 rationale underlying the change from the existing  
4 law.

5                   The law is confusing and  
6 contradictory.

7                   When placed in the context of our  
8 current lead prevention program, it would divert  
9 scarce resources currently devoted to high-risk  
10 neighborhoods, towards lower-risk neighborhoods.

11                   Because the proposed law is confusing  
12 and ambiguous, it is impossible for the Council to  
13 properly determine its potential impact and cost.

14                   Let me give you a few examples.  
15 Intro. 101 requires that when a code inspector  
16 inspects a pre-1960 dwelling unit where a child  
17 under seven resides, he or she must record the  
18 existence of intact paint surfaces.

19                   In addition, the inspector must  
20 record the existence or absence of an underlying  
21 defect, keeping in mind that the definition of such  
22 defect includes a condition that only has the  
23 potential to cause paint to peel.

24                   So, for instance, the inspector now  
25 has to literally catalogue the condition of every

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2 wall and every surface in every room of every  
3 apartment that has a child under seven that they  
4 walk into.

5                   This would include drawing a diagram  
6 of each apartment in order to record that there is  
7 no evidence of peeling paint or leaks. We estimate  
8 that this will at least double the time needed for  
9 an average inspection, and thereby reduce  
10 productivity by half with little discernible  
11 benefit.

12                   Additionally, Intro. 101-A upgrades  
13 the existence of peeling or deteriorating lead-based  
14 paint in any common area of the building outside of  
15 apartments to a Class C violation, whether or not a  
16 child lives in the building or on a particular  
17 floor.

18                   This means that all HPD inspections  
19 will take longer, including those that occur in  
20 low-risk areas of the City where there are very few  
21 cases of lead poisoning.

22                   An inspector who would have been  
23 responding to a tenant in a higher risk area will  
24 instead be spending his day cataloging intact paint  
25 surfaces in neighborhoods with low-risk of lead

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2 poisoning.

3                   Our lead hazard reduction work is  
4 focused in the high-risk communities right now.  
5 Imagine now inspectors spending the bulk of their  
6 day in parts of our City with no lead hazards where  
7 they are recording each surface that they see. And  
8 inspectors will have less time to spend inside  
9 tenants' apartments where lead poisoning is much  
10 more likely to occur.

11                   Documenting places that don't have  
12 lead hazards does not seem like a worthwhile use of  
13 these inspection resources.

14                   There is also no clear rationale for  
15 reducing compliance deadlines. Unrealistic deadlines  
16 will make compliance by owners seeking to comply  
17 merely impossible.

18                   For example, the time period in which  
19 to correct the lead hazard violation is reduced in  
20 the proposed law to 14 days. The maximum time period  
21 for a postponement is similarly reduced to 14 days.

22                   Here is what an owner would have to  
23 do in 14 days:

24                   Retain a contractor.

25                   Get the individual tenant on short



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2 notice to grant access to the apartment, which  
3 sometimes entails tenant relocation.

4                   Seal off the work area. Cover the  
5 floor and the furniture.

6                   Protect the worker.

7                   Wet scrape the walls.

8                   Check, and if necessary, repair all  
9 binding surfaces.

10                   Clean the plastic before the removal.

11                   Clean the rest of the work area.

12                   Remove all of the containment  
13 materials.

14                   Perform the dust-wipe test.

15                   Send the dust wipe to a lab. Wait for  
16 a lab to send the result, and get the documentation  
17 to HPD in order to certify the correction of the  
18 violation.

19                   Smaller owners will have little  
20 chance of meeting this deadline.

21                   We also feel this may place undue  
22 burdens on the tenants. The shortened period to two  
23 weeks, for the landlord to take all this action,  
24 will force the landlord to give his or her tenant  
25 very little notice or flexibility in getting the job

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2 done, which typically requires at minimum the tenant  
3 clear out of his or her bedroom or living room or  
4 whatever room effective, and may necessitate  
5 complete relocation.

6                   The net result of reducing the time  
7 period will be to shift more lead abatement work  
8 away from the private owners and onto the City.

9                   This will increase the cost to the  
10 City substantially without increasing the number of  
11 corrections that are done.

12                   HPD already does the work on behalf  
13 of tenants who live in buildings with negligent or  
14 absent landlords, because such owners were unlikely  
15 to ever perform this work.

16                   Typically these buildings are in the  
17 poorest and high-risk neighborhoods for lead  
18 poisoning, where public resources should be  
19 concentrated.

20                   As more owners fail to comply with  
21 unreasonable deadlines, resources will be diverted  
22 from the poorest and highest-risk neighborhoods to  
23 buildings whose owners might have done the work  
24 themselves, if only they had enough time.

25                   Under Local Law 38, HPD has 60 days

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2 to correct violations that the owner has not  
3 repaired within the correction period.

4 Intro. 101-A provides that this work  
5 be done in 14 days.

6 Over the last two years, HPD has  
7 corrected nearly 10,000 lead hazard violations,  
8 using its emergency repair program, most within the  
9 60-day period.

10 Reducing the time period for HPD  
11 action does not increase the number of jobs that are  
12 done. It will only increase the costs for the same  
13 number of jobs which must now be done in a shortened  
14 time frame at a higher cost.

15 And another example of diverting  
16 resources, Intro. 101-A requires owners to file a  
17 notice with HPD every time the owner scrapes more  
18 than two square feet of peeling paint.

19 This requirement apparently applies,  
20 whether or not a lead hazard violation has been  
21 issued.

22 We fail to see how cataloguing every  
23 two square feet of peeling paint that is scraped in  
24 about 2 million rental apartments Citywide, helps to  
25 address lead hazards in high-risk neighborhoods.

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2                   The filing requirements seem like a  
3 bureaucratic paper chase that is designed to help  
4 tort lawyers, not children. And I would add, an  
5 expensive one.

6                   The Independent Budget Office's  
7 report, which stated an annual cost of Intro. 101-A  
8 of about \$8 million per year, specifically did not  
9 cost out this item. In fact, many items were not  
10 costed out.

11                   For example, Intro. 101-A also  
12 proposes a requirement that HPD maintain both a  
13 central register for all documents relating to lead  
14 hazards, and an individual file for each dwelling  
15 unit throughout the City where lead hazard work  
16 occurs.

17                   This expensive and time-consuming  
18 endeavor is an additional cost, not reflected in the  
19 IBO report, and one that does nothing to prevent  
20 lead poisoning. There are many provisions that the  
21 IBO acknowledged that it excluded from its price  
22 estimate, most because of uncertainty regarding  
23 interpretation of the proposed law.

24                   But some of the ones they did cost  
25 out are more expensive than on first flush.

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2                   On the subject of proactive  
3 inspections in the high-risk areas, the IBO says,  
4 and I quote, "there are some provisions of the bill  
5 that are open to alternative readings, which could  
6 significantly affect the cost of implementation.

7                   In particular, potentially the most  
8 costly provision, the requirement that the  
9 Department of Health and HPD conduct proactive  
10 inspections could be read broadly to mean that the  
11 City must inspect all at-risk units each year. If  
12 this is the cast, the cost could theoretically rise  
13 to as high as \$150 million a year."

14                   The IBO's cost estimate of \$4 million  
15 annually for proactive inspections assumes high-risk  
16 buildings will be inspected only once every 20  
17 years.

18                   This level of confusion leaves the  
19 Council unable to say with any certainty what Intro.  
20 101-A will cost and how effective it would be.

21                   In addition, Local Law 38 made clear  
22 how the City's compliance with the law could be  
23 challenged in the courts. 101-A is unclear about  
24 what kind of actions or proceeding may be brought  
25 against the City and what kind of liability the City

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2 could face.

3                   Since tort claims against the City  
4 already cost our citizens a half a billion dollars a  
5 year, this kind of liability could add substantially  
6 to the burdens placed on this City's taxpayers.

7                   Those advocating for 101 say that  
8 they want to target resources to higher-risk  
9 neighborhoods. What they have done, however, is  
10 craft legislation that would increase the risk to  
11 such neighborhoods by creating substantial burdens  
12 that have nothing to do with high risk  
13 neighborhoods. Such burdens will siphon resources  
14 away from high-risk neighborhoods. It ignores the  
15 fact that Local Law 38 already targets high-risk  
16 neighborhoods.

17                   In addition, we believe that  
18 misinformation has led to the incorrect notion that  
19 Local Law 38 requires the children are lead poisoned  
20 before corrective action is taken.

21                   To reiterate once again, that is  
22 simply not the case. HDP jointly with Health has  
23 also already targeted high-risk buildings for  
24 enforcement of Local Law 38 requirements through its  
25 outreach, emergency care, and subpoena efforts.

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2                   Do we really want to go back to a  
3 time in our recent past when the lead laws were in  
4 place, were not possible for owners to comply with,  
5 and were unenforceable by government, and therefore,  
6 did nothing to protect our children.

7                   We believe that the Council knows  
8 better and wants better for the children of this  
9 City.

10                   Thank you.

11                   CHAIRPERSON PROVENZANO: Thank you,  
12 Commissioner.

13                   I would also like to acknowledge  
14 Council Member Weprin, Council member Diana Reyna,  
15 and Council Member Gale Brewer, I think, right?

16                   Next we will hear from the Department  
17 of Education. Oh, and Council Member James Oddo, I'm  
18 sorry.

19                   The Department of Education, Jim  
20 Lonergan.

21                   Could you just wait one moment?

22                   We have a class up in the balcony.  
23 It's a little class I think because I can't see you.  
24 Your fourth graders? Hi. Stand up so we can see you.

25                   Public School No. 149, which is at 41

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2 West 117th Street. So, that is, of course, Council  
3 Member Perkins District.

4 Welcome. I'm sorry you can't get a  
5 good view. Usually you're over there, but welcome to  
6 City Hall.

7 Thank you. Go ahead.

8 MR. LONERGAN: Good morning,  
9 Chairwoman Provenzano, and members of the Housing  
10 and Buildings Committee.

11 I am pleased to have the opportunity  
12 to testify today on proposed Intro. 101-A.

13 My name is Jim Lonergan and I'm the  
14 Senior Director of the Division of School Facilities  
15 at the New York City Department of Education.

16 This division oversees all  
17 maintenance and repairs, including the abatement of  
18 lead paint in our schools.

19 Since Fiscal Year 1995, the  
20 Department has implemented and maintained an  
21 aggressive lead-based paint abatement program.

22 We have performed lead-based paint  
23 abatement in 4,488 rooms utilized by special  
24 education, pre-k, kindergarten and first grade  
25 students, for a total cost of approximately \$36



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2 million.

3                   The Department has been proactive in  
4 maintaining existing space by implementing a lead  
5 stabilization program in every school with high-risk  
6 children and has implemented a stringent dust  
7 control protocol for work in any school spaces  
8 conducted by contractors or in-house staff.

9                   Custodians and building managers are  
10 required to adhere to a detailed set of written  
11 procedures designed to stabilize lead abatement.

12                   In addition, we conducted daily lead  
13 flushing programs for water fountains and sinks.

14                   Finally, our plant managers conduct  
15 monthly inspections for peeling paint that is  
16 supplemented by annual Department of Buildings  
17 inspections.

18                   I am pleased with the way the lead  
19 paint program is currently working in our schools,  
20 and the significant amount of abatement that we have  
21 done over the past eight years.

22                   We have systematically performed lead  
23 abatement in rooms used by children most at risk.

24                   We are deeply concerned, however,  
25 that Intro. 101-A will impose significant cost on

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2 the Department of Education without improving our  
3 lead stabilization program.

4 I would like to go through some of  
5 the major provisions in the bill.

6 Since the current DOE lead-based  
7 program doesn't address the exterior components of  
8 windows, Intro. 101-A will require visiting all  
9 school facilities and assessing the condition of  
10 window components within the target rooms.

11 DOE will also assess the walls,  
12 doors, radiators, piping and other painted  
13 components within the targeted rooms.

14 The cost to provide with the  
15 provision of law is approximately \$2,390 per room.  
16 We estimate 4,046 rooms systemwide will require  
17 abating the lead-based paint from the window  
18 component.

19 This estimation is based on the  
20 assumption that only 40 percent of the total 10,115  
21 target rooms systemwide will have windows with  
22 components painted with lead-based paint. Therefore,  
23 the total cost for window lead-based remediation is  
24 estimated to be \$10.6 million.

25 The cost to conduct a risk assessment

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2 for soil lead hazards in every school facility, and  
3 to collect soil samples and analyze for lead  
4 content, is estimated to be \$630 per school. The  
5 total cost to conduct a risk assessment for soil  
6 lead hazards in every school facility is estimated  
7 to be \$560,000.

8                   DOE estimates only ten percent of the  
9 schools tested will have lead-contaminated soil. The  
10 cost to remediate lead contaminated soil is  
11 estimated to average \$2,640 per school. The total  
12 cost to remediate lead contaminated soil from  
13 schools and perform risk assessments is  
14 approximately \$1 million.

15                   The initial cost of Intro. 101-A  
16 totalled to approximately \$15 million. This does not  
17 include any cost associated with the increasing of  
18 the target population from six to seven-years old.

19                   The child age change will apply  
20 through schools, something that is not clearly  
21 indicated in subchapter two of the Intro. 101-A  
22 bill. It will require DOE to include all second  
23 grade rooms as well into a lead-based abatement  
24 program which will result in approximately 2,000  
25 additional rooms. The cost to include all second

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2 grade rooms will be an additional \$22 million,  
3 bringing the total cost to \$37 million.

4                   In addition, in order for the  
5 Division of School Facilities to properly implement  
6 all provisions outlined in Intro. 101-A, it will  
7 require to increase the current staff.

8                   This would be an additional cost not  
9 included in the previous estimates I have mentioned.

10                   This bill has many unknowns,  
11 including a definition of regularly-used rooms that  
12 would require abatement of many additional rooms not  
13 included in this cost estimate.

14                   Should DOE be required to address any  
15 additional spaces, such as staircases, hallways and  
16 fences, the cost estimate would grow significantly.

17                   DOE's mission is a safe environment  
18 conducive to learning in every school.

19                   We are on the right track toward  
20 abating lead paint in areas used by our most  
21 vulnerable population.

22                   Early grades and special education  
23 classes are smaller in size and in many cases there  
24 is more than one adult in the room with the children  
25 to supervise.

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2                   This bill is an unfunded mandate that  
3 the Department cannot take on at this time,  
4 particularly in light of the budget cuts and  
5 downsizing that have occurred over the past fiscal  
6 year.

7                   Thank you, and I'm happy to take any  
8 questions.

9                   CHAIRPERSON PROVENZANO: Thank you  
10 very much.

11                   We've got a little seating problem  
12 here. I'm trying to get this tightened up so that we  
13 could seat all of the Council members.

14                   COUNCIL MEMBER PERKINS: Madam Chair,  
15 may I just make an acknowledgment?

16                   With respect to the school that is in  
17 my district, I just wanted to point out two things:  
18 Number one, the teachers are Ms. Nancy Aponte and  
19 Mr. Kent Murphy, who is a PTA member. And I also  
20 wanted to point out that one of the teachers was a  
21 teacher of a lead poisoned child by the name of  
22 Jordan, and this particular teacher wanted me to  
23 acknowledge that she knows very well the challenges  
24 children face from the perspective of being a  
25 teacher.

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2 Thank you.

3 CHAIRPERSON PROVENZANO: I'm sorry to  
4 be doing all this mechanical stuff, but can't we get  
5 another table here? Are we going to?

6 I'd like to acknowledge also Council  
7 Member Comrie. You're all here. Council Member Lou  
8 Fidler. I think that's it.

9 And we will start off by questions  
10 from Council Member Melinda Katz.

11 COUNCIL MEMBER KATZ: Good morning,  
12 everyone. And I will be brief because I know there  
13 are many Council members that would like to ask  
14 questions today.

15 Commissioner, I've spoken quite a bit  
16 to your office and your staff and to the Council  
17 members, and I have to say that, I guess I have a  
18 few questions on both sides, maybe we could, if you  
19 could just clarify some things for me.

20 Firstoff, I'm a sponsor of the bill,  
21 as you know, and I agree with it in concept, but I  
22 do have a few questions, just if you can clarify for  
23 me.

24 Number one, when the children get  
25 tested by the State for lead poisoning, they're one

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2 and two year old; is that what you said?

3                   COMMISSIONER FRIEDEN: No, the state  
4 doesn't do testing. The State sets the mandates for.  
5 So, private doctors of HHC, the child doctor does  
6 the testing, and the mandate is that it be done at  
7 ages one and two.

8                   COUNCIL MEMBER KATZ: And what happens  
9 to those numbers?

10                   COMMISSIONER FRIEDEN: Every single  
11 one of them is mandatorily reported to the  
12 Department of Health. We maintain those numbers in a  
13 computerized registry. If there's any level over  
14 ten, but below the environmental impact level, we  
15 communicate by letter to the family advising them to  
16 get follow-up testing, giving them prevention  
17 information, and advising them if they have peeling  
18 paint to request an investigation, an inspection,  
19 which is done free to them by HPD, if there's  
20 peeling paint the landlord is mandated to correct it  
21 at the landlord's expense, not the family's expense.

22                   If the level is over 20 or two levels  
23 of 15 to 19 in a six-month period, then we, the  
24 Department of Health, will inspect the apartment and  
25 issue any violations. Three months, not six months.

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2 Sorry.

3 COUNCIL MEMBER KATZ: My concern is  
4 the follow-up, from those testing to the actual  
5 fixing of the lead paint in the apartment.

6 If you don't hear back from the  
7 tenants or whoever it is that's supposed to get back  
8 to you, what happens? What's the follow-up required  
9 for that?

10 COMMISSIONER FRIEDEN: First off, if  
11 it's an environmental intervention level, 20 or  
12 more, or two 15's in a three-month, not six-month  
13 period, then we will follow -- no action needs to be  
14 taken on the part of the tenant, we go into the  
15 apartment and do the follow-up duty inspection,  
16 follow-up that child, intensively case manage that  
17 child.

18 One of the things that's important to  
19 understand and difficult to understand, is that the  
20 really important thing to do for lead poisoning is  
21 to prevent it.

22 When we look at the impact of what we  
23 can do in case managing children with slightly  
24 elevated lead levels, it's very modest, if any.

25 In other words, our follow-up of



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2 those children is not necessarily associated with  
3 the decline in blood lead levels, and that's  
4 something which at the national level we're seeing.  
5 It's one of the reasons why we don't intensively  
6 case manage the kids at lower levels. But in the  
7 areas where lead poisoning remains a serious  
8 problem, we have a series of interventions, which I  
9 described some of, to try to be more intensive with  
10 that population.

11 COUNCIL MEMBER KATZ: So, in other  
12 words, if you can't get hold of the child's parents,  
13 you actually go out and affirmatively go to the  
14 building, inspect it, go to the landlord and then I  
15 assume, or I'm hoping that the other apartments in  
16 the building are also inspected and taken care of?

17 COMMISSIONER FRIEDEN: What we are  
18 doing increasingly over the past year since I came  
19 in, is exactly that kind of geographic approach. We  
20 figure if there's one kid that has lead hazards in  
21 their apartment, there's got to be other kids in the  
22 building, there have got to be other lead hazards,  
23 so we inspect more intensively there, and working  
24 with HPD we do more targeted enforcement to those  
25 areas.

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2                   As I mentioned, there are about 1,000  
3 buildings in that category now that we are doing  
4 intensive follow-up of.

5                   COUNCIL MEMBER KATZ: You spoke about  
6 the majority of children that suffer from lead paint  
7 poisoning come from certain immigrant communities,  
8 which I believe there are about six that you listed?

9                   COMMISSIONER FRIEDEN: Twenty-five  
10 percent of lead poisoned children are among  
11 immigrants.

12                   COUNCIL MEMBER KATZ: From those  
13 children, are most of them in lead paint apartments?

14                   COMMISSIONER FRIEDEN: We're still  
15 looking at that. Some of the initial information  
16 that we have on a sample of those children is that  
17 about two-thirds of them, or more than two thirds  
18 had recently come into this country within the last  
19 year, but it's very preliminary information that  
20 we're looking at. We do find lead hazards in those  
21 households, as we find lead hazards in households of  
22 children without lead poisoning. And, so, it's an  
23 area where we will continue to elucidate what's  
24 going on better so that we can intervene better.

25                   COUNCIL MEMBER KATZ: How long does it

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2 take for lead paint to show up in a child's blood?

3 COMMISSIONER FRIEDEN: It really

4 depends on many things, including the child's --

5 COUNCIL MEMBER KATZ: In general.

6 COMMISSIONER FRIEDEN: There's really

7 not a way you can say. You know, you can get acutely

8 lead poisoned, but you can also have a cumulative

9 poisoning over time.

10 Also --

11 COUNCIL MEMBER KATZ: Let's say you're

12 acutely lead poisoned, how long would it take to

13 show up in the blood about?

14 COMMISSIONER FRIEDEN: Within days

15 really.

16 There's also the other side of it

17 which is that lead does not disappear from the body

18 rapidly because of its equilibration with other

19 parts of the body system, and so poisoning years ago

20 can continue to show.

21 COUNCIL MEMBER KATZ: And if you're

22 slightly lead paint poisoned, I'm trying to look for

23 how long it would take?

24 If the theory is that these

25 communities are, a greater number of these folks in

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2 these communities are getting the lead paint, I'm  
3 trying to figure out, even though I'm not doing it  
4 statistically, whether it's from where the countries  
5 that they originated from, or whether we can assume  
6 they're getting it here and it's dependent on the  
7 communities and the areas that they're living in.

8                   COMMISSIONER FRIEDEN: I don't want us  
9 to get far afield with the issue of the foreign  
10 born.

11                   Seventy-five percent of the kids who  
12 are lead poisoned in New York City are US born kids.  
13 Of those who are foreign born, without a doubt some  
14 of them were lead poisoned here, and some of them  
15 were lead poisoned elsewhere, what that proportion  
16 of the some is in both of those cases we don't know  
17 yet. But it's not zero in either case. That's really  
18 all I'm saying.

19                   COUNCIL MEMBER KATZ: Like I said, I  
20 have issues on both sides. I do agree with this bill  
21 in concept, but one of the things that concerns me  
22 is having conversations with the Deputies in HPD as  
23 well, is the amount of resources that is sent  
24 Citywide versus in the communities.

25                   Now, I was a big advocate for the

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2 window guard legislation, and discussion whether or  
3 not, well, why shouldn't the landlord and the City  
4 have these same obligations when it comes to lead  
5 paint as we do with window guards? And one of the  
6 arguments that was made to me, and that's why I'm  
7 trying to figure out the communities, was, well, the  
8 resources we spent are different because lead paint  
9 can be tracked, as far as the communities go,  
10 whereas window guards cannot.

11                   And, so, that's really what I wanted  
12 you to comment on, and I'm trying to that. It falls  
13 in certain communities or areas of the City.

14                   What I am concerned, Citywide we are  
15 missing a whole bunch of children and buildings that  
16 may need the exact same attention that we do spend  
17 on window guards.

18                   COMMISSIONER FRIEDEN: Lead poisoning  
19 can affect anyone, but the problem in New York City  
20 is very focal, and we will make real progress by  
21 focusing in the areas where it remains a serious  
22 problem. And I think that really is the bottom line  
23 of what we need to do. We need to do more in the  
24 areas where we still have high rates.

25                   My fear is that there is this -- what

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2 has been described as the "inverse care law," that  
3 those who need services the most get them the least  
4 and vice versa, and I wouldn't want an unintentional  
5 consequence of any action being put to for that to  
6 happen.

7 COUNCIL MEMBER KATZ: Madam Chair, my  
8 last question.

9 One of the greatest concerns I also  
10 have with the way the law is written now is the  
11 standard of care taken by a landlord versus HPD when  
12 it comes to cleaning up the lead paint. And I was  
13 hoping that maybe Commissioner Perine could expand  
14 on that.

15 A few concerns of mine: Number one, I  
16 assume that HPD uses trained and certified workers  
17 to clean up lead paint.

18 The second would be the landlords  
19 obligation and how he needs to clean, or she needs  
20 to clean it up. And the difference in criteria when  
21 it's the first 21 days versus after that.

22 So, I was hoping you could comment on  
23 that.

24 COMMISSIONER PERINE: You know,  
25 whether it's us doing it or the landlord doing it,

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2 it's all within these compliance deadlines. So, by  
3 definition we don't step in to act til the landlord  
4 has failed to act in that first period.

5                   So, we are always doing our work in  
6 that period of time which would require either us or  
7 the landlord to use certified workers.

8                   So, it's not that -- do you know what  
9 I'm saying? There's a trigger there in the second 21  
10 days, that whoever does the work, you know, it's us  
11 or the landlord, certified workers are required, by  
12 definition that is always going to be when we are  
13 going to be acting. Because we are going to step in  
14 when the landlord has failed to comply.

15                   So, that's why there's that  
16 difference.

17                   COUNCIL MEMBER KATZ: And the  
18 difference in standards of the workers?

19                   COMMISSIONER PERINE: Well, they're  
20 EPA standards, in terms of certification. And that's  
21 why we do all this training and have all these  
22 courses, to make sure there's enough people out  
23 there who can do that. But the standards are USEPA  
24 standards.

25                   COUNCIL MEMBER KATZ: So the landlord

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2 has to use the first 21 days or after the first 21  
3 days, and what HPD, the criterion standards of the  
4 workers are, are equal?

5                   COMMISSIONER PERINE: In the second  
6 period, which is the 21 days, yes, the standard is  
7 the same in terms of who -- like the law wasn't  
8 thinking, you know, who is going to do this work in  
9 the second 21 days. So the standard is for certified  
10 workers regardless of who does the work in that  
11 period.

12                   All I'm saying is that as a practical  
13 matter, we would never be doing the work in advance  
14 of that time period. We're only doing it when the  
15 landlord doesn't act.

16                   COUNCIL MEMBER KATZ: Final question,  
17 because I know a lot of my colleagues want to speak,  
18 and I could talk about this all day.

19                   Just in a concept, if, if, we use the  
20 community-oriented targeting like you are  
21 discussing, if we took communities and targeted  
22 them, because they are the highest rate of lead  
23 paint, but we change all the criteria to the  
24 criteria and standard and law that is in Intro. 101,  
25 what would you think of that?



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2                   COMMISSIONER PERINE: We'd have to  
3 have a very specific conversation about what you  
4 mean. I don't know what standards or criteria you're  
5 talking about changing.

6                   COUNCIL MEMBER KATZ: I'm wondering  
7 whether or not it's the targeting -- it's the lack  
8 of targeting in the communities that truly bothers  
9 the Administration about the legislation, or the  
10 responsibility put on the City, so what I'm  
11 wondering is, if we targeted the areas that gave the  
12 same responsibility that's in 101 to the City and to  
13 the landlords, how the City would feel about that?

14                   COMMISSIONER PERINE: There's too much  
15 in that for me to be able to answer in that way. But  
16 I could answer it in this way, which is that, you  
17 know, the issue about targeting in the absence  
18 thereof is the number of burdens that the proposed  
19 law places on a Citywide objective. So, you know,  
20 the best objective of trying to target, once you  
21 begin to create this very significant set of  
22 burdens, which as, you know, Dr. Frieden said, are  
23 not going to be focused on the issues which we know  
24 have a tremendous correlation between the risk  
25 children are at, the presence of peeling paint, and

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2 the location of that peeling paint being in these  
3 high risk communities.

4                   We know that, so why go backwards? If  
5 that's what we know, you know, we should be focusing  
6 our efforts there.

7                   COUNCIL MEMBER KATZ: Do you know how  
8 many kids outside your high-risk communities, have  
9 been affected by lead poisoning?

10                   COMMISSIONER FRIEDEN: It depends in  
11 part about how you would exactly define the  
12 boundaries of high risk. We can get you that and  
13 follow-up if you'd like.

14                   COUNCIL MEMBER KATZ: I think that's  
15 an important thing to know.

16                   If the argument is that there are  
17 certain areas in the City that are high risk, I  
18 think it's a very logical question to ask, well, how  
19 many kids according to the State records, or the  
20 City records, are affected by lead poisoning outside  
21 the high risk. So, yes, if you could get us those  
22 numbers, that would be great.

23                   Thank you, Madam Chair.

24                   CHAIRPERSON PROVENZANO: We've also  
25 been joined by Council Member Al Vann.

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2 I think I've got everybody in.

3 Council Member Brewer.

4 COUNCIL MEMBER BREWER: Thank you very  
5 much.

6 On the housing front, my question is,  
7 just on timing, obviously all of us in elected  
8 office spend a great deal of time trying to get  
9 repairs made in buildings. And you said on page 11  
10 that the City has issued 137 subpoenas, I was  
11 wondering in what time period to owners. These are  
12 in targeted high-risk buildings, so, obviously,  
13 there are others, and obviously you have to go to --  
14 37 owners did not comply with the subpoenas, you  
15 have to go to court.

16 I'm very familiar with going to court  
17 with tenants, very familiar. It takes a long time  
18 what happens? In other words, I know that we're  
19 trying to say that the law is working but from my  
20 experience, generally, despite your best efforts due  
21 to staff cuts, and court delays and so on, it just  
22 doesn't happen, and that's in a normal situation,  
23 and here we're dealing with children who are getting  
24 sicker.

25 So, how do we -- I don't understand

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2 why there would be a problem with speeding up the  
3 process, even for small owners. I have a lot of  
4 experience in this realm. It's an emergency. I don't  
5 understand why that would be a problem.

6 COMMISSIONER PERINE: I think there is  
7 maybe two different things that are colliding here.

8 The subpoenas were really targeted  
9 towards landlords where we know there had been a  
10 problem, actually a significant problem, triggered  
11 by DOH violations --

12 COUNCIL MEMBER BREWER: Right.

13 COMMISSIONER PERINE: Which by  
14 definition meant that there were children who had  
15 been lead poisoned.

16 COUNCIL MEMBER BREWER: So there are  
17 children still in the buildings where the subpoenas  
18 are issued?

19 COMMISSIONER PERINE: These were  
20 situations where what we didn't have was the paper  
21 proof that a few different things had happened.

22 One, the owner did not certify to us  
23 that he had provided the appropriate notification  
24 for all the tenants in the building regarding what  
25 they are entitled to know about lead paint and the

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2 hazards that they may be encouraging. Or they didn't  
3 provide the right paperwork to us to prove that the  
4 certification of the work had been done.

5                   So, in fact we were hoping, and the  
6 jury is still out because we do have to go through  
7 this court process, which unfortunately is a little  
8 lengthy.

9                   COUNCIL MEMBER BREWER: Very lengthy.

10                   COMMISSIONER PERINE: We don't have a  
11 presumption here that this was work that didn't  
12 happen. This was about making sure that we were  
13 using our subpoena power to get owners to comply  
14 with the notice provisions, and the accounting, you  
15 know, the certification to us that this work had  
16 actually been done.

17                   COMMISSIONER FRIEDEN: Just to  
18 clarify, those are not the apartments where lead  
19 poisoned children are present.

20                   COUNCIL MEMBER BREWER: Okay.

21                   COMMISSIONER FRIEDEN: Those  
22 apartments are handled. If the apartments nearby  
23 them, or in other places where the landlord has not  
24 responded or were concerned they may be at risk.

25                   MR. SCHULTZ: And if I may supplement

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2 that answer, Councilman? One of the reasons that we  
3 chose the subpoena process, we wanted a nice, simple  
4 legal process so that we could go into court, be  
5 able to say the documents are there or not, so that  
6 the court would not have a big complicated issue to  
7 try to resolve.

8 COUNCIL MEMBER BREWER: Okay.

9 All right, on the issue of the 21  
10 days, I mean why can't this be done sooner by small  
11 owners in that situation that could be very  
12 hazardous to the child?

13 I don't think that's a problem. I  
14 really don't.

15 COMMISSIONER PERINE: Again, you know,  
16 I laid out all of the practical steps that people  
17 have to go through to actually get this work done in  
18 accordance with the provision of the law, and it is  
19 extensive. It's not a small matter.

20 And it also does involve a great deal  
21 of participation by the tenant, and two weeks to do  
22 all of that work, as well as not just do the work,  
23 but get the work done, get the end samples, the dust  
24 wipe, send it to a lab, you know, all this time, you  
25 know, the tenant cannot enter their bedroom or

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2 whatever the room is, that is a very short time  
3 frame to do this.

4 COUNCIL MEMBER BREWER: And where is  
5 the child during the longer time period? While this  
6 is going on, where is the child?

7 COMMISSIONER PERINE: While the work  
8 is going on the first thing that happens when the  
9 work begins is that the room, and it's usually a  
10 portion, in some cases it's the whole apartment, the  
11 tenant has to move.

12 COUNCIL MEMBER BREWER: I've been in  
13 these apartments so I know.

14 COMMISSIONER PERINE: But often it is  
15 done, you know, in a room. And, so, that room if  
16 first sealed off, so that's the first thing that  
17 happens.

18 So, the family is still living in  
19 that apartment, but that room is no longer  
20 accessible to them and it's sealed off and it's got,  
21 you know, "warning, do not enter" signs posted, and,  
22 so, that's what happens.

23 COUNCIL MEMBER BREWER: Okay.

24 COMMISSIONER PERINE: You know,  
25 obviously if there's relocation involved, that's

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2 more expensive.

3 COUNCIL MEMBER BREWER: I may have  
4 more, Madam Chair, thank you, for later.

5 CHAIRPERSON PROVENZANO: We will have  
6 a second round.

7 Council Member Oddo.

8 COUNCIL MEMBER ODDO: Thank you, Madam  
9 Chair. It's a little hectic.

10 Commissioners, welcome. Let me just  
11 say from the outset that I am not a sponsor of this  
12 bill, and, unfortunately, those of us who haven't  
13 sponsored this bill are often painted as that we are  
14 callous or cold and not concerned about kids being  
15 poisoned, and that's far from the case.

16 I think that this is a situation that  
17 calls for a scalpel not a buzz saw, and I'm glad to  
18 hear some of my colleagues speak more about a  
19 targeted approach.

20 There's one thing that I need to know  
21 from the Administration, and you've broken it down  
22 individually, but has anyone from the Administration  
23 given us a total cost estimate of this legislation?

24 I mean, I've heard from individual  
25 agencies, but is there a --



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2                   COMMISSIONER PERINE: I think the  
3 total cost is trying to be analyzed and I think part  
4 of the problem with doing it is part of what I said  
5 in my testimony, that there's a lot of things in the  
6 law that are, the proposed law that are subject to  
7 extreme ranges of interpretation. So, it's a little  
8 difficult to cost out.

9                   I can say that when we've looked at  
10 it in conjunction with OMB, in terms of HPD's  
11 involvement for, for example, target inspections and  
12 some of the other things that are proposed in the  
13 law, cyclical inspections rather Citywide, and the  
14 Citywide nature, that we're seeing a cost of about  
15 \$125 million a year additional just to HPD and then  
16 there's additional, there's additional cost to the  
17 Health Department as well.

18                   COUNCIL MEMBER ODDO: What I would ask  
19 from the Administration is, understanding that  
20 there's some things in the bill that are not clear,  
21 which would determine what the ultimate cost is, is  
22 that if you could provide the chair, and in turn the  
23 members of the Committee and beyond, with the range  
24 of what the Administration anticipates this bill  
25 could possibly be, I'd be interested in that.

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2                   COMMISSIONER PERINE: Yes. And I think  
3 that OMB is trying to get that as quickly as  
4 possible. I think we could assume that if the cost  
5 just to HPD would be about \$125 million a year more,  
6 we can estimate that it would be at least 250  
7 million a year from the City.

8                   COUNCIL MEMBER ODDO: Included in that  
9 with the Department of Education.

10                   COMMISSIONER PERINE: Yes. But I think  
11 that's very preliminary. I wouldn't want you to --

12                   COUNCIL MEMBER ODDO: Commissioner,  
13 there was a report that was issued by the Pratt  
14 Institute that had alarming numbers about the  
15 percentage of apartments tested in Bed Stuy, lead  
16 dust on window. Your agency has put out numbers  
17 saying that the number of lead cases in that  
18 neighborhood has dropped by some 75 percent; can you  
19 reconcile those two numbers for me, which ones are  
20 more accurate, and why the disparity between the  
21 two?

22                   COMMISSIONER FRIEDEN: Well, I don't  
23 know that there's disparity. We know that lead  
24 poisoning has come down substantially. We know it  
25 remains a very serious problem in some areas, and

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2 Bed Stuyvesant is one of the areas where there's  
3 lots of deteriorated housing stock, much of it with  
4 lead-based paint there, and, so, that is one of the  
5 areas that needs more intensive intervention.

6                   There were problems with that report,  
7 inaccuracies in its characterization of the current  
8 programs and procedures, but that's a different  
9 issue.

10                   That's not to say that it's not a  
11 serious problem in that community.

12                   COUNCIL MEMBER ODDO: Nor did I mean  
13 to imply that it was.

14                   I'm just interested. Depending on who  
15 you speak to you have numbers that are wildly  
16 different and I just want to find out if there's any  
17 common ground or what's the genesis of such a  
18 disparity?

19                   Let me ask you this, Commissioner.  
20 You're talking about a 79 percent decline in lead  
21 cases over the past five years. Could you give me,  
22 compare that to other illnesses, other situations  
23 that the Department has attempted to address and  
24 compare the success rate?

25                   You came in here and testified before

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2 the City Council that there was a 79 percent decline  
3 in child, infant mortality, a 79 percent decline in  
4 HIV cases, that would be a wild, wildly success  
5 story. I'm amazed that somehow, and understanding  
6 even one child being sickened by lead is one child  
7 too many, I'm just amazed how this issue has been  
8 framed in some circles, that people are asleep at  
9 the switch.

10                   This was 79 percent decline in any  
11 other battle that we struggle with in the City of  
12 New York, wouldn't that be perceived as your agency  
13 and HPD being heroes of the day?

14                   COMMISSIONER FRIEDEN: There are other  
15 diseases that we make real progress on.

16                   COUNCIL MEMBER ODDO: Give me some  
17 percentages.

18                   COMMISSIONER FRIEDEN:  
19 Multi-drug-resistant tuberculosis has declined by  
20 more than 95 percent in a seven-year time period.

21                   We look at deaths from AIDS, those  
22 have declined by about 75 percent, in about a  
23 seven-year time period.

24                   Asthma hospitalizations appear to  
25 have declined by about a third. Obviously there are

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2 other things that are homicides, the Police  
3 Department success story declined by 75 plus percent  
4 in the time period. Infant mortality declined by  
5 more than half in the past decade, so there are  
6 other success stories, but I think the challenge  
7 here is really to keep both of these realities in  
8 mind, that, yes, it is a success story, but, yes, it  
9 is also very much an unfinished story and we need to  
10 focus in order to finish.

11 COUNCIL MEMBER ODDO: Let me ask one  
12 other question, and I don't know whether the right  
13 entity from the Administration is at the table in  
14 the room.

15 Talking about declines, is it  
16 accurate to say that at one point in time in this  
17 City's history there were 1,200 cases being brought  
18 against the City in terms of lead liability, 1,200  
19 cases per year and we are down to around 12? Is  
20 there anyone --

21 COMMISSIONER PERINE: We have some  
22 lawyers, evidently not enough, but I would just say  
23 that I don't know those numbers, but what I would  
24 also guess, that some of that is the reduction of  
25 the City's management of existing City-owned in rem

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2 stock, which is now being completely renovated and  
3 turned to private ownership. So, when that stock was  
4 larger, I think there were many more cases, but I  
5 don't know exactly where those numbers came from.

6                   And if I could just respond to the  
7 question you asked me before. I said OMB's  
8 preliminary estimate was about 250 million. It's  
9 about 265 million. That's their preliminary  
10 estimate.

11                   COUNCIL MEMBER ODDO: And is that on  
12 the low end?

13                   COMMISSIONER PERINE: That's their  
14 preliminary estimate right now.

15                   And, again, I think there's more  
16 detail. I'm not sure how much better the estimate  
17 can be, given the range of possibilities that 101-A  
18 opened up, but I would say it's a minimum there.

19                   CHAIRPERSON PROVENZANO: Thank you.

20                   We've also been joined by Council  
21 Member Peter Vallone, Jr.

22                   Usually the members of the Committee  
23 ask questions first, but I will try and weave in  
24 some of those folks who have been here.

25                   Council Member Barron.

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2 COUNCIL MEMBER BARRON: Thank you very  
3 much, Madam Chair.

4 You know, I'm simply amazed at this  
5 presentation. You know, it's almost like we live in  
6 two different worlds, interpreting two different  
7 types of materials.

8 There's been a lot of  
9 overinterpretation, and I think that happens for  
10 political reasons, and there's been a lot of  
11 downright just wrong misinformation given to the  
12 public.

13 Number one, first of all, Local Law  
14 101 does not require anyone to deal with intact  
15 paint. You are wrong with that. You are wrong. It's  
16 peeling paint. And for you to sit here and tell the  
17 public that this will be such a massive kind of job,  
18 because now you have to deal with intact paint too,  
19 is deceitful.

20 COMMISSIONER PERINE: I said it had to  
21 be catalogued. That's what I said.

22 COUNCIL MEMBER BARRON: See, but, what  
23 you're trying to do, and you'll let me finish  
24 speaking before you interrupt me, because I sat  
25 here, it wasn't easy, and listened to everything you

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2 said without interrupting you, but it's just amazing  
3 that you can try to push that in there, categorize  
4 how ever you're trying to say it, the bottom line is  
5 Local Law 101 requires peeling paint and not intact  
6 paint, and I think we should be very clear on that  
7 when we give that information to the public.

8                   Secondly, and you can respond when  
9 I'm finished, to Commissioner Frieden, you know,  
10 these figures of 1970, you said there were 2,649  
11 children that had blood levels of 60. Do you what  
12 the state of a child that has blood level of 60, and  
13 do you know what happens to children even when they  
14 have a blood level (sic) of two percent and  
15 sometimes four and ten and 20? None of that is  
16 listed here. There are thousands of cases of that in  
17 our communities. Perhaps you need some diversity in  
18 the presentation up there so there's some people of  
19 color sitting next to you to let you know what  
20 happens to our children. Do you know the condition  
21 of a child with 60 percent? Why don't you put all of  
22 those affected by two percent, ten percent, 15  
23 percent, 20 percent and let's look at all of these  
24 figures before we sit here saying that's some great  
25 success story. We're not talking about great success



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2 stories, we're talking about children that are  
3 damaged. If there's one child damaged, it's not a  
4 success story.

5                   So, I think we should couch this  
6 thing in the proper language and the proper tone and  
7 the proper mood towards a serious hearing like this.

8                   Explain this one. How come you did  
9 not include --

10                   COMMISSIONER FRIEDEN: Well, actually,  
11 if you look at the next page I give in detail how  
12 many thousands of children are lead poisoned.

13                   COUNCIL MEMBER BARRON: Where?

14                   COMMISSIONER FRIEDEN: So, I don't  
15 think that's an accurate -- in the presentation.

16                   COUNCIL MEMBER BARRON: Where?

17                   COMMISSIONER FRIEDEN: At both the  
18 written presentation, which I had read --

19                   COUNCIL MEMBER BARRON: I'm looking at  
20 the chart here.

21                   COMMISSIONER FRIEDEN: If you look at  
22 page six of the handout, or page two of the written  
23 presentation, page six of the handout says 3,985  
24 children, a rate of 13.4, the 1,000 children tested,  
25 had blood lead levels over ten. On page two of my

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2 testimony I said that in 19 --

3 COUNCIL MEMBER BARRON: So --

4 COMMISSIONER FRIEDEN: Let me finish.

5 In 1995, there were 21,575 children  
6 with levels over ten and 2002 there were 4,876,  
7 that's children up to the age of 18.

8 COUNCIL MEMBER BARRON: And some  
9 people refute those testings, because when you put  
10 all of that together, we're nowhere near this figure  
11 that you're giving, making it seem like it's such a  
12 great success story, because you're talking about  
13 thousands and thousands more, and it should be  
14 included with all of the children that are affected  
15 by lead so that the people can see the real impact  
16 of lead. And when you break it up and put it in  
17 smaller parts of the report, and then you put the  
18 one with 60, it's deceitful, we should leave it all  
19 together so that people can see that thousands and  
20 thousands of children are still affected by this.

21 And then the other piece, and you can  
22 respond, is that you're concerned that our law will  
23 not get to the high risk areas.

24 First of all, you had the high risk  
25 areas with Local Law 38 for some time now, and

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2 they're still high risk areas. This law does nothing  
3 to take away resources from the high risk areas.

4                   I think the budget, the estimates  
5 that we have are accurate, it can be done well in  
6 the high risk areas, we'll take no money from high  
7 risk areas. I think you're blowing this all out of  
8 proportion, because you don't want to do what's  
9 needed to be done for children in high-risk areas  
10 around this City.

11                   So, I think we should be a little  
12 more honest with our presentations and not use  
13 statistics to say Local Law 101 is not a good law,  
14 because it is. It improves the lead abatement work,  
15 it trains lead abatement workers, and we don't even  
16 know, you didn't even mention the fact that -- I  
17 don't think you answered the question well,  
18 Commissioner, the trained workers, the certified  
19 workers that the landlords don't have to have it,  
20 and you need to just say that, they don't need to  
21 have certified works under Local Law 38 to do the  
22 lead abatement work.

23                   So there's a lot of stuff you're just  
24 not telling the public, and I think we should be  
25 straight up with these testimonies.

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2                   COMMISSIONER PERINE: I said they do  
3 when they complete the work in the second 21-day  
4 period, I think I was very clear that that standard  
5 was the same, whether the landlord did it or that we  
6 did it.

7                   In terms of the intact paint, once  
8 again, what I said very specifically, which was in  
9 response to the specific section of Local 101-A, is  
10 that it requires the cataloging of all surfaces,  
11 including intact paint. I did not say it was a  
12 violation. What I said was, and I described it, I  
13 think, in great detail in my testimony, what that  
14 would actually entail in the real world for an  
15 inspector to catalog such surfaces, wall by wall,  
16 room by room, apartment by apartment, adding  
17 needless delay and extending the time that an  
18 inspector has to spend doing an inspection for  
19 intact paint.

20                   COUNCIL MEMBER BARRON: Well, I think  
21 you danced on the landlord's certification question  
22 and you made it clear now and I'm glad you did  
23 because we want the public to at least have accurate  
24 information, no matter which way the vote goes,  
25 accurate information is important, and not to put

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2 statistics together that paint a picture of making  
3 this City thinking that Local Law 38 works, 101 is  
4 much better. I think no one would argue that it is  
5 more cost effective, it is definitely that, we've  
6 shown that.

7                   We've also shown that the workers  
8 will be trained under our law, and what about,  
9 you're saying that lead dust is hazardous, but Local  
10 Law 38 doesn't cover that; isn't that correct?

11                   COMMISSIONER PERINE: No, it's not  
12 correct. I'll let Harold answer.

13                   MR. SCHULTZ: No, it's not correct.

14                   First of all, Local Law 38 in effect  
15 identify the situations where the dust is most  
16 likely to be, and that's where there's a peeling or  
17 deteriorated lead paint surface, which is what lead  
18 dust is usually associated with.

19                   On top of that, when you're doing  
20 certain of the repairs under Local Law 38, you're  
21 required to do a dust test, and if you do any  
22 repairs under Local Law 38, under the second time  
23 period, you're required to do a dust test.

24                   Plus on turnover you're required to  
25 address the surfaces that are most likely to be

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2 generating lead dust.

3                   COUNCIL MEMBER BARRON: Just for  
4 public consumption, Local Law 38 does not cover  
5 dust, does not cover effectively, it does not. And  
6 we've been over this over and over again, no matter  
7 how you interpret it, the paint on the windowsills  
8 and stuff like that, it is not effective enough in  
9 Local Law 38. 101 covers it much better, much more  
10 thoroughly than Local Law 38.

11                   And let me ask something else. What  
12 are you looking at in our law? And I heard you say  
13 it, but it's not making any sense to me on the  
14 targeted areas, the high risk areas. There's nothing  
15 in our law, no matter how you try to interpret cost,  
16 or interpret the amount of work that says these  
17 areas will not be targeted and given special  
18 attention in the high risk areas, no matter how you  
19 try to reinterpret and overestimate and over  
20 interpret.

21                   COMMISSIONER PERINE: Well, once  
22 again, I guess I disagree with your interpretation  
23 here.

24                   Since we've had some experience over  
25 the last two years in actually getting the

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2 enforcement provisions of the existing law up and  
3 running, which has been complicated to do, I think  
4 we understand the extensive amount of work that's  
5 involved in making sure each step in a law is  
6 complied with.

7                   So what we're saying here is that  
8 because the provisions of 101-A, and as I described  
9 and I won't go through them again, are very broad  
10 and apply to a broad range of facts, which will  
11 bring the need for resources to be brought to bear  
12 in a variety of different ways, in a variety of  
13 different places, whether it's extending the period  
14 of time that a code inspector is going to spend in  
15 an apartment, you know, cataloguing intact paint in  
16 places where there is no lead violation, and on and  
17 on and on, this is going to necessitate that more  
18 work is going to be done outside those areas. Fewer  
19 owners are going to be able to comply, more time and  
20 energy is going to be spent in places that are not  
21 the targeted places as Dr. Frieden had suggested,  
22 and we know, one again, the high correlation between  
23 the physical location and the existence of peeling  
24 paint, and those are the two things that we  
25 shouldn't begin to divert our resources from trying

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2 to focus on those two things.

3 COUNCIL MEMBER BARRON: Well, we  
4 definitely disagree. We disagree with your  
5 interpretation of our law. It does target the high  
6 risk areas.

7 Let me just ask you a direct and  
8 simple question. Does Local Law 38 define lead dust  
9 as a hazard? Yes or no?

10 MR. SCHULTZ: Local Law 38 deals with  
11 lead dust as a hazard.

12 COUNCIL MEMBER BARRON: Yes or no,  
13 does it define it as a hazard?

14 MR. SCHULTZ: It requires testing for  
15 lead dust after repair has been done.

16 COUNCIL MEMBER BARRON: You see how  
17 you cannot even answer the question straight. Does  
18 it --

19 COMMISSIONER PERINE: I understand  
20 your question. I'm going to answer it.

21 COUNCIL MEMBER BARRON: I want a  
22 direct answer. I don't want no more dancing, this is  
23 a serious issue for us.

24 Does Local Law 38 define lead dust as  
25 a hazard? Yes or no, does it?



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2 COMMISSIONER PERINE: You want to boil  
3 something that is very complicated when you go out  
4 there --

5 COUNCIL MEMBER BARRON: Does it? Can  
6 you answer yes or no, and then explain your answer?

7 COMMISSIONER PERINE: I would like to  
8 answer it. It's not just a yes or no answer, and  
9 that's why, because it's a complicated thing.

10 COUNCIL MEMBER BARRON: It's not  
11 complicated.

12 COMMISSIONER PERINE: Yes, it is.  
13 Because it's almost always associated with peeling  
14 paint, once again, to divert the attention from the  
15 work that has to go into repairing the peeling paint  
16 is a mistake.

17 Whenever a lead hazard is corrected,  
18 all of the binding surfaces are corrected as well.

19 MR. SCHULTZ: If I can just clarify?

20 COUNCIL MEMBER BARRON: I have no more  
21 questions, Madam Chair. I'll pass it to you.

22 But the bottom line that it does not,  
23 Local Law 38 does not define lead dust as a hazard  
24 and it's not an adequate law to protect our  
25 children, protects landlords more.

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2 CHAIRPERSON PROVENZANO: Thank you.

3 Public Advocate Betsy Gotbaum.

4 PUBLIC ADVOCATE GOTBAUM: Commissioner

5 Perine, I'd like to ask you about the 37 owners who  
6 received subpoenas, and is there anything being done  
7 to ensure that those owners are not recipients of  
8 other type of City money for things like Scatter  
9 Site housing?

10 COMMISSIONER PERINE: It's actually  
11 137 subpoenas, and off the top of my head I really  
12 don't know the answer to that question.

13 PUBLIC ADVOCATE GOTBAUM: Could you  
14 inquire about it and then get back to the Council on  
15 that issue?

16 COMMISSIONER PERINE: Sure.

17 PUBLIC ADVOCATE GOTBAUM: Thank you.

18 CHAIRPERSON PROVENZANO: Council  
19 Member Comrie.

20 COUNCIL MEMBER COMRIE: Good  
21 afternoon, Commissioner.

22 Clearly there's a lot of interest and  
23 concern about the ability of Local Law 38 to work,  
24 vis-a-vis the Local Law 101 to work, and I'm sorry I  
25 missed your initial testimony, I'm trying to find --

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2 because I had my alma maters graduation this  
3 morning, and I do attend my public school's  
4 graduation since they had me as a keynote speaker,  
5 which they told me about this morning. That always  
6 happens when the keynote speaker doesn't show up on  
7 the dais.

8                   Clearly, there's a lot of confusion  
9 and a lot of deliberation as opposed to what dust is  
10 and is it a hazard and when it's being done, but  
11 there was a part of your testimony that's talking  
12 about the cost and the level of confusion as to what  
13 the cost of Intro. 101-A could be; could you  
14 elaborate on that a little bit more, please?

15                   MR. SCHULTZ: Yes, there's actually a  
16 lot of confusion on this point, and I would refer  
17 you actually to the IBO report itself, which  
18 actually, although it comes up with a number of \$8  
19 million, actually suggests that there is in fact a  
20 great deal of confusion on this topic.

21                   Among other things, if you look at  
22 the IBO report itself, to talk about the issue of  
23 proactive inspections, on page ii of the report, it  
24 says that the proactive inspection piece could rise  
25 to as high as \$150 million a year. And if you look

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2 further into the IBO's analysis of how they came up  
3 with their number of about \$3.9 million for that,  
4 they say basically that they're assuming that HPD  
5 and DOHMH will only inspect five percent of the  
6 high-risk units per year, so that seems to mean that  
7 they're expecting that a cycle of high-risk  
8 proactive inspections would take approximately 20  
9 years, so that seems, frankly, a little unrealistic,  
10 if you were serious about a program in which you  
11 wanted to get the children who are mostly at risk  
12 between the ages of one and three.

13                   The report also goes on and lists a  
14 series of things that they specifically did not  
15 cross out, and if you look at, I believe it's page  
16 13 of their report, they list a whole series of  
17 things which they specifically said that they don't  
18 know and they're not costing out, including the  
19 administrative costs for maintaining a fairly  
20 complicated and extensive filing system, any time  
21 someone does a lead hazard abatement, or does  
22 renovation in New York City.

23                   They also specifically point in their  
24 report on page 14 to the maximum extent possible  
25 clause, which is presumably designed to govern

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2 interpretation of Intro. 101-A, which requires the  
3 agencies to act to the maximum extent possible in  
4 order to eliminate lead poisoning.

5                   On top of that, they also  
6 specifically do not address all the agencies that  
7 have been given obligations under Intro. 101-A,  
8 presumably the Department of Education, ACS, the  
9 Parks Department. That alone we've estimated, I  
10 believe OMB has estimated that those three agencies  
11 could have expenses in the range of about \$75  
12 million.

13                   So, there's a lot of issues that the  
14 IBO has identified that they chose not to cost out.

15                   COUNCIL MEMBER COMRIE: I'm more  
16 concerned about the effectiveness of all of this.  
17 You said also at one point that it would reduce the  
18 actual effectiveness of the abatement being done as  
19 opposed to -- you're more concerned at this point  
20 that there would be so much paperwork that no actual  
21 work would be done; is that what you're trying to  
22 say?

23                   MR. SCHULTZ: We have a very big  
24 concern with the provision, I think it's 56.9 in  
25 Intro. 101-A, which would require HPD inspectors,

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2 every time they go to a unit where there's a child  
3 under seven, to catalog every single surface in the  
4 apartment.

5                   To us that means that, for example,  
6 if you're there on a heat and hot water inspection,  
7 which would normally have taken 15 to 20 minutes in  
8 order to take the temperature of the building,  
9 currently if we see a child and we see peeling  
10 paint, we will write that violation; however, now,  
11 that inspector, and let's imagine, for example, an  
12 apartment that's in perfect condition, would be  
13 required to go surface by surface, room by room,  
14 throughout the entire apartment, probably would have  
15 to draw a diagram of the unit and mark on that  
16 diagram by every surface what the condition of the  
17 wall was and basically reporting that it was intact.

18                   Also, there's language in here which  
19 says that the inspector would have to review  
20 potential things that might cause paint to peel. So,  
21 I don't know how the inspector would then determine  
22 that all the pipes behind the wall were in good  
23 condition, because that presumably would be one of  
24 the inspector's obligation.

25                   So, an inspection that now takes 20

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2 to 30 minutes might well wind up taking three or  
3 four hours. That would have a huge impact on HPD's  
4 ability to deliver inspection services throughout  
5 the City and would have to be addressed by hiring  
6 many more inspectors.

7                   But most importantly, that inspector  
8 is now spending time in an apartment that was not a  
9 risk to anyone, cataloging all these intact surfaces  
10 to a purpose that I can only imagine.

11                   COUNCIL MEMBER COMRIE: Okay. We went  
12 a little farther than I intended. But, clearly,  
13 you're talking about increasing the time for  
14 inspections. Is HPD planning on hiring more  
15 inspectors to improve their rate of the present  
16 inspection period?

17                   Gale Brewer was saying earlier that  
18 the time lapse in the ability of the court system to  
19 address these problems also creates a real time  
20 lapse in getting resolution. Do you think that  
21 Intro. 101 addresses or helps that?

22                   COMMISSIONER PERINE: No. I mean, in  
23 fairness, no law is going to address that. That  
24 would have to be addressed as part of the City's  
25 budget process, I mean the court system is separate

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2 and apart from that. But, you know, applying  
3 adequate resources to enforce whatever our existing  
4 laws are is something that happens as part of the  
5 budget process.

6                   So, we don't have any plans to hire  
7 more inspectors now. We're at or close to our  
8 headcount of about 308 inspectors, which is what  
9 we're funded for.

10                   COUNCIL MEMBER COMRIE: And those 380  
11 inspectors right now inspect --

12                   COMMISSIONER PERINE: 308.

13                   COUNCIL MEMBER COMRIE: How many  
14 apartments do they inspect in the course of a year  
15 under Local Law 38 now?

16                   MR. SCHULTZ: It's approximately 3 to  
17 400,000 inspections I believe we do per year.

18                   COUNCIL MEMBER COMRIE: Okay.

19                   And you think that you could increase  
20 that rate of inspections with the amount of  
21 personnel that you have now?

22                   COMMISSIONER PERINE: No. I mean, I  
23 don't see how we could increase -- we couldn't meet  
24 the needs of 101-A with existing inspections.

25                   COUNCIL MEMBER COMRIE: I'm not



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2 talking about 101-A, I'm talking about is there any  
3 system that you could envision without 101-A to  
4 increase the amount of inspections in the City now,  
5 since that's clearly part of the problem?

6                   COMMISSIONER PERINE: I don't know  
7 that it's part of the problem. I think we've done a  
8 lot in this regard already. We use one-man teams, we  
9 spend inspectors out on weekends and at night by  
10 appointment to try to bring down a no-access rate  
11 which is something that, you know, wastes a lot of  
12 time, if you send an inspector out and then the  
13 family is not home.

14                   So, you know, we've taken a lot of  
15 actions to have our inspection force be deployed as  
16 quickly as we possibly can, this is a very  
17 particularly cold winter, as people know, and we did  
18 a good job at getting out, in the winter months we  
19 focused, we prioritized heat and hot water  
20 complaints, obviously above other complaints, so I  
21 don't think that's a big issue now. You know, the  
22 court system of course is very lengthy for people  
23 who are seeking relief and I think that's beyond a  
24 scope to repair at this point.

25                   COUNCIL MEMBER COMRIE: Okay.

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2                   Just to change direction for a  
3 minute. You said that the maximum time would be  
4 shortened from 45 days to 14 days, creating more of  
5 a burden for HPD because you feel that it would wind  
6 up making HPD do more of the lead abatement; can I  
7 ask you, how hazardous is it for an uninformed  
8 private home-owner to have a contractor come in and  
9 just do the abatement?

10                   COMMISSIONER PERINE: I'm not sure  
11 what you're asking exactly.

12                   COUNCIL MEMBER COMRIE: We've heard it  
13 here that you're trying to network now with Home  
14 Depot and other, every paint source to teach about  
15 lead paint abatement; you have to do the  
16 pre-inspection and the post-inspection of whatever  
17 the situation is, but the actual abatement process,  
18 do you have an idea on how, if it's done  
19 unprofessionally, what is the hazard to the rest of  
20 the apartment?

21                   COMMISSIONER PERINE: I guess, you  
22 know, really what we were trying to get at with the  
23 outreach to places like Home Depot and others is to  
24 try to spread the word to particularly small owners  
25 who may not even be aware that what they used to

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2 think of as routine work inside, you know, a small  
3 building, could in fact, given a set of facts, you  
4 know, create lead hazards for them.

5                   So, what we're trying to do is  
6 educate people so that they understand that any work  
7 they do could involve simple repairs that I guess,  
8 you know, again, people not being aware necessarily  
9 of the condition of lead paint underneath many, many  
10 other layers of paint, we want them to be educated  
11 so that they can undertake the proper work.

12                   COUNCIL MEMBER COMRIE: Right, but  
13 what I'm asking, Commissioner, like say I want to  
14 paint my house or apartment and there's dust there  
15 and I want to paint it, is there a hazard by not  
16 checking for lead in just the regular spruce up?

17                   COMMISSIONER FRIEDEN: I think the  
18 issue really is, if you've got lead in the paint  
19 then you do, for example, dry scraping, which is  
20 going to generate a lot of dust. That's a problem,  
21 if you wet down and scrape.

22                   So, one of the issues is that lots of  
23 work that is done is not going to get done under any  
24 law, not 38, not 101-A, and so part of the challenge  
25 is really to change the culture of how work gets

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2 done to make sure that we don't create a problem  
3 when we're trying to fix it.

4 COUNCIL MEMBER COMRIE: Just one last  
5 question.

6 Right now, the reporting that's done  
7 by doctors, and the testing that's done, the first  
8 time a child is tested under the New York State is  
9 what age?

10 COMMISSIONER FRIEDEN: That's ages one  
11 and two. And if they're at risk, up to age six.

12 COUNCIL MEMBER COMRIE: And that's a  
13 state policy?

14 COMMISSIONER FRIEDEN: State mandate.

15 COUNCIL MEMBER COMRIE: Can we  
16 supersede it with a City policy?

17 COMMISSIONER FRIEDEN: No.

18 COUNCIL MEMBER COMRIE: So if a child  
19 is not tested until they're one, they could already  
20 have lead paint in their system for 12 months  
21 beforehand, right, it's a possibility?

22 COMMISSIONER FRIEDEN: The issue is  
23 generally kids won't be exposed until they're  
24 crawling and doing hand to mouth activity after  
25 crawling or getting exposed to dust in that way.

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2 COUNCIL MEMBER COMRIE: Okay.

3 COMMISSIONER FRIEDEN: Just to  
4 clarify, the City does not have the authority to  
5 mandate the practice of medicine. That's within the  
6 purview of the state.

7 COUNCIL MEMBER COMRIE: That's within  
8 the purview of the state.

9 Is there some City program that could  
10 encourage, or could we encourage doctors to test  
11 lead within the first three months of a child, or  
12 the second three months? Most children are crawling  
13 by the --

14 COMMISSIONER FRIEDEN: Even when there  
15 is testing, the rate of high levels is extremely low  
16 in the low age groups, and, so, the emphasis really  
17 is not more testing, but more kids getting tested,  
18 so especially in the high-risk areas, making sure  
19 that virtually every kid gets tested at one and at  
20 two.

21 That's where we want to go and we do  
22 a lot of outreach with families and providers on  
23 that.

24 COUNCIL MEMBER COMRIE: What's the  
25 percentage that children one or two are being turned

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2 into the Department of Health?

3                   COMMISSIONER FRIEDEN: Eighty-six  
4 percent of kids are tested by the age of three, but  
5 only 31 percent are tested at both one and two years  
6 of age.

7                   COUNCIL MEMBER COMRIE: How do we  
8 increase those numbers?

9                   COMMISSIONER FRIEDEN: We've been  
10 working with providers, working with families,  
11 working with communities. We work, for example, with  
12 Medicaid Managed Care to provide them a match of who  
13 is not tested of their panel.

14                   We also look at, for example, every  
15 birth certificate that's gone out for the past year  
16 has had a health information package in it,  
17 including the importance of getting tested for lead.

18                   COUNCIL MEMBER COMRIE: Is there some  
19 reason why these doctors are not turning it in, from  
20 maybe one to 31 percent?

21                   COMMISSIONER FRIEDEN: The City,  
22 although it needs to do a lot better, is actually  
23 doing much better than the national and state total,  
24 and for the challenge really with 40,000 doctors in  
25 New York City, they're trying to get things

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2 consistently. We also know there are lots of  
3 children who aren't in regular care. So, making sure  
4 that kids get regular care and let's follow up, get  
5 done regularly. We work closely with HHC and  
6 increasingly with the community health centers.

7 COUNCIL MEMBER COMRIE: All right,  
8 thank you.

9 Thank you, Madam Chairman.

10 CHAIRPERSON PROVENZANO: Thank you.  
11 Council Member Jackson.

12 COUNCIL MEMBER JACKSON: Thank you,  
13 Madam Chair.

14 Is there any way that we can turn up  
15 the air conditioning in this room?

16 CHAIRPERSON PROVENZANO: Turn it up,  
17 not off, right?

18 COUNCIL MEMBER JACKSON: Yes, make it  
19 lower, because it's pretty hot. So if we can do  
20 that, I would ask that --

21 CHAIRPERSON PROVENZANO: It's warm.

22 COUNCIL MEMBER JACKSON: I would ask  
23 that our Sergeant-At-Arms try to lower the  
24 temperature in here because it's pretty hot.

25 And, Madam Chair, I would just like

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2 to take the opportunity to acknowledge your former  
3 colleague in the City Council, Council Member Stan  
4 Michels, who was the individual that I have known  
5 for at least 25 years, have stood up and fought for  
6 the children of New York City and more specifically  
7 has been a leader on Intro. 101 and handed over the  
8 baton to my colleague in the City Council, the  
9 Deputy Majority Leader Bill Perkins.

10 So, I just want to acknowledge  
11 Stanley Michels in all of his efforts.

12 Commissioner Perine, I have a  
13 question for you.

14 I believe in your testimony on page  
15 11, you made reference to 137 subpoenas to  
16 residential owners in targeted high-risk buildings.

17 Now, those of 137 subpoenas, were  
18 those for individual buildings, or just for owners  
19 of all of the buildings? You know, or was it, for  
20 example, 137 owners, but 500 or 700 buildings?

21 COMMISSIONER PERINE: It went to the  
22 owners of 137 buildings.

23 COUNCIL MEMBER JACKSON: Okay.

24 And do you know what the time frame  
25 is, I mean from the point in time that you issued a



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2 subpoena because the landlord had not complied with  
3 the law or the regulation; is that correct?

4 COMMISSIONER PERINE: It means that we  
5 were not notified, if they did.

6 COUNCIL MEMBER JACKSON: They may  
7 have.

8 COMMISSIONER PERINE: We're hoping,  
9 frankly, that they're going to produce the records  
10 and they did do what they were supposed to do.

11 COUNCIL MEMBER JACKSON: And what was  
12 the time frame, from the time that you sent another  
13 letter, up until now? Because it says here, is that  
14 17 of the first 37 owners that received subpoenas  
15 did not comply, we will go to Housing Court to seek  
16 an offer, and if not so forth and so on.

17 What has been the time frame since  
18 you initially sent out the letter to now?

19 MR. SCHULTZ: It was about two to  
20 three weeks from the date of noncompliance to  
21 commencement of the contempt action in court.

22 COUNCIL MEMBER JACKSON: Okay. So, in  
23 essence it's a short time frame. It's not like six  
24 months or a year or anything like that.

25 MR. SCHULTZ: Yes, exactly. We want to

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2 stage these also for precisely that reason, that as  
3 we send out the subpoenas, if you haven't complied  
4 then we'll bring you quickly back to court.

5 COUNCIL MEMBER JACKSON: Okay.

6 And I see you listed several steps in  
7 your description. So, from the beginning step of you  
8 sending out a letter, let's say going to contempt of  
9 court, what is the time frame from that, if you can  
10 guess, or maybe your legal department would know?

11 MR. SCHULTZ: The original letter that  
12 we sent out actually, we did that in the first  
13 group, and that was earlier, and I think what we  
14 found was that the letter didn't get a lot of  
15 response. So I think in the future we probably will  
16 do fewer letters, and just more go directly to  
17 subpoenas, so that we'll have basically a shorter  
18 time frame, and since the letters didn't prove  
19 particularly effective.

20 COUNCIL MEMBER JACKSON: And this  
21 action, this is a recent action; is that correct?

22 MR. SCHULTZ: Yes. We actually started  
23 developing this plan back, I think last fall,  
24 started implementing it in January, and I think the  
25 first set of subpoenas went out in May -- April,

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2 first set of letters went out in April.

3 COUNCIL MEMBER JACKSON: And how long  
4 has Local Law 38 been in place, if you don't mind?

5 MR. SCHULTZ: Well, Local Law 38 has  
6 been in place since about 1999, but as Commissioner  
7 Perine said in her testimony, we've been going  
8 through a tremendous amount of work to get the  
9 enforcement basics of Local Law 38 up and operating.

10 We had to create and build a computer  
11 system designed to handle all of the enforcement  
12 issues that Local Law 38 provides. We had to train  
13 thousands of workers so that we would have  
14 contractors that we could then contract out repair  
15 work to under Local Law 38. We then had to also  
16 create and train, and create the enforcement system,  
17 as to all the potential issues that would arise, we  
18 had to issue rules. So, we've been very busy with  
19 Local Law 38, making it effective, now we have the  
20 ability to move on to other issues that we always  
21 wanted to get to.

22 COUNCIL MEMBER JACKSON: So the legal  
23 part you're just getting to now, as far as the legal  
24 part, meaning a court action --

25 MR. SCHULTZ: No, we've had other

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2 legal parts. We've done --

3 COUNCIL MEMBER JACKSON: Court  
4 actions.

5 MR. SCHULTZ: Well, we've had 3,000  
6 lead violations that have been the subject of court  
7 action. We've brought cases for false certification.  
8 We have a very active access process where we are  
9 refused access. So there are other legal parts that  
10 we have been doing.

11 COUNCIL MEMBER JACKSON: Okay.  
12 More specifically, so you have been  
13 taking legal action on different aspects, but  
14 concerning this particular aspect, where you sent  
15 out letters where they've failed to comply, this is  
16 the first round of that?

17 MR. SCHULTZ: This is the first round  
18 of that, yes.

19 COMMISSIONER PERINE: Again, it's  
20 where they failed to report to us.

21 COUNCIL MEMBER JACKSON: Do you  
22 anticipate any additional steps in Local Law 38 that  
23 you have not developed as of yet, considering that  
24 it's almost four years?

25 MR. SCHULTZ: Well, I expect that HPD

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2 and DOHMH meet and discuss enforcement of Local Law  
3 38 on a regular basis, and what I expect is that we  
4 will be able to sit down and continue the work  
5 together, as I believe we've worked together very  
6 successfully in the past, look at the possibilities,  
7 look at the problems as they arise and devise  
8 strategies.

9 COUNCIL MEMBER JACKSON: Okay.

10 I'd just like to move to another  
11 area, and I appreciate your candid answers.

12 My understanding is that within the  
13 first 21 days of a landlord is notified of a lead  
14 situation, that the landlord doesn't have to use  
15 certified workers for abatement; is that correct?

16 MR. SCHULTZ: Yes, that is correct  
17 that they don't have to use certified workers.

18 COUNCIL MEMBER JACKSON: Okay. In the  
19 best interests of the children, wouldn't it, in your  
20 opinion, be better to use certified workers to  
21 protect the children, rather than use other  
22 certified workers?

23 MR. SCHULTZ: I think the best thing  
24 to protect children is to get as much work done as  
25 safely as possible.

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2 COUNCIL MEMBER JACKSON: Right.

3 MR. SCHULTZ: Local Law 38 does have  
4 within it a series of safe work practices, which if  
5 followed, are adequate I think to protect safety.

6 The objective, once again, is to get  
7 owners to do as much work as possible.

8 COUNCIL MEMBER JACKSON: I understand  
9 your objective, I'm asking you an opinion, whether  
10 or not you have an opinion as to whether or not a  
11 certified worker would be better to do a job than an  
12 uncertified worker? That's the opinion that I'm  
13 asking.

14 If you don't have an opinion, just  
15 say you don't have one. I'm just asking if you have  
16 one.

17 MR. SCHULTZ: Once again, it depends  
18 upon the kind of job that you're talking about.

19 COUNCIL MEMBER JACKSON: Not, but  
20 we're talking specifically about this job of lead  
21 abatement, specifically.

22 MR. SCHULTZ: In general when you're  
23 dealing -- In general, I mean, once again this is a  
24 hearing about 101, not a hearing about Local Law 38.

25 COUNCIL MEMBER JACKSON: I understand.

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2 But, sir, I beg to differ. It is about Local 101,  
3 but as a legislator I don't know the details of 101  
4 and 38 like you do. I'm trying to get an  
5 understanding as to Local Law 38 and it's  
6 implementation.

7                   You and your colleagues spoke in  
8 detail about Local Law 38 and about the impacts,  
9 about your opinions about 101, and I'm just asking  
10 if the Commissioner or you or anyone else can answer  
11 my question on whether or not it's better to have a  
12 certified lead abatement professional doing the job  
13 than an uncertified. That's all I want to know.

14                   COMMISSIONER PERINE: I think we  
15 answered the question.

16                   COUNCIL MEMBER JACKSON: Please, I'm  
17 not looking for applause, I'm looking for an answer.

18                   COMMISSIONER PERINE: I think we  
19 answered the question by saying in the first time  
20 period that the owner has to apply, he's got to meet  
21 the requirements of the safe work practices and that  
22 we believe that that is sufficient for carrying out  
23 that work.

24                   When that deadline is missed, you  
25 know, we have some sense that there is a problem

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2 with both the owner and the property potentially,  
3 and we go to a higher standard.

4 COUNCIL MEMBER JACKSON: Let me ask a  
5 question, if I may.

6 How come, and maybe I don't  
7 understand it, how come you can have an opinion  
8 about Local Law 101 -- Intro. 101, but when I ask  
9 you an opinion about whether or not it's best for  
10 certified versus uncertified, you don't have an  
11 opinion? But your response is --

12 COMMISSIONER PERINE: I gave you my  
13 opinion.

14 COUNCIL MEMBER JACKSON: Excuse me,  
15 please. Your response that I receive as a legislator  
16 is as long as the job is done in accordance with the  
17 law, it doesn't really matter. But you have an  
18 opinion about Intro. 101.

19 COMMISSIONER PERINE: As long as it's  
20 done within the confines of the State work practices  
21 that are laid out in the law, it's sufficient.

22 COUNCIL MEMBER JACKSON: Okay. I'm not  
23 going to move on with that anymore.

24 I appreciate your response or the  
25 lack thereof.



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2                   My next question is that, is there a  
3 medical justification to protect children under six  
4 years of age as stated in Local Law, as opposed to  
5 under age seven, under Local Law 1 of 1982?

6                   COMMISSIONER FRIEDEN: The age limit I  
7 addressed in my testimony I would emphasize federal,  
8 state, City guidelines are under six. The vast  
9 majority of the kids lead poisoned are under six,  
10 you want to say all age groups, you want to say up  
11 to 18. You could always say, you know, why not this  
12 or why not that, but the fact is, the kids who are  
13 most at risk of lead poisoning and who have the most  
14 damage from lead poisoning are under three.

15                   COUNCIL MEMBER JACKSON: Okay.

16                   COMMISSIONER FRIEDEN: So, I think  
17 keeping us consistent with national, state, really  
18 doesn't make sense to go from six to seven.

19                   COUNCIL MEMBER JACKSON: Is there any  
20 medical justification?

21                   COMMISSIONER FRIEDEN: There's no  
22 medical justification not to have up to age 18.

23                   COUNCIL MEMBER JACKSON: Okay.

24                   COMMISSIONER FRIEDEN: Except to say  
25 that the vast majority of the potential damage that

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2 lead can do happens at a young age, so there might  
3 be justification to say only up to three.

4 COUNCIL MEMBER JACKSON: Okay.

5 COMMISSIONER FRIEDEN: It's going to  
6 be a certain level of arbitrariness with the age  
7 group.

8 COUNCIL MEMBER JACKSON: I appreciate  
9 that.

10 Now, the clarification for me, and  
11 you have to understand, believe me when I tell you,  
12 I hardly know anything about this subject area,  
13 except from what I've heard at the hearings and I've  
14 read, and, so, I don't know and I don't have the  
15 experience like many of you do, so please bear with  
16 me if you don't mind.

17 Under the current law, Local Law 38,  
18 it says under six years of age. Does that include  
19 children six years and under? Or under six means  
20 five years and under?

21 COMMISSIONER FRIEDEN: It means five  
22 years and under and the under seven would mean six  
23 years and younger.

24 COUNCIL MEMBER JACKSON: Okay. Then is  
25 there any way that we can change the language to say

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2 not under six but five years and younger? Because  
3 there's a perception, at least as a layperson, and  
4 I've graduated from college, and I think I have some  
5 understanding, I had the impression six and under,  
6 but you're saying it's six and under, and under six  
7 means five years and younger and not including  
8 children six years of age.

9 COMMISSIONER FRIEDEN: It's until your  
10 sixth birthday.

11 COUNCIL MEMBER JACKSON: Okay. Okay.

12 And then my last question, Madam  
13 Chair, and I appreciate the time, has any of the  
14 agencies represented up here, the Department of  
15 Health and Mental Hygiene, HPD or DEP; is that  
16 correct? The Department of Education, or any agency,  
17 performed an analysis of the cost to local and state  
18 government incurred for the physical and mental  
19 services to poisoned lead victims and the result in  
20 social factors, such as the lack of educational  
21 achievement of poisoned victims and the negative  
22 aspects of being lead poisoned, such as  
23 homelessness, imprisonment, et cetera, et cetera;  
24 has anyone done a longevity study on that, on lead  
25 poisoned victims, and tell me what the cost factor

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2 is?

3                   COMMISSIONER FRIEDEN: We have not  
4 done such a study.

5                   The challenges of doing that study  
6 are the lack of specificity in terms of many of the  
7 outcomes knowing exactly what the impact would be.  
8 There have been some national studies, there have  
9 been criticism of national studies.

10                   I think the bottom line, though, is  
11 that no one here is saying that lead poisoning isn't  
12 a serious continuing problem, and I think I've said  
13 that in my testimony, I think I've said it in my  
14 powerpoint, I think we've all said that. The  
15 challenge is to do better with what we're doing and  
16 make sure that we can get the number down as low as  
17 possible.

18                   COUNCIL MEMBER JACKSON: Okay, and the  
19 reason why I ask that question is I wanted to know  
20 whether or not someone has basically determined what  
21 the cost is of a child being lead poisoned.

22                   Because I've heard your testimony and  
23 you, when I say "you," either individually or  
24 collectively, have given cost factors as to if we  
25 had to do, why, how many more employees we would

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2 have had to hire or how many, what the costs will be  
3 in millions and millions of dollars, and I want to  
4 know what the negative impact, especially on  
5 poisoned kids, what the cost factor will be, if, in  
6 fact, these poisoned kids went through life, because  
7 we're going back to statistics of 1970 I believe  
8 that you all showed, well that's like 35 years ago,  
9 so can't we do a longevity study with individuals  
10 that have been poisoned, and the negative impact of  
11 that? Don't you think that would be a worthwhile  
12 project?

13                   COMMISSIONER FRIEDEN: It is a  
14 challenging project and one that I do think would be  
15 worthwhile.

16                   There have been analyses elsewhere  
17 that find with a reasonable degree of consistency,  
18 that kids who have lead levels that are elevated,  
19 have, even when you control for everything else,  
20 have poorer school performance and lower work  
21 success, via proportion, and this is why we want to  
22 stop lead poisoning in New York City.

23                   COUNCIL MEMBER JACKSON: Well, thank  
24 you very much.

25                   Thank you, Madam Chair, for your

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2 patience.

3                   CHAIRPERSON PROVENZANO: Thank you. I  
4 would like to introduce some of the Council members  
5 that have joined us.

6                   Council Member Martinez, to my right.  
7 Council Member Stewart, Council Member -- for those  
8 of you who were here before, I asked, and you really  
9 have been great, please I did say boos and heckling,  
10 so I'll add hissing, thank you.

11                   I would also like to introduce  
12 Council Member Joel Rivera and Council Member  
13 Recchia.

14                   And our next person to ask questions  
15 is Council Member Perkins.

16                   COUNCIL MEMBER PERKINS: Thank you  
17 very much, Madam Chair.

18                   I want to just go back on some  
19 concerns that were raised earlier.

20                   First I want to point out that  
21 Councilman Barron, when he was talking about this  
22 page two of your powerpoint, was really trying to  
23 recognize that the number of eight children in 2002,  
24 versus the number of 2,649 children in 1970, gives  
25 the impression that went down to eight, and that's

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2 very, very important that we establish that we're  
3 not down to eight, as this here might suggest,  
4 particularly when we're talking about lead levels at  
5 60 or greater.

6                   So, I think that's very, very  
7 important because its positioning in the report  
8 might lead one to think that the unfinished success  
9 story is just these eight children, and that's not  
10 accurate at all.

11                   COMMISSIONER FRIEDEN: I would  
12 certainly agree that that is not the message that we  
13 were trying to make.

14                   And as I pointed out, we say in that  
15 same presentation, if there were 3,985 children with  
16 elevated levels, you know, we really do make an  
17 effort to tell the whole story and tell it right,  
18 and that's what we try to do.

19                   You know, nationally, when all of us  
20 grew up, lead levels were much higher.

21                   The average lead levels in the US in  
22 urban areas from '76 to '80 were about 17, 18, now  
23 they're about two or three. Saying that we've made  
24 progress isn't saying that we don't have to make  
25 more progress.

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2 COUNCIL MEMBER PERKINS: Okay, very  
3 good.

4 I also now want to go back to the  
5 whole question, Doctor, of the immigrants. Because  
6 there is an impression in your remarks that 25, 26  
7 percent of these immigrants, of those lead poisoned  
8 children are immigrants, who come here infected from  
9 wherever they came from, as opposed to living in  
10 lead-contaminated homes. And I want to make it clear  
11 that we're talking about children who live in  
12 lead-contaminated homes who happen to be from other  
13 countries, but not necessarily because they come  
14 here lead poisoned from those countries.

15 COMMISSIONER FRIEDEN: I addressed  
16 that earlier with Council Member Katz' question.  
17 What I said is, remember, 75 percent are US born,  
18 we're not saying there's not a problem here.

19 Among the 25 percent, some will have  
20 come in with lead poisoning from overseas where it's  
21 much more common. The kind of levels that we had in  
22 the seventies and before they still have, and worse  
23 today, some will be lead poisoned here. And I don't  
24 know what the portion of some is, but neither is  
25 zero.



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2 COUNCIL MEMBER PERKINS: How do you  
3 know it's any?

4 COMMISSIONER FRIEDEN: In our  
5 preliminary data, of the 25 percent, 70 percent of  
6 those had come in within less than a year, and I  
7 would expect that a significant number of those in  
8 fact got lead poisoned overseas.

9 If you look at kids, and remember,  
10 Council member, I've worked in these countries, if  
11 you look at Bangladesh, if you look at Mexico, and  
12 you took 100 kids from Mexico, you'd find levels  
13 like levels here at 30, 40 years ago or higher,  
14 because of very unsafe work practices and the  
15 ubiquity of leaded paint, leaded gasoline, that  
16 we've gotten rid of in our environment, as well as  
17 lead-based pottery.

18 So, we know that there are  
19 significant problems, but we're not saying that it's  
20 something that we should ignore for that reason.

21 We're saying we need to do special  
22 outreach to immigrant communities, because they may  
23 be at higher risk, and we need to address, for  
24 example, cosmetics or pottery that are used that may  
25 be continuing that risk.

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2                   We're not saying it's not a problem  
3 here, but I think it would be irresponsible of us to  
4 ignore that there are different communities with  
5 different needs.

6                   COUNCIL MEMBER PERKINS: I think it  
7 would irresponsible to ignore that, but I think it's  
8 also deceptive, if you will, or misleading perhaps  
9 is a politer way to put it, to suggest that these  
10 children are coming here as immigrants poisoned with  
11 lead based on where they come from.

12                   COMMISSIONER FRIEDEN: This is an area  
13 which has increased. The Lead Poisoning Prevention  
14 Program did not systematically collect this  
15 information before. We need to understand it better.  
16 But, again, I don't think it takes away the case for  
17 needing to do more about lead paint and lead  
18 poisoning in New York City. It's just a statement of  
19 what the reality is. And as we characterize more  
20 about this group of children, we'll be happy to  
21 share that with you.

22                   COUNCIL MEMBER PERKINS: I assume  
23 you're saying, yes, is the answer to my question,  
24 that they live in lead-contaminated homes?

25                   COMMISSIONER FRIEDEN: Some do, some

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2 don't.

3 COUNCIL MEMBER PERKINS: But most of  
4 them do is what you're --

5 COMMISSIONER FRIEDEN: I don't know  
6 the proportion that do. We can find that out and get  
7 back to you.

8 COUNCIL MEMBER PERKINS: Okay. I just  
9 find it hard to believe that you don't know. If you  
10 know who they are, how come you don't know?

11 COMMISSIONER FRIEDEN: Thank you for  
12 your belief in my omissions, but we really don't  
13 know the answer to that. If we know it, we'll get  
14 back to you.

15 COUNCIL MEMBER PERKINS: Okay.

16 Do you have an outreach apparently to  
17 these communities, or through local CBOs, what kind  
18 of outreach does this entail, and in what ways has  
19 this helped with the problem of preventing lead  
20 poisoning?

21 COMMISSIONER FRIEDEN: The question is  
22 about outreach, and how we outreach the communities?  
23 I'll introduce Dr. Jessica --

24 COUNCIL MEMBER PERKINS: Well, in  
25 these particular ones.

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2 COMMISSIONER FRIEDEN: Right. Dr.

3 Jessica Leighton, who is Assistant Commissioner for  
4 Environmental Disease Prevention and oversees our  
5 Lead Poisoning Prevention Program.

6 ASSISTANT COMMISSIONER LEIGHTON: Good  
7 afternoon.

8 There are a lot of things that we do  
9 in these communities. We participate in health  
10 fairs, we do train the trainer type of programs in  
11 community-based organizations, so we're actually  
12 training staff in those organizations to talk to the  
13 community about lead poisoning prevention.

14 We distribute lots and lots of  
15 materials in those communities. We work with  
16 doctors, we've actually, most recently in the last  
17 few years, actually went into doctors' practices to  
18 see if they were actually doing screening of the  
19 children. They all think they're doing screening,  
20 but when you look at charts, they're not screening  
21 individual children as we know. But we work with  
22 them to try to figure out how to make their  
23 screening practices better, and to really assure  
24 that individual children get tested.

25 We also reach out to the doctors in

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2 high risk communities, we do medical rounds in  
3 hospitals targeted to those communities at highest  
4 risk.

5                   We send a literature to doctors  
6 regularly and have actually done two versions of our  
7 Health Department newsletter to physicians that  
8 really focus on lead poisoning, childhood lead  
9 poisoning.

10                   COUNCIL MEMBER PERKINS: So this is a  
11 general program, or is this one targeted  
12 specifically to the immigrant community?

13                   COMMISSIONER FRIEDEN: Were you asking  
14 about the high risk communities or the immigrant  
15 communities?

16                   COUNCIL MEMBER PERKINS: I was asking  
17 about the immigrant communities.

18                   ASSISTANT COMMISSIONER LEIGHTON: We  
19 have started some work specifically targeting  
20 immigrant communities.

21                   We have worked with them to make sure  
22 we have posters in clinics that immigrants use. We  
23 have given out brochures, and just over the last  
24 year that we've been really targeting. Yes, and we  
25 have our brochures in up to 17 languages. Most of

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2 our brochures are in seven or eight languages.

3 COUNCIL MEMBER PERKINS: Thank you.

4 I want to return to another question  
5 that was asked earlier by my colleagues as it  
6 relates to HPD and the work that the landlord is  
7 supposed to do. I don't think that I've gotten any  
8 clarification as to at what point a certified worker  
9 is required, if at all?

10 MR. SCHULTZ: A certified worker is  
11 required when the work is required to be performed  
12 pursuant to the Health Code Section 173.14, that  
13 happens in the second correction period.

14 COUNCIL MEMBER PERKINS: And that is  
15 the period after the first 21 days?

16 MR. SCHULTZ: That is correct.

17 COUNCIL MEMBER PERKINS: Okay. Thank  
18 you.

19 MR. SCHULTZ: That's only in the  
20 primary prevention program. If a child is lead  
21 poisoned, work is also required to be done pursuant  
22 to 173.14, so a trained worker would be required  
23 there also.

24 COUNCIL MEMBER PERKINS: So it's not  
25 required in the first 21 days, okay.

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2                   The unions who support 101-A report  
3 that most lead clean-up jobs take one day. So, if  
4 they can do it in one day, why is it that HPD would  
5 have difficulty doing it in 28 days?

6                   MR. SCHULTZ: When they say lead  
7 clean-up job, I don't know what information you're  
8 getting but I can tell you it literally can't be  
9 done in one day, because if you're going to do a  
10 dust test, you've got to send the dust test out to a  
11 lab and get a result back. So, you're dependent upon  
12 the lab before you can close the job to start off  
13 with.

14                   Plus you've got to talk to the  
15 tenants, if there's stuff in there, in the room that  
16 you're working in, you've got to seal it up. The  
17 brochure that you have there goes through, shows the  
18 effort that you have to go to just to set up the  
19 work area so you can do the work safely. I think  
20 that takes at least a day just to put the plastic  
21 down properly.

22                   COUNCIL MEMBER PERKINS: Okay. Now,  
23 finally, in terms of the rate of the decline, prior  
24 to Local Law 38, the rate was declining an average  
25 of 22 percent per year. And during the four years

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2 prior to the effective date of Local Law 38, but  
3 only 17 percent a year during the subsequent three  
4 years; can you explain why that difference is there?

5 It seems as if it's slowing down.

6 COMMISSIONER FRIEDEN: I don't think  
7 that's a significant difference. What we've seen is  
8 a steady decline from 1995 to 2002.

9 If you take it over that period, it  
10 comes out to an average annually of 18 percent, 17.9  
11 percent annual average decline.

12 COUNCIL MEMBER PERKINS: Okay, but it  
13 is a slowing down of the rate?

14 COMMISSIONER FRIEDEN: No, it really  
15 varies year to year. In 2001 the decline was 26  
16 percent. Where there are small numbers like this,  
17 and not so small numbers like this, differences of  
18 18 to 20 to 25 percent are going to be distinctions  
19 without a difference. They're not going to reflect  
20 any difference in reality. And, so, the point is  
21 that I don't think that you can say that the slope  
22 is decreasing. I will say, though, that if, listen  
23 carefully to what I'm saying, I don't want anything  
24 to be understood from what I'm saying, if 500, 800,  
25 1,000 of the close to 4,000 kids who had elevated



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2 lead levels, in fact had it from exposure of lead  
3 overseas or out of this country, that that stratum  
4 is going to change a lot less than the rest, and  
5 that stratum, because it's a constant number, will  
6 result in a lower decline as we approach  
7 elimination.

8                   Where we've seen this most, just to  
9 give you another example, is in the area of  
10 tuberculosis.

11                   In 1992, 18 percent of our cases were  
12 foreign borne. We had 4,000 cases of which about 800  
13 were from overseas or out of this country.

14                   Last year we were down to about 1,200  
15 cases of TB, but about 700 or 800 were foreign, the  
16 exact numbers I don't have here. The point is that  
17 the number of foreign-borne cases stayed the same,  
18 but the US borne decreased drastically, and that is  
19 because in the case of tuberculosis, people come  
20 into the country with infection and break down with  
21 active tuberculosis later on.

22                   Some of that is going on with the  
23 foreign-borne. We're not saying it's the bulk of the  
24 problem, but it will affect the future trajectory of  
25 declines in lead poisoning in New York City, because

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2 really the ubiquity of lead hazards out of this  
3 country is quite astonishing.

4 COUNCIL MEMBER PERKINS: Thank you  
5 very much, Madam Chair.

6 CHAIRPERSON PROVENZANO: Thank you.  
7 Council Member Lopez.

8 COUNCIL MEMBER LOPEZ: Before I  
9 proceed with my questions, I just want to welcome  
10 you, Commissioner Perine. I am very glad that you're  
11 here and you're back in business, or that you had  
12 never left.

13 The Department was taken care of very  
14 well, particularly by Commissioner Adagon  
15 (phonetic), who knows how to dress.

16 Saying that, it's good to see you.

17 First what I want to inform the  
18 public, is that at 1:00 I have to be out of here  
19 because I have a hearing across the street from my  
20 committee in order to deal with the proposed closing  
21 of the Governor of facilities that serve children  
22 with developmental disabilities, and one of the  
23 developmental disabilities that children get is lead  
24 poisoning.

25 Then I'm going to be across the

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2 street with that hearing to make sure that we  
3 prevent the closing of those facilities in Staten  
4 Island and in the Bronx, and one that is going to be  
5 consolidated here in Manhattan.

6                   Then I'm going to ask everybody to  
7 forgive me for having to leave the hearing today.

8                   Saying that, I'm going to direct my  
9 questions to the Commissioner of Health, not because  
10 I don't like you, but is that I have a series of  
11 questions here that are important for me to answer.

12                   Commissioner Frieden, I have the  
13 greatest respect for you, and I want to just point  
14 out this point before I ask you any question. This  
15 document is a very fascinating and good well put  
16 document. The only problem I have with it,  
17 Commissioner, in all honesty, this is really wrong.  
18 To put this in the front page of this report, when  
19 then I go to the second, third page and I really  
20 find out that it's 3,985 children poisoned. That is  
21 misleading.

22                   I don't think you did this on  
23 purpose, but I think it's very wrong, the way that  
24 this is put together.

25                   COMMISSIONER FRIEDEN: We certainly

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2 didn't intend to mislead anyone, and if we did I  
3 regret it. I can see the interpretation that if  
4 anyone thinks the problem is only eight children,  
5 that's absolutely wrong. I just really wanted to  
6 emphasize, and it emphasizes it also on the sixth  
7 page, there's a steady consistent decline in lead  
8 poisoning. Our challenge, you know, as we get  
9 further along it gets harder to continue to make  
10 that kind of gain.

11                   COUNCIL MEMBER LOPEZ: I understand. I  
12 just wanted to recognize and to understand that. I  
13 have great respect for you, and I think you know  
14 that, and I am puzzled by this. Me, Margarita.

15                   In saying that, could you describe,  
16 as a physician, what are the symptomatology of these  
17 eight children who get poisoned by 60 microgram  
18 levels of lead?

19                   COMMISSIONER FRIEDEN: Just to go back  
20 a bit. As I said in my testimony, at the lower  
21 levels of lead poisoning, there are no symptoms at  
22 all.

23                   COUNCIL MEMBER LOPEZ: I understand  
24 that, but I'm asking on the 60.

25                   COMMISSIONER FRIEDEN: It can be quite

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2 varied. It can range from a low blood count, anemia,  
3 pain in the abdomen, or ill-defined pains elsewhere.  
4 It's really quite varied in terms of the  
5 symptomatology. I could give you a better  
6 description.

7                   There could be changes in appetite,  
8 there can be changes in behavior. Generally the  
9 child would often be seen as not behaving normally,  
10 not developing normally, there could be problems  
11 with growth. Very typically the blood, the red blood  
12 count or hemoglobin would be low. There would be  
13 differences in the blood analysis.

14                   This is a level at which we see  
15 clinical illness, and I think that was the point I  
16 wanted to make.

17                   But now our challenge is not to  
18 identify, doctors are not going to identify lead  
19 poisoning based on clinical examination, they're  
20 going to identify it based on testing.

21                   COUNCIL MEMBER LOPEZ: Can I ask you a  
22 question, Commissioner? I asking you  
23 certain-specific questions, and I would like those  
24 questions to be addressed, and I have reasons for  
25 that. Then I would like to see if we can work

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2 together on this.

3 I just want you to know the  
4 symptomatology, the specific symptomatology for 60  
5 micrograms level of lead poisoning in a child.

6 COMMISSIONER FRIEDEN: I gave you the  
7 best answer I can give you. I can give you more  
8 information later, if you'd like.

9 COUNCIL MEMBER LOPEZ: All of the  
10 symptoms that you described, you would not see it on  
11 the ten percent?

12 COMMISSIONER FRIEDEN: Most children  
13 with a level of ten would not have any of those  
14 symptoms attributable to lead.

15 COUNCIL MEMBER LOPEZ: Okay, but they  
16 will exhibit symptoms similar to it? No.

17 COMMISSIONER FRIEDEN: No. At the  
18 lower levels, the weight of the epidemiologic  
19 evidence suggests that their development will be  
20 impaired long-term, so there would be long-term  
21 cognitive and behavioral implications of lower  
22 levels of lead, which a doctor examining the patient  
23 in the office would have no way of distinguishing  
24 one child from another.

25 COUNCIL MEMBER LOPEZ: Then we would

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2 realize that at the ten micrograms poisoning, we  
3 would realize that more likely in the school system,  
4 once they got into the learning process, you know,  
5 formalized learning process of the school system.

6 COMMISSIONER FRIEDEN: The only way to  
7 identify those children is to test their blood lead  
8 levels.

9 COUNCIL MEMBER LOPEZ: I understand  
10 that. But in terms of symptomatology, and I'm trying  
11 to figure out, in terms of when a parent sees their  
12 child, if they can detect, if they can know, if they  
13 can predict, if they can suspect that they are  
14 poisoned, and that's the reason I'm asking you about  
15 the symptomatology.

16 COMMISSIONER FRIEDEN: There really  
17 aren't ways. And to give you an example of another  
18 illness, the vast majority of people with high blood  
19 pressure never know they have high blood pressure,  
20 and so it's only by testing that you could know, and  
21 one of the things that we try to really educate  
22 communities is, unless you test, you won't know. So,  
23 you can feel, you can behave completely normally and  
24 a level could still be ten, 15, 20.

25 COUNCIL MEMBER LOPEZ: Then at the end

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2 of the day, it's irrelevant to test. What is  
3 relevant is to pass a law that will prevent children  
4 from being poisoned.

5 COMMISSIONER FRIEDEN: No. What is  
6 relevant is to enforce regulations that prevent  
7 children from being poisoned.

8 COUNCIL MEMBER LOPEZ: That's the law.

9 That's precisely what I just said,  
10 you just rephrased it. Because if we cannot find it  
11 through behavior, through symptomatology, we cannot  
12 predict that these children are poisoned, if we  
13 cannot see that, we only will discover that at the  
14 end of the tunnel maybe perhaps when they go to the  
15 school, at the end of the day the only way that we  
16 can have to protect these children is passing laws.

17 COMMISSIONER FRIEDEN: Primary  
18 prevention is the most important thing. Preventing  
19 kids from becoming lead poisoned, rather than  
20 identifying and treating kids who have a high lead  
21 level --

22 COUNCIL MEMBER LOPEZ: How did you  
23 prevent?

24 COMMISSIONER FRIEDEN: One of the ways  
25 of preventing is using the data from testing to



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2 identify where there's the greatest need for  
3 enforcement of codes to reduce lead paint.

4 COUNCIL MEMBER LOPEZ: Then if codes  
5 don't exist, if laws don't exist, what you are going  
6 to enforce, therefore, we're going back to my  
7 principle, which is if you don't pass regulations  
8 and laws, you cannot prevent children from being  
9 lead poisoned, correct?

10 COMMISSIONER FRIEDEN: But there are  
11 currently laws on the books that prevent children  
12 from being lead poisoned.

13 COUNCIL MEMBER LOPEZ: If they work,  
14 why we have not stopped the numbers, and right now,  
15 according to your own statistic of 2002, 3,985  
16 children were poisoned, the year before 4,618, the  
17 year before that 6,231. If those laws work why do we  
18 have a total almost more than 20,000 children being  
19 poisoned in the last four years that we have here in  
20 the statistics?

21 If that law would be working, why?

22 COMMISSIONER FRIEDEN: No matter what  
23 law is passed, no matter what is enforced, things  
24 are not going to go away overnight. The challenge is  
25 to make sure it goes away as rapidly as possible by

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2 targeting the efforts of those who need it most.

3 COUNCIL MEMBER LOPEZ: Law-makers

4 don't think that they are magicians, they also think

5 that they're here to resolve problems that affect

6 our environment, our people, because government

7 should exist for that purpose, not for any other

8 one.

9 The next question that I have: Can

10 you describe why, can you tell me medically

11 speaking, is any test that can determine if a child

12 has been brain damaged by lead poisoning,

13 establishing when that happened?

14 COMMISSIONER FRIEDEN: No.

15 COUNCIL MEMBER LOPEZ: None. No test

16 can determine that. That you cannot test the amount

17 of time that a brain have been damaged by testing in

18 any way, shape or form?

19 COMMISSIONER FRIEDEN: No, the lead

20 levels we've got at the low level, at the relatively

21 low lead poisoning level that we've got now, we know

22 from large studies that have looked at many children

23 and compared correcting for other factors their

24 performance in school, so in any one child you won't

25 see it. In the group as a whole, you may well see,

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2 even when you correct for other things that those  
3 children are more exposed to in their communities  
4 and effect.

5 COUNCIL MEMBER LOPEZ: Then you never  
6 can determine in any test that exists today from  
7 what moment on this child was poisoned?

8 COMMISSIONER FRIEDEN: No.

9 COUNCIL MEMBER LOPEZ: It's not  
10 possible.

11 Thank you.

12 COMMISSIONER FRIEDEN: Just to qualify  
13 that, you can look at, there are some research  
14 methods that might help you, looking at bone lead  
15 levels and bone deposition, but that's really not a  
16 practical thing, and I'm not sure it would get to  
17 the answer that you want.

18 COUNCIL MEMBER LOPEZ: Okay, my last  
19 question is in regard to the following.

20 Under the Charter, your primary  
21 mandate and responsibility is to protect the health  
22 of the citizens of New York City, correct?

23 COMMISSIONER FRIEDEN: Absolutely.

24 COUNCIL MEMBER LOPEZ: Then I take  
25 that your testimony here is provided to us under the

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2 frame of protecting the health of all of the  
3 citizens from New York City?

4 COMMISSIONER FRIEDEN: Absolutely.

5 COUNCIL MEMBER LOPEZ: Under that  
6 principle, and understanding that that's your  
7 primary mandate, do you understand that at this  
8 moment the law that we have is good enough, or  
9 should we review that one?

10 COMMISSIONER FRIEDEN: The hearing  
11 that we've been asked to comment on today is about  
12 101-A, and my testimony addresses 101-A.

13 In terms of Local Law 38, I don't  
14 think, with due respect to the Council, virtually  
15 any law that's ever been written by any legislative  
16 body has been perfect.

17 Could the current statute be better?  
18 Quite possibly, yes. But I think that would be the  
19 subject of a different conversation at a different  
20 time and place.

21 COUNCIL MEMBER LOPEZ: Do you know of  
22 any medical procedure that is perfect?

23 COMMISSIONER FRIEDEN: I think we  
24 could say for rhetorical purposes nothing is  
25 perfect.

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2 COUNCIL MEMBER LOPEZ: Therefore, if  
3 nothing is perfect, the only thing that we can do  
4 here, you and I, is try to find the most close  
5 possible perfection for children with brain damage  
6 or lead poisoning. Thank you.

7 CHAIRPERSON PROVENZANO: Thank you.

8 Council Member Rivera.

9 COUNCIL MEMBER RIVERA: Thank you very  
10 much, Madam Chair.

11 Thank you, Commissioner, for joining  
12 us here today. My name is Councilman Joel Rivera,  
13 I'm the Majority Leader of the City Council, and  
14 today we're discussing a very sensitive issue within  
15 the City of New York.

16 Within my district in particular, you  
17 know, my district is the 15th Council District in  
18 the Bronx that has, in previous years had a high  
19 amount of lead poisoned children and lead-paint  
20 buildings within the district. One person in  
21 particular that I'm on a vehement effort to see no  
22 longer in business in the City of New York is Frank  
23 Palazolo (phonetic). I mean, I've had my  
24 conversations with the agency, and this individual  
25 owns 110 buildings within the district, about 110,

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2 115 buildings, and they are all dilapidated and  
3 filled with lead infestation to my knowledge.

4                   So, my question is, in reference to  
5 what we have now, I mean how many inspectors do we  
6 have in the agency that actually goes out to the  
7 buildings to inspect to see if there is lead paint  
8 there, and how long does it take for them to  
9 actually go in and get lead paint removal.

10                   COMMISSIONER PERINE: All inspectors  
11 can write violations for lead hazards. So there's  
12 308 Housing Code inspectors right now, and they deal  
13 with a variety of issues including lead paint.

14                   How long it takes to do the removal  
15 is going to be a function of the extensiveness of  
16 the work. And I think it's fair to say, Council  
17 Member Perkins was saying how, you know, people  
18 testified that, you know, it could take one day. I  
19 think it takes more than that, but certainly I think  
20 it's fair to say maybe there's work that could be  
21 done in one day, but there's going to be a range of  
22 work that's going to need to be done and that's  
23 going to vary. The entire apartment is going to take  
24 a longer period of time.

25                   In relation to Mr. Palazolo, who is

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2 an owner who we know well, because we spend a great  
3 deal of time pursuing Mr. Palazolo in the Housing  
4 Court system, and what we've seen with him, just as  
5 a pattern of generally a bad landlord, you're  
6 absolutely right in terms of the overall conditions  
7 of his property, is that what he's doing now is as  
8 we essentially chase him into Housing Court he's  
9 selling his property, and so we're ending up, you  
10 know, halfway through our litigation and then he has  
11 transferred the deed, you know, he sold the property  
12 to somebody else.

13                   So, we continue to pursue Mr.  
14 Palazolo pretty vigorously, and to be concerned  
15 about an owner such as him, I mean I don't think he,  
16 you know, is not representative of every owner, I  
17 don't want to try to make it sound like that, but  
18 he's an owner we're pretty familiar with and who  
19 has, you know, been able to basically unload  
20 property, you know, one step ahead of the Housing  
21 Court system.

22                   COUNCIL MEMBER RIVERA: Now, what  
23 happens in that case, when the property is unloaded,  
24 when he gets rid of it and sells it off to somebody  
25 else, what is the process that the agency does? Do

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2 they go back into the building, do they talk to the  
3 owners? Do they try to work out a poll grant for  
4 them to do the lead abatement?

5                   COMMISSIONER PERINE: Yes. I mean, the  
6 lead work is going to continue, regardless of the  
7 ownership. I mean, if an owner has not complied with  
8 the law and didn't meet the requirement that he was  
9 supposed to, in terms of the deadline, we'll go in  
10 and do the work. I mean that's separate and apart  
11 from us pursuing a variety of actions against him,  
12 as an individual owner.

13                   We actually have what we call  
14 comprehensive cases against him where we're  
15 litigating for a whole slew of housing violations.

16                   We wouldn't let it delay the work  
17 that would have to get done if he's not doing the  
18 work himself under Local Law 38. So, we would still  
19 continue to do that work.

20                   But in terms of trying to go after  
21 him for fines and, you know, other kinds of Housing  
22 Court remedies against him, that, you know, once he  
23 no longer owns the building, you know, the liens and  
24 all the violations stay on the property, they don't  
25 follow the property owner.



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2 COUNCIL MEMBER RIVERA: There's no way  
3 to have it follow the property owner? I mean, if he  
4 is the one that is responsible for the building, is  
5 there any legal way that we can have him be liable  
6 for it?

7 COMMISSIONER PERINE: It's  
8 unfortunately very limited. Most of our most  
9 aggressive tools that we have are against property,  
10 and it's placing a lien against the property. We can  
11 only place violations for the physical conditions.

12 We can, you know, pursue civil  
13 penalties against individuals. It has not been a  
14 very fruitful result in the court system, but I  
15 think we'd be happy to talk to you specifically  
16 about Mr. Palazolo. He's a landlord that we spend a  
17 great deal of time and energy on.

18 COUNCIL MEMBER RIVERA: And also, how  
19 many apartments have you been able to abate within  
20 the last couple of years?

21 COMMISSIONER PERINE: Yes, we've  
22 carried out over 9,000 repairs for lead hazards  
23 where the owners have not complied, or close to  
24 10,000.

25 COUNCIL MEMBER RIVERA: So the agency

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2 has done about 10,000, and how many have the owners  
3 done within the entire City, would you know?

4 COMMISSIONER PERINE: Don't know.

5 COUNCIL MEMBER RIVERA: I just wanted  
6 to see what the percentage is.

7 MR. SCHULTZ: In terms of violations,  
8 owners have done approximately, I would say, about  
9 another 10,000.

10 COUNCIL MEMBER RIVERA: How many?

11 MR. SCHULTZ: About nine to 10,000.

12 COUNCIL MEMBER RIVERA: So the owners  
13 have done about 9,000 to 10,000, and the agency has  
14 done about 9,000 to 10,000.

15 MR. SCHULTZ: Correct.

16 COUNCIL MEMBER RIVERA: And these are  
17 all in the very high risk locations in the City,  
18 like in Brooklyn, Bed Stuyvesant.

19 MR. SCHULTZ: They're mostly in  
20 high-risk areas. They can, of course, be in a  
21 non-high-risk area, depending upon what the  
22 inspector saw when he was doing some other  
23 inspection, or in fact, if someone complained and we  
24 went there, but, yes, that's about the number of  
25 violations.

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2                   COMMISSIONER PERINE: It's certainly  
3 overwhelmingly true for the work that we would carry  
4 out. Because, again, the location of landlords who  
5 are unresponsive, which are the owners that, you  
6 know, we have to go and correct the work in their  
7 building. They are overwhelmingly located in these  
8 high risk communities.

9                   COUNCIL MEMBER RIVERA: Now, how many  
10 buildings are pre-1960 in the City of New York?

11                   COMMISSIONER PERINE: There's over 2  
12 million dwelling units built before 1960. I don't  
13 actually know how many buildings that would be.

14                   COUNCIL MEMBER RIVERA: Has there been  
15 an effort by the agency to go into the vast majority  
16 of these buildings and just do a preemptive strike  
17 against it to see if there's any lead paint within  
18 the buildings, or no?

19                   COMMISSIONER PERINE: Well, you know,  
20 I think it's again fair to say, like if we look at  
21 all of our collective data, both in terms of where  
22 we step in to do corrective work, where the  
23 Department of Health is, you know, getting notified  
24 their children have high blood levels, that they're  
25 not spread evenly as we've talked about at great

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2 length today, through those 2 million some odd  
3 rental units out there built before 1960. They are  
4 concentrated in particular communities.

5                   So, you know, again, we know that  
6 there's a huge nexus between children being at risk,  
7 geographic location of the building that they live  
8 in, being in one of these high-risk communities and  
9 the existence of peeling paint.

10                   So we know that these three things go  
11 hand-in-hand, so it's not just evenly distributed  
12 and I guess our point is that to sort of spread that  
13 through a variety of units that don't actually  
14 represent a hazard, you know, doesn't really make  
15 sense. We should be concentrating our effort in  
16 those places that we know those three things are  
17 most likely to coincide.

18                   COUNCIL MEMBER RIVERA: Now, in  
19 reference to the technology, I was reading a couple  
20 of reports and the technology we have, and that we  
21 utilize, now what is the best effective levels that  
22 it can monitor?

23                   COMMISSIONER PERINE: You mean the XRF  
24 machines?

25                   COUNCIL MEMBER RIVERA: Yes.

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2                           COMMISSIONER FRIEDEN: What I  
3 mentioned is that it's validated for a level of 1,  
4 in testing in the paint. It's not validated at a  
5 level of .7, as opposed by 101-A in my  
6 understanding.

7                           COUNCIL MEMBER RIVERA: And I know a  
8 lot of people have concern, like saying we're in a  
9 technological boom, a technological age, I mean how  
10 difficult would it get it to go from 1 to .7?

11                          COMMISSIONER FRIEDEN: We really have  
12 extensive information looking at the 1. Again, the  
13 key to success is going to be focusing. And focusing  
14 doesn't mean, means to a great extent doing more in  
15 the places that need it most, not doing different  
16 things.

17                          Our problem is not that there's the  
18 current standards aren't appropriate. Our problem is  
19 that the current standards aren't being met in a  
20 large number of cases, and one is the national  
21 standard.

22                          COUNCIL MEMBER RIVERA: Okay. Thank  
23 you very much, Commissioner. Thank you.

24                          CHAIRPERSON PROVENZANO: I'm just  
25 doing some paperwork up here to keep things

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2 organized. Where's my list? You hid my list.

3 Council Member Quinn.

4 COUNCIL MEMBER QUINN: Thank you.

5 Some of the questions that are  
6 concerns that I have, which lead me to be a sponsor  
7 of 101 and concerns therefore about the  
8 Administration's objections to 101 have been raised  
9 already, so I'm not going to ask it again, but for  
10 the record to state, I mean, I have concerns about  
11 the window guard provision that Local Law 38 versus  
12 Intro. 101 have concerns about, the fact that dust  
13 is not treated in the existing law the way it would  
14 be treated in 101, which is one of the reasons that  
15 lead me to be a sponsor of 101, and also have  
16 concerns that follow some of those that have been  
17 stated around the standards that are set for non-HPD  
18 workers who do clean-up, but as those have been  
19 talked a lot about, I'm not going to ask them again.  
20 I wanted to state those for the record.

21 So, let me go to the couple of  
22 questions that I do have and I'll try not to in  
23 those be too repetitive in other questions that have  
24 already been raised.

25 A lot of what both of the agencies

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2 seem to be saying about your opposition to 101 is  
3 that it would pull resources out of the places, out  
4 of the lead belt so-to-speak, but in looking at 101,  
5 if you look at Section 17-188, it seems to say that  
6 DOHMH in coordination with HPD shall establish an  
7 inspection program to identify dwellings of children  
8 at risk of lead poisoning from lead-based paint  
9 hazards, in order that inspections may be conducted,  
10 and it goes on further in that section. It seems to  
11 me that that section would give the Departments in  
12 question the flexibility or the discretion to do the  
13 type of targeting that you're saying is necessary to  
14 bring the numbers down.

15                   COMMISSIONER PERINE: I don't want to  
16 give the impression that I think that the issue of  
17 siphoning away resources from the high-risk areas is  
18 something like that's in every single section of  
19 101-A, I mean and I think I cited some specific  
20 examples where we felt that was an issue.

21                   I think, you know, the ability to  
22 target is really a function of are we getting to the  
23 right places, particularly in the world of public  
24 resources, are we targeting those resources in  
25 places where really children are at the highest

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2 risk. And I think that that is something that is  
3 already being done. I think as Dr. Frieden has said,  
4 you know, no law is perfect and there are always  
5 things that we can consider to try to make carrying  
6 out the law better than it is now.

7                   One of the things that was important  
8 to happen in the City was in fact in order to get  
9 the best and most effective impacts of this,  
10 frankly, or any other law regarding this issue, you  
11 know, it's got to be something that owners can  
12 understand and carry out the work because there  
13 really is a vast number of people out there who are  
14 on that front line of carrying out that work, which  
15 is what we want to have happen first.

16                   So, yes, I mean, I don't know that  
17 exact provision, I'm assuming that you're absolutely  
18 correct, that it would give us an ability to tailor  
19 it in that way, but what I think is that there are  
20 still these much broader provisions in 101-A, and,  
21 frankly, it's more the issues not related to  
22 actually like the real work that reduces lead  
23 hazards, but the things that actually don't, like a  
24 lot of the paperwork and a lot of the bureaucratic  
25 emphasis that would then divert these same human



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2 beings who have to go out there and carry out  
3 housing inspections away from the work of actually  
4 spending their time and places where they are most  
5 likely to turn up hazards.

6                   So, yes, they would be able -- again,  
7 I'm assuming that's correct, they would be able to  
8 do that under that provision of the law, but they  
9 would still be wasting a great deal of their time  
10 every time they responded to a heat and hot water  
11 complaint during the winter months, cataloging  
12 intact paint in apartments with children under the  
13 age of six or seven in this case, even though there  
14 was no lead hazard.

15                   COUNCIL MEMBER QUINN: You know, with  
16 the acceptance of a kind of greater level of  
17 flexibility and the targeting that might then impact  
18 the \$250 million figure that had been thrown out as  
19 a possible cost, I'm not going to say what would it  
20 then be, but if there was an ability, it allowed in  
21 101 for there to be neighborhood-based targeting  
22 that would have a decreasing impact on the cost.

23                   COMMISSIONER PERINE: I'm assuming,  
24 although I can't swear, because that estimate was  
25 generated by OMB, but I think that they looked at

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2 this law pretty carefully and actually had a sub  
3 number in there for what these kinds of inspections  
4 would cost, and I believe that they assumed that it  
5 was about 32 million and they made some assumptions  
6 about that, which I think Harold knows something  
7 about.

8 COUNCIL MEMBER QUINN: Since he  
9 lurched forward.

10 MR. SCHULTZ: First that assumed that  
11 you would go through whatever the high-risk units  
12 were, once every five years. But let me just suggest  
13 to you, one of the problems in creating a proactive  
14 inspection program, to identify high-risk units, is  
15 at best only one in five units has a child in the  
16 target range.

17 So, the problem with a proactive  
18 inspection system is always that in general, just to  
19 find the child with a unit, you have to basically  
20 overinspect by a five to one ratio.

21 That's what drives up a lot of the  
22 cost here.

23 COUNCIL MEMBER QUINN: But,  
24 Commissioner, given what you just said, runs a  
25 little bit counter to kind of a little to the

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2 overarching thrust of some or both of the agencies'  
3 testimony. Because what I heard both of the agencies  
4 saying was, you know, we need to focus resources in  
5 areas where there is a problem and not divert it  
6 elsewhere. But I kind of heard what you just said, a  
7 kilt away from, I don't know if proactive is the  
8 word you used, but non-complaint-driven inspection.  
9 So, is that to say if left to the confines of Local  
10 Law 38, the resources in the neighborhoods that you  
11 want to not be diverted from targeting would not  
12 include proactive inspections.

13 MR. SCHULTZ: I think proactive can be  
14 --

15 COUNCIL MEMBER QUINN: Well, whatever  
16 word you're using.

17 MR. SCHULTZ: Right. 101-A clearly  
18 states that we have to have an inspection program in  
19 addition to the existing inspection program. I would  
20 submit that's only one way to be targeting or to be  
21 proactive.

22 Another way is to reach out to those  
23 appropriate communities, to leaflet people, to give  
24 them brochures, to tell them what they need to do in  
25 order to make an appropriate complaint which is much

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2 more effective, to work with neighborhood groups in  
3 order to identify the people and places where those  
4 complaints could be generated, to offer training  
5 actually as we currently do to both owners and  
6 tenants. I think there are a lot of things you can  
7 do.

8                   101-A assumes there's only one way to  
9 do that, and I think that's what we object to.

10                   COUNCIL MEMBER QUINN: But in the list  
11 of ways that it could be done, one of which, you're  
12 right, is laid out in 101-A, is proactive  
13 inspections, albeit with a level of flexibility and  
14 targeting, according to how DOHMH was to promulgate  
15 the guidelines or regulations or whatever, I hear  
16 you saying, though, if the law was to remain as it  
17 is, your work in the neighborhoods where there are  
18 problems would not include that. That's not one of  
19 your top ways that you think it's best to go?

20                   MR. SCHULTZ: I think there is a role  
21 for proactive inspections in appropriate situations  
22 for appropriate buildings. So, I think there's a  
23 role for that there, but, once again, what we object  
24 to in 101-A is the assumption that that's the only  
25 way to do it. It can be part of the program, and I

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2 think there are ways to manage it appropriately,  
3 effectively and efficiently, to ensure that we can  
4 meet all of our code obligations.

5 COUNCIL MEMBER QUINN: It just seems  
6 to me, if it's not a way you're probably going to go  
7 anyway, then if Intro. 101 was to become a law it  
8 probably wouldn't divert your resources from doing  
9 that, since you're not indicating that you're  
10 inclined to do that anyway. So that's proactive  
11 inspection.

12 MR. SCHULTZ: 101-A seems to have  
13 mandated it. It certainly requires an inspection  
14 program.

15 COUNCIL MEMBER QUINN: No, no, no. I  
16 know it mandates it, but my point is, part of what  
17 you all were saying was, if you mandate we do this,  
18 the result is going to be that we're going to be  
19 pulled away from other stuff, but the reality is,  
20 what I heard you saying is if you make 101 a law,  
21 then we're going to have to do all these proactive  
22 inspections, which is going to take us away from the  
23 targeted proactive inspection we were doing in the  
24 lead belt. But by your own admission, proactive  
25 inspections in the lead belt or anywhere else, are

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2 not the best way you think work should be done. So,  
3 if 101 was a law, it wouldn't take those inspection  
4 resources and divert them, because they wouldn't be  
5 allocated because it's not one of your top couple of  
6 ways to do it.

7                   COMMISSIONER PERINE: It would,  
8 though, because our inspections really are primarily  
9 driven right now by complaints. Again, there's a  
10 zero sum game, in terms of being able to carry out  
11 work.

12                   So, you know, we have to balance, we  
13 have to triage essentially complaints as they come  
14 in and prioritize their level of importance.

15                   We obviously prioritize lead-type  
16 hazard complaints, you know, right up there with all  
17 the other very serious problems, like lack of heat  
18 in the winter months, but that prioritization takes  
19 place there, those same inspectors would have to  
20 balance a workload that included that, as well as  
21 going out and complying with all the other  
22 requirements of 101-A, and which would include not  
23 only this kind of proactive inspections, which is,  
24 as Harold was saying, you wouldn't be necessarily  
25 hitting apartments with children, so you would be

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2 visiting four and not hit anything with children,  
3 you know, an apartment with children, until you got  
4 to that fifth one, and by the same token every  
5 inspection that you did in response to a complaint  
6 for any other reason would be seriously lengthened.

7                   So, all of that is what we have a  
8 concern about, you know, siphoning away our ability  
9 to be responsive.

10                   COUNCIL MEMBER QUINN: Right. I  
11 understand. Because if the number of inspectors were  
12 to stay the same, if 101 or any law was put on the  
13 books that had more inspections, that would happen,  
14 but that, and not to minimize it, would be  
15 inspectors being pulled away from an array of things  
16 as opposed to particularly diverted from  
17 lead-focused work.

18                   COMMISSIONER PERINE: Right, although  
19 it would divert it from this as well.

20                   COUNCIL MEMBER QUINN: I just wanted  
21 more to comment on, I kind of was almost hearing  
22 testimony that 101, you didn't say this, but one  
23 could extrapolate from what some of the testimony  
24 was, was almost that 101 would be hurtful to the  
25 areas where there are problems, and I don't agree

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2 with that, since that's, by your own admission, not  
3 the priority of what's going to be going -- you  
4 know, in that one regard what would be going on.

5 I just want to also add another  
6 point. Inspector, you -- I'm sorry.

7 COMMISSIONER PERINE: I'm actually not  
8 an inspector.

9 COUNCIL MEMBER QUINN: Commissioner --  
10 I'm sorry -- talked about the extra work that would  
11 happen if somebody went out to do a heat and hot  
12 water complaint, particularly if it was in a  
13 neighborhood that didn't have a lot of lead poisoned  
14 children, et cetera. Section 22-2056.9b of the bill  
15 actually in 101-A makes an exemption for heat and  
16 hot water complaints. So that I think would, at  
17 least in the updated draft of the bill, that concern  
18 that must have been raised at some other point was  
19 addressed.

20 MR. SCHULTZ: Council member, I  
21 believe that provision allows for an additional five  
22 days to do the lead inspection, and it contemplates  
23 us going back for a second attempt at access. In  
24 fact, were we to do that it would actually, it would  
25 be an even worse diversion of resources than just



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2 doing it at the time we were there for the heat  
3 inspection.

4 COUNCIL MEMBER QUINN: My  
5 understanding of that, and I could be wrong, was in  
6 an A version that it was totally exempted, but maybe  
7 we can compare our versions after the hearing.

8 COMMISSIONER PERINE: Sure.

9 COUNCIL MEMBER QUINN: Two last  
10 things. When we at the hearing awhile ago that was a  
11 joint with the Department of Health and HPD, one of  
12 the things that I was confused about at that  
13 hearing, and I'm going to say remain confused about,  
14 is the fact that when a child is found poisoned, to  
15 be poisoned, and the clean up occurs, there's a  
16 certain standard for that clean-up, but that when  
17 lead paint is found, but that child isn't  
18 necessarily poisoned, there's a different level, a  
19 standard for that clean-up. And it seems to me if  
20 you have a certain level, a certain standard for  
21 clean-up when a child is poisoned, when the worst  
22 thing has happened, that's kind of, you know, the  
23 gold standard, this kid is sick, this house is a  
24 hazard, we need to clean it up. I didn't understand,  
25 and let's be honest, I don't understand now why

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2 there's a different less stringent standard when the  
3 poison is in the house, but the child has not yet  
4 been poisoned. It seems like then even more so in  
5 some ways you would want to have the gold standard,  
6 the highest level possible, to prevent poisoning  
7 from occurring in that house, in the other house the  
8 tragedy has already occurred, we don't want to make  
9 it any worse. I just don't understand that. I don't  
10 understand the thinking behind that.

11                   COMMISSIONER PERINE: I guess, not  
12 having crafted the bill myself, I can't necessarily  
13 answer that. But I would say is, what I'm guessing  
14 is that when the law was conceived, it was  
15 considered that we would attain the highest standard  
16 for the most egregious circumstance.

17                   You know, again, we've now had some  
18 practice with this law. You know, I think again  
19 we've said here a number of times, you know, we  
20 don't think any law written by anybody is completely  
21 perfect, which doesn't mean that we shouldn't try to  
22 be making, you know, looking at things and  
23 evaluating what we think has worked and what's been  
24 the most effective, and what can be shifted or  
25 emphasis changed.

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2                   But I would presume that that was the  
3 thinking in the crafting of the law, that that  
4 highest standard should be held out for that  
5 situation.

6                   COUNCIL MEMBER QUINN: I think that it  
7 should be the highest standard, and what we do when  
8 a kid is sick, obviously in this scenario I think  
9 that, you know, it should be much more of our guide,  
10 and there's no reason when a tragedy hasn't occurred  
11 that we shouldn't do as much as aggressively in a  
12 house where we know the poison exists to make sure  
13 that the health of that child isn't impacted. So,  
14 we'll very much look forward to following up on  
15 that.

16                   My next question is actually for  
17 Commissioner Frieden, which is, I was given some  
18 information from an article from the New England  
19 Journal of Medicine some recent research that was  
20 conducted, that indicates that there can be an IQ  
21 law, sort of at 7 and 7.4 percent, for kids who have  
22 a lead paint poisoning level of ten micrograms per  
23 deciliter, can you comment on that at all, whether  
24 you think it's appropriate for DOH to be intervening  
25 at that level?

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2                   COMMISSIONER FRIEDEN: Yes. Well,  
3 those were two independent, and both of them very  
4 good questions.

5                   COUNCIL MEMBER QUINN: Thanks.

6                   COMMISSIONER FRIEDEN: First to  
7 comment on that -- but I want to make the point that  
8 they're really independent questions.

9                   To comment on the article and the  
10 question of the risk at levels of five to nine, and  
11 second, should there be intervention for that  
12 population; I think the fact that those are  
13 different questions is probably the most important  
14 point that I can make.

15                   There has been for some time debate  
16 about at what level lead in a child is associated  
17 with impaired performance. It is not an easy thing  
18 to study, because the kids who also have lead, also  
19 have other things that make it harder for them to  
20 develop normally and reach their full potential.

21                   The study which I've read in detail  
22 from the April 17th New England Journal of Medicine  
23 followed 172 children and made a series of  
24 measurements in those children. The numbers are  
25 extremely small to be making a definite policy. The

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2 data from that --

3 COUNCIL MEMBER QUINN: Which numbers  
4 are very small?

5 COMMISSIONER FRIEDEN: 172 kids.

6 COUNCIL MEMBER QUINN: Oh, okay.

7 COMMISSIONER FRIEDEN: So, it's a  
8 really small number of children who account for  
9 their findings of an impairment in intellectual  
10 functioning relating to lead, with also the  
11 understanding that IQ tests are very imperfect and  
12 very inaccurate in many ways.

13 But I think the best of our  
14 understanding is that lead is bad and none of it  
15 would be best.

16 Now, going from there to should we be  
17 intervening at low levels I think is a very  
18 different question. It's what I was trying to get to  
19 a little bit earlier, so that even when we look at  
20 the 10 to 14s, there's no evidence that case  
21 managing those kids is associated with their lead  
22 levels coming down any faster. The challenge really  
23 is to get the lead out of the environment so that we  
24 don't have lead poisoning at this level.

25 Even for the early intervention blood

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2 lead level, environmental intervention blood lead  
3 level -- I've got a lot of ei's in my Department.

4 COUNCIL MEMBER QUINN: Yes.

5 COMMISSIONER FRIEDEN: The 15 to 19  
6 twice in three months, or more than 20, it takes a  
7 good deal of work to show that our very intensive  
8 case management with that population actually makes  
9 any difference.

10 So, the one issue is, is it a risk?  
11 The second issue is, should something be done for  
12 those children specifically? And, again, that's  
13 something that, they're different questions. I hope  
14 I've answered your questions.

15 COUNCIL MEMBER QUINN: If it was  
16 proven that, if there were more studies that  
17 followed up on the April article, the April paper,  
18 and there were more studies of larger numbers of  
19 children, and it was found that there was this, you  
20 know, IQ impact, would that then be something you  
21 think that the Department should follow up on?

22 COMMISSIONER FRIEDEN: Well, if the  
23 CDC, for example, were to change its definition of  
24 lead poisoning to five from ten, we wouldn't in all  
25 likelihood follow that, or maybe not, depending on

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2 what the data showed at that point.

3                   But, again, the distinction here is,  
4 what is a risk that is remediable.

5                   Now, remember, any child, they don't  
6 even have to have a high lead level, if they've got  
7 peeling paint in the home, they can get an  
8 inspection and lead-safe work done through an order.  
9 They don't need to have a lead-poisoned kid, we want  
10 to do it before the lead poisoned kid in the home.  
11 So, there's no difference in terms of what the  
12 entitlement is to the landlord making the place lead  
13 safe.

14                   COUNCIL MEMBER QUINN: Do you agree,  
15 just kind of a follow-up on that, with the dialogue  
16 that Commissioner Perine and I were having,  
17 Inspector Perine, and I were having earlier, that  
18 the issue of having one standard versus a standard  
19 when the kid is poisoned and a standard when there  
20 is lead in the home is something which merits review  
21 as it relates to the present law.

22                   Because I would take what you just  
23 said as testimony that would support that, that  
24 there should be one standard of the highest level  
25 when the poisoning is in the apartment versus

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2 waiting for having a different standard when the  
3 child is poisoned, versus when the poisoning is in  
4 the home.

5 COMMISSIONER FRIEDEN: As we have said  
6 several times, I would reiterate that no law is  
7 perfect, Local Law 38 is no exception to that rule,  
8 it's not perfect.

9 Today's hearing is about 101-A. If in  
10 a future time there were a discussion about ways to  
11 possibly improve or change 38, those are discussions  
12 that should happen at another time and place.

13 COUNCIL MEMBER QUINN: But that thrust  
14 of 101, that there be one standard, is that one you  
15 object to?

16 COMMISSIONER FRIEDEN: Local Law 101  
17 have a lot of standards in it and a lot of  
18 provisions in it.

19 COUNCIL MEMBER QUINN: But I don't  
20 think it makes a distinction between the clean-up  
21 that occurs when a child is poisoned versus a  
22 clean-up that occurs when --

23 COMMISSIONER FRIEDEN: It also defines  
24 an environmental intervention blood lead level as  
25 15, which is not consistent with the national



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2 guidelines. COUNCIL MEMBER QUINN: But I'm just on  
3 that one.

4 MR. SCHULTZ: I'd like to add one  
5 point to that, Council member, which is, one of the  
6 problems we have with 101-A is that it is very  
7 difficult to determine what the standards in 101-A  
8 are. If you look at the definition section, for  
9 instance, on abatement, it defines abatement then  
10 refers to a whole other variety of federal  
11 regulations, some of which are contradictory, and  
12 then says, oh, by the way, pick the one that's most  
13 protective of health.

14 So, 101-A as it currently stands,  
15 it's very difficult to say what standards it has.

16 COUNCIL MEMBER QUINN: You know, if  
17 the Administration's opposition is based on, you  
18 know, that the bill is not the best written or lack  
19 of clarity, I mean when this Administration or any  
20 Administration comes and testifies before the City  
21 Council, sometimes they say we agree, we disagree,  
22 or we're not sure what our opinion is based on these  
23 lists of questions and lack of clarity in the bill.

24 So, based on what you're saying, it  
25 seems like then perhaps there isn't as flat an

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2 opposition as there is more confusion about how the  
3 law would be implied, which is not kind of my  
4 understanding of what the Administration's position  
5 is.

6 MR. SCHULTZ: And your understanding  
7 is correct. I mean, while I responded to that  
8 specific question, I think more generally we feel  
9 that 101-A is flawed in so many ways, and  
10 specifically also in terms of the extent to which it  
11 creates work that is unnecessary, work that doesn't  
12 assist kids, that at its fundamental core, it is  
13 just not a bill that you could even really work off  
14 of.

15 COUNCIL MEMBER QUINN: All right. And  
16 I just have one last question, and I just want to  
17 say before I ask it, I mean, I know I'm also asking  
18 questions about Local Law 38, you know, as it  
19 relates back to Commissioner Frieden.

20 Since part of the reason Intro. 101  
21 exists is because people feel Local Law 38 is not  
22 satisfactory. So, in the Administration opposing  
23 101, I think it's understandable that Council  
24 members and myself and others are asking questions  
25 about Local Law 38 since 101 is clearly a response

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2 to Local Law 38. So, I think one can't separate the  
3 two from the purpose of the hearing or any hearing  
4 where a bill is an outgrowth of a law that is either  
5 seen as overly restrictive or underly restrictive.

6                   And on that point, one of the  
7 differences between 101 and 38 is the deadline for  
8 correction of a hazard, and in 101 I think it's 82  
9 days and in 38 it's 220 days. 220 days seems like a  
10 very long time and in a period of time where more  
11 damage or harm can occur; what is the thrust of the  
12 Administration's objection to an 82-day deadline,  
13 versus a 220-day deadline?

14                   MR. SCHULTZ: I would say two things  
15 to that. As Commissioner Perine said in her  
16 testimony, the general effect of shortening  
17 deadlines is not to get additional work done, it  
18 merely transfers the work from the owners who might  
19 have otherwise met longer deadlines, now can no  
20 longer meet a shortened deadline, and it winds up  
21 being done by HPD.

22                   I would also point out that currently  
23 to the extent that HPD is doing emergency repair  
24 work, we did a sample of what we did, you know,  
25 we're required to under Local Law 38 correct

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2 violations within 60 days of the expiration of the  
3 owner's time period to correct, which is basically  
4 90 odd days from when the violation is placed, where  
5 there are no access problems, we pretty much 90  
6 percent of the time I believe meet that target.

7                   So, once again, when you're dealing  
8 with a situation in which children are not lead  
9 poisoned, the objective I think is to get the  
10 maximum amount of work done as possible, rather than  
11 to focus on a question of deadlines.

12                   COUNCIL MEMBER QUINN: Except the  
13 deadline seems to me to be germane to preventing the  
14 child, a child or children from becoming poisoned.  
15 So, it seems intimately connected to the goal of the  
16 Intro and the law.

17                   MR. SCHULTZ: Well, I understand what  
18 you're saying, but, once again, I believe that  
19 shortening the deadline -- this work, as once again  
20 we set forth in our testimony, is complex, not that  
21 easy to do, it's very invasive for tenants in  
22 general, much more invasive than the vast majority  
23 of work certainly that we do under emergency repairs  
24 and most owners do in the Department. Gaining access  
25 to an apartment, frankly, can be extraordinarily

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2 difficult. Educating tenants as to why, you know,  
3 after the work is done, you have to come back in and  
4 do a dust wipe, you know, and they like and they're  
5 usually like, you know, very difficult for them to  
6 understand that that second step is necessary, all  
7 of these problems have tended to make lead paint  
8 repairs take longer than your ordinary average  
9 repair, and once again shortening the deadlines, you  
10 know, beyond where they currently are I think is not  
11 going to be in the end helpful toward reducing lead  
12 poisoning.

13                   COUNCIL MEMBER QUINN: But doesn't  
14 keeping them where they are keep families and kids  
15 in harm's way longer?

16                   MR. SCHULTZ: If we haven't received a  
17 certification at the end, basically, of the  
18 correction period, HPD sends it to emergency repair  
19 crews out. So, while that 200 odd number is a  
20 theoretical possibility for the process of  
21 enforcement, if every postponement was granted, if  
22 every time period went out to its maximum, the fact  
23 of the matter is, we're on the phone to the owner  
24 within, frankly, a couple of days after the  
25 violation is placed in the first place. They'll get

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2 a call from the emergency repair program saying do  
3 it now, start doing it or we're going to be there  
4 with a work crew and frankly it's going to cost more  
5 than if you did it yourself.

6                   So, we're on top of them. We're  
7 basically case managing all of these from day one.  
8 So, while there's a theoretical advantage, I think  
9 in the real world there's no real advantage.

10                   COUNCIL MEMBER QUINN: I guess if the  
11 220 is only theoretical, then I don't completely  
12 understand the objection to changing it.

13                   You know, maybe 82 is not the number,  
14 but I don't understand the objection to changing it,  
15 if like you said, it's only theoretical and it  
16 rarely, if ever, gets to that level. If it rarely if  
17 ever gets to that level, then it's probably to only  
18 the worst landlords who get there and there's no  
19 reason to have a deadline that protects the worst  
20 landlords.

21                   MR. SCHULTZ: Or actually difficult  
22 even getting a contractor or a tenant --

23                   COUNCIL MEMBER QUINN: I'm sorry, say  
24 that again?

25                   MR. SCHULTZ: Either difficulties in

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2 getting a contractor, which is still not always the  
3 easiest thing to do, and frankly, one of the biggest  
4 problems is gaining access to the apartment.

5 COUNCIL MEMBER QUINN: So, with the  
6 work that's delayed presently, what percentage of it  
7 gets delayed or goes past say an 82-ish-type  
8 deadline because tenants won't let you into their  
9 apartment?

10 MR. SCHULTZ: Of the ones that we  
11 missed the 60-day deadline, in excess of 90 percent,  
12 based upon a sample we did, were the result of  
13 access problems.

14 COMMISSIONER PERINE: Which I don't  
15 want to place just at the feet of the tenants.

16 COUNCIL MEMBER QUINN: Yes, I'm very  
17 concerned with that.

18 COMMISSIONER PERINE: I mean this  
19 could be access problems for the apartments, it can  
20 also be access problems getting into the building.

21 COUNCIL MEMBER QUINN: Okay. That's I  
22 think a very important distinction, because  
23 sometimes access problems getting into the building  
24 can actually be the fault of a landlord as well.

25 COMMISSIONER PERINE: It is the fault

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2 of the landlord, yes. We're saying it's a  
3 combination of access problems.

4 COUNCIL MEMBER QUINN: So, 90 percent  
5 of those apartments that don't make the 60-ish-day  
6 deadline are not because the tenants who have lead  
7 paint in their apartment won't let the work crews  
8 in?

9 COMMISSIONER PERINE: Some are.

10 COUNCIL MEMBER QUINN: But not 90  
11 percent.

12 COMMISSIONER PERINE: No. We're saying  
13 90 percent have access problems, either to the  
14 apartments themselves or to the building overall.

15 COUNCIL MEMBER QUINN: Well, that's a  
16 very important distinction, because I think the  
17 other way it was phrased did put the blame at the  
18 feet of the tenant, which is something that I would  
19 find incredibly difficult to accept.

20 Thank you, Madam Chair.

21 CHAIRPERSON PROVENZANO: Thank you.

22 Council Member Gallagher.

23 COUNCIL MEMBER GALLAGHER: Thank you.

24 I guess after three and a half hours of testifying  
25 we're down to the republican here, so it shouldn't



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2 be too much longer.

3 I just wanted to clarify one issue  
4 concerning something that Council Member Barron had  
5 said before, before he left. You know, he indicated  
6 that Intro. 101-A would be more cost effective than  
7 the previous law. But it is your testimony that it  
8 will be \$265 million, the cost of this?

9 COMMISSIONER PERINE: Yes. What we're  
10 saying is that OMB has set a preliminary evaluation  
11 at \$265 million a year. That's on carrying out,  
12 complying with the law.

13 COUNCIL MEMBER GALLAGHER: Okay, thank  
14 you.

15 Now, I just want to talk about the  
16 statement and findings and purpose of Intro. 101. It  
17 has set up some performance goals, and in those  
18 performance goals, it seeks to have less than 400  
19 cases of 20 micrograms per deciliter in 2003, and  
20 less than 4,000 cases of 10 micrograms per deciliter  
21 in 2004.

22 How close are we now to achieving  
23 those goals?

24 COMMISSIONER FRIEDEN: The trend, as I  
25 showed in my presentation, is coming down, whether

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2 it would reach them by those years we would have to  
3 calculate.

4                   Again, the other thing to recognize  
5 is that we do now miss some children who don't get  
6 screened. And, so, if we can improve screening we  
7 might increase the number and that might be a good  
8 thing. But the point is that we need to do more,  
9 particularly in targeted areas.

10                   And we would like to see the day when  
11 there are no cases of elevated blood lead levels in  
12 New York City. It's going to take time, though.

13                   COUNCIL MEMBER GALLAGHER: Thank you.

14                   And I know I've heard you over and  
15 over again talking about targeting resources, and I  
16 think that you're right to find ways to target it  
17 into the area that we certainly have concerns over.

18                   Now, there some questions that I have  
19 concerning Intro. 101. In particular, Intro. 101  
20 seems to cover one- and two-family homes throughout  
21 this City. I represent the district that is  
22 predominantly one- and two-family homes; could you  
23 tell me, based on previous studies, how much of the  
24 lead caseload comes from that universe of housing?

25                   COMMISSIONER FRIEDEN: It's about a

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2 third of the cases of lead poisoning are in one- and  
3 two-family homes.

4 COUNCIL MEMBER GALLAGHER: Okay.

5 And Intro. 101 also covers not only  
6 interior of apartments but common areas. To what  
7 extent do you believe that common areas attribute to  
8 lead caseload?

9 COMMISSIONER FRIEDEN: We don't have  
10 any definitive evidence about this, but the point is  
11 kids are more likely to ingest lead in places where  
12 they spend lots of time. So, we believe that the  
13 places where they spend a preponderance of their  
14 time, in their homes, are likely to be the greatest  
15 risk. And remember, without correcting the common  
16 areas, we've seen big declines even in areas with  
17 continuing high levels. So we think that the focus  
18 should be on the places where kids reside.

19 COUNCIL MEMBER GALLAGHER: Okay.

20 Well, in light of the fact that  
21 you've been here for three and a half hours so far,  
22 I want to thank you for your testimony. I think  
23 you've been very forthright and certainly very  
24 informative of somebody who is not a sponsor of the  
25 bill.

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2 I appreciate your testimony today,  
3 and you certainly answered a great number of  
4 questions that I had coming into this process. So,  
5 thank you.

6 CHAIRPERSON PROVENZANO: Thank you.  
7 Council Member Stewart.

8 COUNCIL MEMBER STEWART: Thank you,  
9 Madam Chair.

10 Commissioner, I have a few questions  
11 that I want to highlight here.

12 First of all, we all agree of the  
13 effects and the dangers of lead, and we care about  
14 our children's health and safety, but I got the  
15 impression that the focus here, and the focus of 101  
16 is missed, basically missed, and what is the goal?  
17 Our goal is particularly to reduce the exposure of  
18 lead, the children under the age of seven, and also  
19 to find ways how we can basically prevent that from  
20 happening, and prevent them from being poisoned.

21 My first question is, how can we  
22 accomplish that, and is Local Law 38 doing much to  
23 that effect?

24 COMMISSIONER FRIEDEN: I'd really have  
25 to repeat my whole testimony to answer that

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2 question.

3                   COUNCIL MEMBER STEWART: No, but in  
4 general. Because I get the feeling, first of all --  
5 well, I have something that I feel I want to put out  
6 there, that if it's going to be proactive, I think  
7 if we can make it proactive in a sense that we have  
8 inspection and registration, you know when you have  
9 a vehicle you can't put it on the road unless you  
10 inspect it and you register it with the state, I'm  
11 looking at that same principle, if you have an  
12 apartment that is vacant, before someone moves in  
13 there, why couldn't that be inspected, just as  
14 though you register all these apartments every year?

15                   COMMISSIONER PERINE: You know, I  
16 think that's a good point, and, in fact, under our  
17 existing law any vacant apartment has to undergo  
18 lead hazard reduction work before it could be any  
19 vacant apartment in a building built before 1960,  
20 has to undergo lead hazard reduction work before it  
21 can be rented to a new family. So, you know, owners  
22 already have that obligation under the existing law.

23                   COUNCIL MEMBER STEWART: And I feel  
24 that would accomplish a lot more than 101-A.

25                   The other thing I want to look at is,

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2 could you explain to me, based on local 101, the  
3 Sanitation scheme of disposal, the method, side  
4 costs, the inspection, et cetera? Because that was  
5 not touched in the entire time I sat here. I didn't  
6 hear anybody talk about method, and the site and the  
7 cost and, you know, disposal.

8 MR. SCHULTZ: Honestly, Councilman, I  
9 don't think we're prepared to discuss in detail the  
10 regulations that relate to the Department of  
11 Sanitation. We can certainly get back to you with  
12 their analysis of those provisions.

13 COUNCIL MEMBER STEWART: The other  
14 question I want to raise is basically this: Lead was  
15 outlawed, lead paint was outlawed since 1960, and  
16 you know, basically it's because of lead paint in  
17 buildings; why isn't this applicable to all  
18 buildings, even buildings built after 1960? Why  
19 couldn't we make the distinction?

20 MR. SCHULTZ: There are provisions of  
21 101-A that are applicable to buildings that are  
22 post-'60. Although, I would note that Local Law 38  
23 also does include the possibility that post-'60  
24 buildings have lead paint, and actually the  
25 difference between 101-A and 38 here is not that

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2 much, since in both cases there is no presumption of  
3 lead paint in 101 and 38, and as a result, you know,  
4 had we received such a complaint we would conduct an  
5 XRF test to determine whether or not there was  
6 actually lead. We receive very few of those.

7                   COUNCIL MEMBER STEWART: I understand  
8 what you have said. I just feel that the entire  
9 discussion around this 101 is lost in the sense that  
10 we are not looking at what is our goal, what we want  
11 to accomplish.

12                   So, when you question as to how we're  
13 going to do that, you get attacks and you get  
14 criticized and you get thrown, but I think as  
15 leaders, you have to stay focused on this issue  
16 because you cannot basically throw out the child  
17 with the bathwater. You have to look to see how you  
18 can accomplish what you want to accomplish in the  
19 best possible way.

20                   In other words, if you really want to  
21 get rid of all buildings with paint that have lead,  
22 you have to burn them down. So, you have to look at  
23 a way in which we can accomplish what we want to  
24 accomplish without doing so.

25                   And I'm not getting the picture with

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2 101-A. I'm not getting that picture, and like we  
3 have lost it, and I don't see us standing up and  
4 making the point clear, that we have lost it in  
5 terms of our focus and in terms of our goal, what we  
6 want to accomplish.

7                   We do see the exposure of lead in our  
8 children, and every time we speak we talk about the  
9 dangers. We all agree with the dangers. We all know  
10 of all the dangers that the child is exposed to when  
11 they're exposed to lead poisoning. We talk about it  
12 all the time. But we're not talking about how to  
13 reduce that, and reduce that in a sensible way, and  
14 I would like to hear most of us talk about and focus  
15 on that issue rather than just repeat the same  
16 things all the time that, you know, as far as the  
17 lead paint is concerned.

18                   I would like to see us focus on a  
19 deliberate systematic way in which we can do that  
20 instead of leaving it so vague and shifting the  
21 responsibility to someone else, all right?

22                   So, if we can come up with that, I  
23 will appreciate it.

24                   Nevertheless, I want to thank you for  
25 your testimony and I would like to follow-up on this



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2 later on.

3 Thank you.

4 CHAIRPERSON PROVENZANO: Council

5 Member Vann, and I believe he'll be the last

6 Councilperson. The Commissioner has to leave by

7 2:00.

8 COUNCIL MEMBER VANN: Yes, thank you,

9 Madam Chair.

10 Good afternoon, distinguished

11 Commissioners. How are you all holding out? All

12 right, that's good.

13 I've been listening to all of the

14 discussion, even the debate even, and in many ways

15 it's been instructive, it's very complex, I thought

16 it was simpler than it is, it's a very complicated

17 situation.

18 I start with the premise that we're

19 not really on sides here, I think everybody wants to

20 eradicate or seriously reduce kids being poisoned by

21 lead, so we're not on different teams here.

22 The Legislature, to its credit, or

23 the City Council, I should say, feel that it was

24 time to increase or to provide legislation that is

25 better than the existing statute.

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2                   To your credit you didn't just roll  
3 over and say, yes, we do this, you're arguing and  
4 abating, saying some parts this is not workable,  
5 some is too costly, some will work, based on your  
6 experience and practice. And I mean, I commend you  
7 for that, saying, yes, we can do this, we shouldn't  
8 do that, whether we agree or disagree, the fact that  
9 you're doing that tells me that you are concerned  
10 about the problem, not just buddying up with the  
11 City Council, and I think that's very good.

12                   Nonetheless, I think, you know, I'm a  
13 sponsor and I think the legislation will go forward.

14                   But what's clear to me, and I've been  
15 a legislator for a long time, there is no law that's  
16 going to solve this problem, and it's going to  
17 require, you know, obviously that the legal bases  
18 need to be there, but it's going to require how it  
19 is implemented and what resources are put there to  
20 do that job. And I do, I have confidence in both  
21 Commissioners, I believe you all are committed and  
22 want to do what we want to be done, and so whether  
23 this becomes the law or not, or it's going to be  
24 back with you guys and make sure it gets done and  
25 make sure the resources are there to get it done.

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2                   I just felt the need to make that  
3 clarification. It's really going to be about our  
4 commitment as City Councilpersons, and your  
5 commitment as Commissioners and agencies, to really  
6 want to eradicate or seriously reduce this problem.  
7 If one child is poisoned, it's too many. We all  
8 admit to that, and so we work towards that end  
9 together.

10                   And together, let me express a study  
11 was released a couple of weeks ago, which I'm sure  
12 you are familiar with, which happened to have been  
13 in my area, if I may be parochial for a moment, in  
14 Bedford Stuyvesant. It would not be so critical if  
15 this were the only indices of a problem.

16                   Unfortunately, when you're speaking  
17 of ill health or incarceration rate or the  
18 educational deficiency rate and all of those indices  
19 that tend to be with poverty and so forth, there's  
20 too much of that in Bed Stuy.

21                   Yes, we have our values and we have  
22 our positive things, and without a question, a very  
23 dignified community, but within that community there  
24 are illnesses and all the statistics suggest Bed  
25 Stuy is one of those areas, and lead poisoning is

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2 just another, so therefore it takes on even greater  
3 significance to me as a representative of the area.

4                   So, when this study was released a  
5 couple of weeks ago, and it mentioned three specific  
6 statistics that you can tell me you agree with or  
7 not, which would suggest an immediate intervention  
8 by the City and into Bed Stuy, if this study is  
9 valid, they say over one-third of their sample,  
10 which is relatively small, over one-third of the  
11 buildings tests were found to have more apartments  
12 with hazardous amounts of lead; that was one.

13                   The second is that 32 percent of the  
14 individual apartments tested had dangerous amounts  
15 of lead, many with levels in excess of EPA safety  
16 thresholds; that was two.

17                   And the third was that 89 percent of  
18 hazardous apartments house children under six, all  
19 or part of the time.

20                   So, these were three things lifted  
21 out of that study. If these are true, and I guess  
22 you haven't had a chance to evaluate them, is there  
23 something that we're going to do about this  
24 particular situation?

25                   COMMISSIONER PERINE: Well, I think,

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2 you know, Dr. Frieden had talked about a little bit  
3 before this study, which, you know, I don't think we  
4 really even need to debate. We know Bedford  
5 Stuyvesant, along with a number of other  
6 communities, is a community where lead paint hazards  
7 exist and are concentrated and are more prevalent  
8 than a lot of other areas of the City.

9                   So, you know, I certainly don't think  
10 that we would in any way disagree with the need to  
11 focus activity in Bedford Stuyvestant and the other  
12 communities where there is a greater likelihood and  
13 a greater degree of lead paint hazards to come into  
14 contact with children.

15                   I think, you know, it probably is  
16 worthwhile at least saying particularly because  
17 there's such a large audience of many people  
18 interested in this, that while this law is being  
19 debated, people should not be confused about what to  
20 do if they have a child under six today, and they  
21 have peeling paint in their apartment. You know,  
22 just call 311. I mean, I think that if there's any  
23 one message that we'd like to make sure people don't  
24 get confused about in all of this discussion today,  
25 is that right now that's what people should continue

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2 to do. And their child need not have any kind of  
3 elevated blood levels, and they need not have any  
4 evidence of that at all. All they need to do is have  
5 peeling paint and a child under six, they should  
6 call and we will inspect and find out whether or not  
7 there's a lead hazard.

8                   And I think when we went, I mean we  
9 certainly had followed up discussions with the  
10 organization that carried out that study, and in a  
11 number of cases, a call to 311 would have triggered  
12 a Local Law 38 violation, inspection and violation,  
13 and in fact, I think those inspections are now  
14 ongoing. If we didn't know about it before we didn't  
15 have a way of doing that, but I'll let Harold  
16 answer.

17                   MR. SCHULTZ: Yes. Actually, we did  
18 meet with the group. We got most of the apartments  
19 that were included in the study. We did go back to  
20 those apartments with inspectors, and we did find  
21 that in every case where we were able to gain access  
22 and there was a child under six, there was also a  
23 violation of Local Law 38 and all of those  
24 violations have now been put into the remediation  
25 process.

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2 COUNCIL MEMBER VANN: All right, I  
3 thank you for that, for following up when something  
4 was brought to your attention.

5 And, also, HPD, I know that you  
6 reached out, and I met with some of the staff people  
7 since the study as well, and I thank you for that.  
8 And obviously there has to be a continuing  
9 discussion on our part, because I am very, very  
10 concerned about this, and other aspects of that.

11 Then finally, you may not have to  
12 respond, if you already answered it, I wasn't here  
13 exactly on time, but in the study they also suggest  
14 three actions that they think, three recommendations  
15 that they think would be critical, and one is, and  
16 you may have spoken about that already, in terms of  
17 lowering your definition of lead poisoning  
18 threshold; did you address that earlier?

19 COMMISSIONER FRIEDEN: The question  
20 was about five? I'm sorry. Lowering threshold of  
21 five?

22 COUNCIL MEMBER VANN: Yes.

23 COMMISSIONER FRIEDEN: It's not the  
24 national guideline to do that, it's not the state  
25 guideline to do that. We're looking at the data and

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2 what we're looking at in particular is to see if the  
3 children who have five to nine levels become  
4 children who are later lead poisoned, and if so,  
5 whether we could do some special outreach program in  
6 those areas for those households.

7                   We follow the national guidelines.  
8 One of the things suggested here is that we don't in  
9 this report, that we don't follow national  
10 guidelines, and that's really not the case. We  
11 follow the national guidelines for definitions of  
12 lead poisoning.

13                   COUNCIL MEMBER VANN: Well, in the  
14 second recommendation, partnering up with  
15 community-based organizations to make sure that  
16 blood lead screening of all children under six,  
17 particularly screening in vulnerable communities.  
18 Are you already doing that; is that already your  
19 focus?

20                   COMMISSIONER FRIEDEN: Absolutely. And  
21 we're always happy to try to do more in that area.  
22 It is a particularly important area.

23                   COUNCIL MEMBER VANN: And this whole  
24 debate around complaint-driven versus being more  
25 aggressive, if you will, where do you stand with



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2 that?

3                   COMMISSIONER FRIEDEN: We mentioned  
4 earlier that we've already identified about a  
5 thousand apartments where there have been lead-based  
6 problems in working with HPD, with HPD in the lead  
7 in terms of the follow-up, we're doing proactive  
8 specific outreach in those areas.

9                   COMMISSIONER PERINE: Yes, and I would  
10 just say, a complaint-driven system is still going  
11 to be the most effective way in a City of this size,  
12 to be able to find the children under six, living  
13 with peeling paint.

14                   So, the fastest way for people to get  
15 attention is to just call 311 and people can call 24  
16 hours a day, seven days a week, 170 languages, one  
17 phone call, and we'll follow-up.

18                   COUNCIL MEMBER VANN: All right.

19                   In conclusion, Madam Chair, now we're  
20 down to the real people who are left here, as you  
21 know, I've spent a lot of time since I've come to  
22 the City Council trying to organize within my area  
23 because I realize that we have to be doing things  
24 for ourselves in order to get others to do things  
25 that need to be done.

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2                   You are familiar with our Housing  
3 Task Force, even engaged with your Deputy  
4 Commissioner on several occasions around our  
5 concerns and priorities, I know the Commissioner is  
6 aware of our Health Task Force, he came out when we  
7 had a kick-off for our campaign where we are trying  
8 to make more people conscious of their living style,  
9 their lifestyle, make sure that they have a medical  
10 home and their own medical records; I'm saying all  
11 this to say that, I have to do this because we are  
12 an area that have all of the indices of ill health,  
13 and we're doing, I got all the community-based  
14 organizations, we're all moving, we need the City to  
15 address the movement that we have started because we  
16 can no longer allow Bed Stuy to be an area where HIV  
17 is the greater infection rate, high blood pressure,  
18 obesity, lead, asthma, all of that, and, so, we are  
19 doing from the community level, and we want you to  
20 match that commitment, as I'm sure you will, so we  
21 can have a very dramatic impact on things that are  
22 preventable within our community, and I thank you  
23 for that.

24                   COMMISSIONER FRIEDEN: Thank you.

25                   CHAIRPERSON PROVENZANO: Council

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2 Member Fidler.

3 I know I said no more but he said he  
4 just has one question.

5 COUNCIL MEMBER FIDLER: It's more of a  
6 request.

7 I want to thank you for your  
8 testimony. It's been instructive. I think I've heard  
9 that you're here to say that you're not in favor of  
10 101-A. I think you've also said that there are  
11 things that are in need of improvement in Local Law  
12 38. You've also said you're not really here prepared  
13 today to comment or answer questions about Local Law  
14 38.

15 I would find it very helpful and  
16 instructive if in the very near future you could  
17 forward to me in this Committee, those things in  
18 Local Law 38 that you think are in need of  
19 improvement, and how you would improve them. I think  
20 it would probably help me understand this really  
21 complicated issue and see how we can really apply  
22 resources to the root of the problem.

23 So, I would ask if you could get that  
24 to me and to the Committee in as short an order as  
25 possible. Would that be yes?

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2 COMMISSIONER PERINE: Yes. I'm sorry.

3 CHAIRPERSON PROVENZANO: That's it. I  
4 want to thank all of you. You've been here, let's  
5 see, almost four hours. Thank you for your patience,  
6 your indulgence. Thank you, too, but we're not  
7 finished. We have been a little deserted by Council  
8 members.

9 The folks are being called up in  
10 pairs and panels to expedite the process and to also  
11 facilitate questions.

12 It's easier to have questions asked,  
13 if we have more than one person there.

14 The next two people that I will call  
15 up, and he was here, did he go away? Former Council  
16 Member Stanley Michels. And Preston Niblack from  
17 IBO. Are you here? I thought I recognized you.

18 You can fight each other to see who  
19 goes first.

20 Welcome. How do you like it on the  
21 other side?

22 MR. MICHELS: I've been here before.

23 CHAIRPERSON PROVENZANO: Do you want  
24 to start, Council member?

25 MR. MICHELS: Yes, I would.

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2 CHAIRPERSON PROVENZANO: Former  
3 Council member. Stanley.

4 MR. MICHELS: Chairperson Provenzano  
5 and Council members, it is always a pleasure to be  
6 here before the Council, and especially before a  
7 Committee, in which I was a member for 24 years.

8 As most of you know, the issue of  
9 lead poisoning is one that I have devoted much  
10 attention to before, during and after my tenure on  
11 the Council.

12 I am pleased that this hearing is  
13 taking place. After I authored Local Law 1 in 1982,  
14 I was never permitted to even have a subsequent  
15 hearing on improved legislation I had introduced,  
16 including Intro. 205 of 1999 upon which 101 is  
17 based.

18 Thus, much credit should go to  
19 Council Member Bill Perkins, and the supporters of  
20 Intro. 101 both in and outside the Council for this  
21 achievement. Congratulations.

22 The New York City Coalition to End  
23 Lead Poisoning, known as NYCCELP, has worked very  
24 hard and never lost their hope that this City would  
25 do what is necessary to end the scourge of the

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2 preventable disease of childhood lead poisoning.

3                   The leadership of this Council, and  
4 you, Madam Chair, are doing the right thing in  
5 having this hearing.

6                   You will do the best thing by passing  
7 Local Law 101-A into law, and seeing to it that it's  
8 properly enforced.

9                   In 1999, the Council did the wrong  
10 thing in passing Local Law 38. Most people here  
11 today know I opposed Local Law 38. However, I'd like  
12 to take this opportunity to criticize the New York  
13 Law Journal for refusing to print the letter I wrote  
14 on February of this year correcting an article which  
15 stated that I proposed Local Law 38. To set the  
16 record straight I said Local Law 38 was not proposed  
17 until just a few days before it was enacted in June  
18 of 1999. And most certainly not by me.

19                   Indeed, I led the opposition and  
20 spoke out vehemently and repeatedly against Local  
21 Law 38.

22                   We now know that those of us who  
23 opposed Local Law 38 were right. And that Intro has  
24 been an abject failure. It is in fact a step  
25 backward in our fight against lead poisoning and a

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2 capitulation to those irresponsible owners who in  
3 order to save money that Intro. 205 would have cost  
4 them, would allow innocent children to suffer the  
5 terrible consequences of lead poisoning.

6 I ask that you not be fooled by the  
7 statistics you have heard here today that are cited  
8 to try and prove that Local Law 38 is responsible  
9 for the decline of lead-poisoned children - it's not  
10 so. The facts are that for the four years prior to  
11 Local Law 38, the number of these children were  
12 declining in our City in an average of 22 percent.  
13 However, during the last years since Local Law 38,  
14 the decline only averaged 17 percent per year.

15 According to DHMH, in 2002 there was  
16 were 4,000 new cases reported to it. Both HPD and  
17 DHMH should consider more meaningful statistics such  
18 as:

19 1) the number of lead paint "C"  
20 violations issued.

21 2) the number of housing units being  
22 abated.

23 3) the number of abatements being  
24 performed by HPD due to the owner's failure to act.

25 4) the number of false certifications

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2 for lead abatements discovered.

3                   And 5) the actual number of children  
4 being tested for elevated blood levels.

5                   I believe that these statistics will  
6 show there is a causal connection between Local Law  
7 38 and the noticeable slow-down, and I emphasize  
8 slow-down in the rate and decline of children with  
9 blood lead levels.

10                   Also, we now know that a recent study  
11 reported in the New England Journal of Medicine,  
12 that children in Rochester, New York, suffer  
13 intellectual impairment, even at blood lead levels  
14 below ten micrograms per deciliter. That study was  
15 corroborated by one done by the Children's Hospital  
16 in Cincinnati. The late Dr. Evelyn Mauss, who came  
17 before my Committee to testify many years, had been  
18 informing us of these same facts, but nobody was  
19 listening. Nobody was listening. She has now been  
20 vindicated. May she rest in peace.

21                   I now ask you, where is the New York  
22 City study? We have a Rochester study, we have a  
23 Cincinnati study, why is there no New York City  
24 study? We all know the answer.

25                   Any housing having children under



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2 seven years of age, not six, under six, in a  
3 building constructed before 1960 with lead paint  
4 should all be timely abated pursuant to the proposed  
5 provisions of Intro. 101-A.

6                   Today the Council, Madam Chair, has  
7 in its hands the fate and the future of thousands of  
8 New York City children. You must make up for the  
9 mistake we made in passing Local Law 38. You must  
10 consider the needs of children, not the needs of the  
11 landlords or City agencies.

12                   Passage of Intro. 101-A into law will  
13 do that.

14                   The legality of Local Law 38 is now  
15 before the New York State Court of Appeals, and I  
16 believe it will determine, on the only issue before  
17 them, that the passage of the law was defective  
18 because of the failure of the Council to provide an  
19 Environmental Impact Statement. I knew at the time  
20 of the passage that the EIS would not be done, and  
21 why not it would not be done, since it would have  
22 had to state that Local Law 38 in amending the  
23 existing law, which is Local Law 1, and it would  
24 have an adverse affect on the environment because  
25 among other things, it reduced the inspection

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2 requirements by owners, replaced abatement measures  
3 with containment, and narrowed the definition of  
4 lead-based paint and the class of children to be  
5 protected.

6                   At the time not one public health or  
7 medical expert testified in support of Local Law 38,  
8 and many of the most prominent local and national  
9 experts in the field of lead poison prevention:  
10 pediatricians, toxicologists, industrial hygienists  
11 and others - wrote or testified in opposition to  
12 this legislation because it significantly weakened  
13 critical legal and environmental protection for  
14 children.

15                   We must not forget that every day  
16 that goes by brings more lead poisoned children.

17                   Our primary goal should be simple. To  
18 enact a law that will put into place the most  
19 effective mechanism for maintaining our housing  
20 stock so children will not be poisoned.

21                   Let me site a few of the most glaring  
22 failures and defects of Local Law 38, and Council  
23 Member Fidler asked about this.

24                   Numbers 1, it doesn't define, despite  
25 the question that was answered here, it does not

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2 define and recognize lead dust as a lead hazard,  
3 thus ignoring the primary cause of childhood lead  
4 poisoning.

5                   It deleted from the law the  
6 rebuttable presumption of lead paint in pre-1960  
7 buildings for liability purposes, thus removing the  
8 main incentive of owners to abate these dangerous  
9 conditions.

10                   It does not require that after  
11 abatement, a proper lead dust clearance test be  
12 performed by an independent, emphasizing an  
13 independent third party, and the results provided to  
14 HPD, DHMH or the resident of the premises. Thus  
15 allowing only an incomplete abatement to be  
16 performed.

17                   It gives the owners as long as 81  
18 days to correct an immediately hazardous C  
19 violation. Eighty-one days.

20                   It allows for as long as 220 days to  
21 correct a hazardous lead condition when an owner  
22 falsely certifies that it has been corrected,  
23 allowing all these children to be lead poisoned  
24 during that period of time.

25                   It encourages unsafe abatement

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2 practices, since owners who attempt to correct  
3 violations within 21 days, are not required to fully  
4 comply with DOH safety regulations for abatement.

5                   And can use untrained, uncertified  
6 workers to remove lead hazards, which may result in  
7 ineffective and dangerous abatement.

8                   And owners who were relieved of the  
9 obligation, that they locate and abate lead hazards  
10 in housing where children are under seven years of  
11 age and where they reside.

12                   All of these failures have been  
13 corrected in Intro. 101-A. All of them. The law  
14 before you today, Local 101-A, is an improvement,  
15 and it's reasonable, over Local Law 1 of 1982 which  
16 I authored. Since it only requires abatement of  
17 peeling paint, and paint on deteriorating  
18 subsurfaces and lead paint on friction and chewable  
19 surfaces.

20                   It does not require the removal of  
21 all paint in these houses.

22                   Unlike Local Law 38, Intro. 101-A was  
23 promulgated to protect children and not landlords.  
24 Those owners were opposed Local 101-A in order to  
25 protect themselves from lawsuits, should realize

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2 that their best protection would be to keep their  
3 properties in good repair, so there wouldn't be any  
4 lead poisoned children to sue them in the first  
5 place.

6                   It would be truly tragic if this  
7 Council once again, as it did in 1999 with Local Law  
8 38, turned its back upon the strong commitment, the  
9 Council's strong commitment as embodied in Local Law  
10 1, to protect children from lead poisoning.

11                   I ask you to please enact 101-A into  
12 law as soon as possible.

13                   Thank you.

14                   CHAIRPERSON PROVENZANO: We'll hear  
15 your testimony and then we'll do questions.

16                   MR. NIBLACK: Okay. Thank you, Council  
17 Member. Thank you, Chairwoman Provenzano, members of  
18 the Committee. I am Preston Niblack, Deputy Director  
19 at the Independent Budget Office, and I'm  
20 accompanied today by Molly Wasow Park, our Senior  
21 Analyst for Housing and Buildings.

22                   Thank you for inviting us to testify  
23 today on Intro. 101-A on our fiscal impact analysis  
24 that we prepared on this bill, copies of which you  
25 should have received late last week.

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2                   We're going to talk today about our  
3 estimate of the cost of the bills, as well as some  
4 potential uncertainties that could affect the  
5 eventual cost.

6                   The scope, as usual, of our analysis,  
7 was limited to direct city agency costs, and we did  
8 not estimate any cost to the private sector.

9                   COUNCIL MEMBER JACKSON: Can you pull  
10 the mic up a little closer, please?

11                   MR. NIBLACK: Yes, sure.

12                   COUNCIL MEMBER JACKSON: If you don't  
13 mind.

14                   MR. NIBLACK: Sorry.

15                   COUNCIL MEMBER JACKSON: Thank you.

16                   MR. NIBLACK: I'll put on my glasses,  
17 too, and everything will be much better.

18                   In brief, our estimate of the cost of  
19 Intro. 101-A was about \$3.2 million annually, which  
20 would include the cost of hiring roughly 60 new  
21 personnel, including housing and health inspectors  
22 and related support and supervisory personnel, and  
23 the cost of additional HPD emergency repairs.

24                   In order to get some sense of the  
25 range in cost that would be possible if Intro. 101-A

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2 were to become law, we considered alternative values  
3 that we felt were within a plausible range for  
4 several key variables.

5                   Our estimate of the total cost of the  
6 bill ranged from a low of \$3.4 million annually to a  
7 high of \$18.6 million.

8                   For certain provisions covering lead  
9 paint remediation in schools and day care centers in  
10 particular, as Commissioner Perine pointed out,  
11 while we do believe that there would be costs under  
12 Intro. 101-A, we didn't have sufficient data to  
13 allow us to make an informed estimate.

14                   And in addition, we note that there  
15 are some provisions of the bill. As you heard,  
16 they're open to alternative interpretations which  
17 could significantly affect the cost of  
18 implementation.

19                   Our estimate of the cost of Intro.  
20 101-A represents about a 35 percent increase over  
21 what HPD and the Department of Health currently  
22 spend on lead paint-related prevention and  
23 remediation. Most of the additional costs would fall  
24 on HPD. About 80 percent of HPD's lead spending  
25 currently is funded by federal community development

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2 block grant funds, and we expect that the work that  
3 would be, the additional work that would be required  
4 under Intro. 101-A would continue to be eligible,  
5 much of it, for CDBG funding.

6                   We used data from the 1999 Housing  
7 and Vacancy Survey and HPD's reports to the Council  
8 on its experience implementing Local Law 38, to  
9 estimate the cost of ten key provisions in Intro.  
10 101-A with a fiscal impact.

11                   The cost arrives predominantly from  
12 two sources; an increase in the number of  
13 inspections that City Housing and Health Inspectors  
14 would have to undertake, and an increase in the  
15 number of emergency repairs that HPD would have to  
16 make.

17                   Two requirements in particular tend  
18 to drive these costs. The first is the accelerated  
19 time line under Intro. 101-A. Under current law, the  
20 total statutory time between when HPD first receives  
21 a complaint and when it is obliged to correct a lead  
22 hazard condition if the building owner has not done  
23 so is 141 days under most circumstances with  
24 extensions possible, as you heard.

25                   Under Intro. 101-A that basic time



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2 frame would be shortened to 51 days. HPD would need  
3 more inspectors in order to respond to complaints  
4 and to inspect and reinspect violations.

5                   And in addition, while HPD has found  
6 the majority of building owners would take  
7 corrective, do take corrective action themselves,  
8 under the tighter deadlines in the bill it's  
9 possible that HPD will find that more building  
10 owners will fail to make corrections within the  
11 statutory time frame, leaving HPD to correct a  
12 greater share of lead paint violations itself.

13                   We assumed that this would raise  
14 overall emergency repair costs by 25 percent or  
15 about \$2.3 million annually.

16                   The second provision of the bill that  
17 has a significant cost impact is the provision  
18 requiring the Health Department to, from time to  
19 time, determine the number of inspectors required  
20 and HPD to provide those inspectors in order to  
21 undertake a proactive inspection program, and  
22 proactive is our word, I'll just note, where  
23 children are at risk of lead poisoning.

24                   In our estimate, and we can discuss  
25 this in more detail, if you want, since it's been a

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2 subject of some controversy, but in our estimate we  
3 assume that a proactive inspection program would  
4 target neighborhoods with relatively high incidences  
5 of lead poisoning, that would be conducted in such a  
6 way as not to require a significant increase in  
7 current resources. Although it still costs about \$4  
8 million annually.

9                   How efficiently such a program could  
10 be implemented would depend in part on whether it  
11 was possible to identify in advance units with  
12 children, based on our assumptions, based on a range  
13 of assumptions, the cost of this provision could go  
14 from a low of 2.7 million up to 6.6 million.

15                   However, as you heard, HPD interprets  
16 this and other sections of the bill, requiring it to  
17 inspect 100 percent of the units identified by the  
18 Department of Health each year.

19                   In contrast, we assumed that HPD  
20 would get to about five percent of the units each  
21 year, perhaps more if they were able to target units  
22 with children.

23                   Because HPD's interpretation would  
24 cost the City as much as \$130 million in our  
25 estimate, which I think was close to theirs also,

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2 and would require more than doubling the current  
3 number of housing inspectors, we think it's unlikely  
4 that this provision would be implemented this way in  
5 practice.

6                   We did not estimate the added cost of  
7 administrative provisions in Intro. 101-A, in  
8 particular the registration system for private  
9 abatement work, which could be expensive. Clarifying  
10 some terms and provisions in the bill could help  
11 reduce the risk of unintended and costly  
12 requirements.

13                   To reiterate, we estimate that Intro.  
14 101-A will cost about \$8 million a year to  
15 implement, including spending by HPD and the  
16 Department of Health, and also including expanded  
17 J-51 tax benefits.

18                   This figure reflects a number of  
19 major assumptions about building owner's behavior  
20 and the building and the scope of the work done by  
21 HPD. Additional uncertainties arise from alternative  
22 interpretations of certain provisions and other  
23 requirements that we were not able to price,  
24 including the provisions relating to the protection  
25 of children in day care centers and schools.

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2                   Thank you for the opportunity to  
3 review our analysis with you, and I'll be happy to  
4 answer any questions members of the Committee may  
5 have.

6                   CHAIRPERSON PROVENZANO: Thank you  
7 very much.

8                   Council Member Quinn had a question,  
9 but she's gone.

10                  Council Member Perkins.

11                  COUNCIL MEMBER PERKINS: I have a  
12 quick question.

13                  Clearly, the Department of Housing  
14 Preservation and Development took an exaggerated  
15 estimate in response to 101-A that was significantly  
16 higher than what you have found through your work  
17 and I was wondering, were you available when that  
18 testimony was taking place and would you be good  
19 enough to sort of respond to what they were saying?

20                  MR. NIBLACK: The provision in the  
21 bill that addresses the proactive inspections, in  
22 particular, doesn't really specify how many units,  
23 what percentage of units that the Health Department  
24 identifies HPD would have to inspect each year.

25                  And HPD is essentially interpreting

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2 the phrase to the maximum extent possible in the  
3 legislative finding section to mean that they  
4 essentially have to undertake 100 percent each year,  
5 inspect 100 percent of units each year. You know, in  
6 practice we felt that we live in a  
7 resource-constrained world and that it would  
8 unlikely that HPD would adopt that interpretation,  
9 actually when it had to get around to implementing  
10 the law. So we essentially adopted an interpretation  
11 that we thought was reasonably consistent with the  
12 existing level of resources.

13 COUNCIL MEMBER PERKINS: It's  
14 consistent with the level of resources, but your  
15 estimate is also consistent with their practices, in  
16 terms of the amount of inspections that they  
17 actually do.

18 MR. NIBLACK: Well, there's no  
19 practice with regard to proactive inspections right  
20 now, because it's all complaint-driven at this  
21 point. So, it really will be up to the Department of  
22 Health and HPD to establish the regulations and to  
23 establish the implementation of the program, and  
24 they're given a great deal of discretion to do so.

25 COUNCIL MEMBER PERKINS: So,

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2 realistically then, your numbers fall into the area  
3 where the discretion could be applied?

4 MR. NIBLACK: I believe so.

5 COUNCIL MEMBER PERKINS: Okay, and  
6 just to emphasize the point, their numbers were like  
7 the maximum that could conceivably be done and,  
8 frankly, that's not likely to happen?

9 MR. NIBLACK: It certainly is the  
10 maximum I think that the bill could eventually cost  
11 HPD, and I just don't believe that the resources  
12 will be there.

13 COUNCIL MEMBER PERKINS: Okay.

14 MR. MICHELS: Can I comment on that?  
15 Because I was here during that testimony where they  
16 said under Local Law -- on Intro. 101-A, they would  
17 have to go around and classify all intact paint  
18 almost in the entire City, certainly the area, but  
19 there's nothing in 101-A that provides for that, to  
20 make sure they do that.

21 What is in there, it says an  
22 inspector goes into an apartment, for whatever  
23 reason, he has a check list, all he has to do is  
24 look at and check leaded paint and peeling paint.  
25 That's not a huge cost. They made it like it was

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2 going to cost \$100 million to do such a thing. It's  
3 ridiculous and just an argument against it.

4                   What we want is we want inspectors  
5 who are already there to use their common sense,  
6 look around, is there peeling paint, is this a  
7 building built before 1960 and check it off so we  
8 know. That's proactive, that's not going to cost a  
9 lot of money. They're already doing it.

10                   COUNCIL MEMBER PERKINS: Thank you  
11 very much.

12                   CHAIRPERSON PROVENZANO: Thank you. I  
13 would also like to acknowledge the presence of  
14 Councilwoman Yvette Clarke and Councilman James  
15 Davis.

16                   Council Member Jackson, do you have a  
17 question?

18                   COUNCIL MEMBER JACKSON: Thank you,  
19 Madam Chair.

20                   Good afternoon, and thank you for  
21 coming to testify. I appreciate you waiting.

22                   My question is for the Deputy  
23 Director for the Independent Budget Office.

24                   Now, my understanding is that you did  
25 an analysis, in your opinion, based on the

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2 information that you have as to the cost factor to  
3 implement Intro. 101-A; is that correct?

4 MR. NIBLACK: That's correct.

5 COUNCIL MEMBER JACKSON: Now, it is my  
6 understanding, and correct me if I'm wrong, that the  
7 Independent Budget Office, you are independent and  
8 separate and apart from the Office of Management and  
9 Budget, which is the Office of the Mayor; is that  
10 correct?

11 MR. NIBLACK: Absolutely.

12 COUNCIL MEMBER JACKSON: And where do  
13 you derive your funds in order to carry out your  
14 mandate?

15 What is your mandate under the  
16 Charter and where do you derive your funds in that  
17 respect?

18 MR. NIBLACK: Under the City Charter  
19 the Independent Budget Office's budget is set at no  
20 less than ten percent of that of the Office of  
21 Management and Budget, the Mayor's Office of  
22 Management and Budget.

23 MR. MICHELS: It's in the Charter.

24 MR. NIBLACK: It's in the Charter.

25 COUNCIL MEMBER JACKSON: And who does



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2 your office, or your director, report to, as far as  
3 reporting?

4 MR. NIBLACK: The director is  
5 appointed to a fixed term for elected officials, the  
6 Public Advocate, the Comptroller, a representative  
7 of the Speaker of the City Council and one of the  
8 five Borough Presidents.

9 COUNCIL MEMBER JACKSON: And I believe  
10 I knew most of your response, but the reason I asked  
11 that is to lay a foundation as to your independence.

12 So, you do not take orders from  
13 anyone whatsoever?

14 MR. NIBLACK: No.

15 COUNCIL MEMBER JACKSON: And as far as  
16 this analysis, you've heard the testimony, I assume,  
17 of the previous Commissioners as to the cost factor,  
18 and I believe my notes indicate, and you can correct  
19 me if I'm wrong, that the cost factor, the OMB  
20 preliminary assessment of carrying out Intro. 101-A  
21 will cost about \$260 million. Do you have any  
22 knowledge as to whether or not that is a true and  
23 accurate assessment, in your opinion?

24 MR. NIBLACK: You know, I have not  
25 seen OMB's analysis at all, so I can't comment on

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2 the specifics.

3                   What I believe I understood from  
4 Commissioner Perine's testimony was that that  
5 included about \$125 million budget for HPD, and as  
6 we said, I think that that sounds like a level of  
7 resources that they're unlikely to get, and that in  
8 practice they would try to implement the law if it  
9 were passed in a way that was less costly.

10                   COUNCIL MEMBER JACKSON: Well, I'm  
11 going to ask you now, and I will subsequently, if  
12 this Committee or the Deputy Majority Leader will  
13 request that you obtain the statistics and figures  
14 and the information that they had, OMB, in order to  
15 come up with a preliminary assessment of \$260  
16 million, because, quite frankly, in my opinion, the  
17 Office of Management and Budget is not an  
18 independent body, and I question the actual figure.  
19 So, from a lay person's point of view, as a local  
20 legislator, I need an independent assessment of  
21 that, so I'm going to request that the Independent  
22 Budget Office obtain their information and do an  
23 analysis and see what you come up with.

24                   So, I would appreciate if you would  
25 look into that.

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2 MR. NIBLACK: I certainly will ask OMB  
3 to look at their estimate.

4 COUNCIL MEMBER JACKSON: Thank you.

5 And Council Member Michels --

6 MR. MICHELS: Ex-Council member.

7 COUNCIL MEMBER JACKSON: In all due  
8 respect, I call former Mayors Mayors and I call  
9 Speaker Vallone --

10 MR. MICHELS: I will accept and  
11 consider it an honor.

12 COUNCIL MEMBER JACKSON: -- Because  
13 it's an honor for you to put in so many years on  
14 behalf of the people of our district and New York  
15 City.

16 MR. MICHELS: Thank you very much.

17 COUNCIL MEMBER JACKSON: So you  
18 deserve all the honor.

19 MR. MICHELS: Thank you very much, my  
20 worthy successor.

21 COUNCIL MEMBER JACKSON: Council  
22 Member Michels, you testified as to the information  
23 as to the deficiencies in Local Law 38.

24 MR. MICHELS: Correct.

25 COUNCIL MEMBER JACKSON: Now, where

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2 did you ascertain what needed to be done in Local  
3 Law 101 in order to basically correct the  
4 deficiencies in Local Law 38?

5 MR. MICHELS: I did something drastic,  
6 I read the statutes.

7 COUNCIL MEMBER JACKSON: Are you a  
8 professional lead abatement specialist? Or what's  
9 your training in this area?

10 MR. MICHELS: My training has been  
11 over 30 years of hearing testimony, speaking to  
12 experts, learning from them, watching what they do,  
13 going out in the field and doing that.

14 I'm a lawyer, but as Chair of the  
15 Environmental Committee, I listened to experts and I  
16 give you the results of what experts told me, and I  
17 evaluate what they tell me, and you have many  
18 experts here today that are going to tell you the  
19 same things I'm telling you.

20 COUNCIL MEMBER JACKSON: And when you  
21 were in the Council, did you Chair the Environmental  
22 Committee?

23 MR. MICHELS: That's right.

24 COUNCIL MEMBER JACKSON: And was this  
25 part heard under that Committee, or was it separate

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2 and apart?

3                   MR. MICHELS: No, it was heard in the  
4 Housing and Buildings Committee, in which I was the  
5 ranking member, and I could never get a hearing on  
6 my legislation, that's why I'm so happy to  
7 compliment you, and certainly Bill Perkins and  
8 everyone else, for getting a hearing on 101-A.

9                   I introduced 205 many years ago and I  
10 couldn't get a hearing on it, and that's why this  
11 bill is so important to me, and it's why what you  
12 are doing here is so important, because we are going  
13 to be saving lives if we can get it through, you  
14 heard a lot of obfuscation, you've heard four hours  
15 of obfuscation and statements here that were not  
16 true.

17                   You know, there's an old adage, as  
18 far as statistics are concerned, "statistics don't  
19 lie but liars figure," and you've had a lot of that  
20 here today.

21                   COUNCIL MEMBER JACKSON: Now, I don't  
22 know if you were here and heard my questioning of  
23 the Commissioners concerning medical justification  
24 to protect children under six years of age, as  
25 stated in Local Law 38, as opposed to under age

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2 seven in Local Law 1 of 1982.

3 MR. MICHELS: And Intro. 101-A.

4 COUNCIL MEMBER JACKSON: And Intro.

5 101-A.

6 MR. MICHELS: I was here, I heard that  
7 question.

8 COUNCIL MEMBER JACKSON: As someone  
9 that has been involved in this process of making a  
10 law that in your opinion, that will be the best for  
11 children, what is the difference in one year from  
12 Local Law 1, as far as age seven, to Local Law 38,  
13 and the impact that it have as far as the number of  
14 children and the impact on children overall?

15 MR. MICHELS: I think you're going to  
16 hear from medical experts who are here today.

17 COUNCIL MEMBER JACKSON: Okay.

18 MR. MICHELS: We originally wrote the  
19 law on Local Law 1, it was under seven. We believe  
20 children six years of age are threatened. There is a  
21 cumulative effect. And that we could be talking  
22 about thousands upon thousands of children seriously  
23 lead poisoned as a result of cumulative effect.  
24 That's what we're talking about.

25 COUNCIL MEMBER JACKSON: The

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2 difference in one year could mean thousands of --

3                   MR. MICHELS: The children get lead  
4 poisoned not in a year, they get poisoned over a  
5 series of years, and even when they get two, two  
6 micrograms per deciliter, or it keeps accumulating  
7 and accumulating, and sometimes they're not even  
8 discovered until they're six years of age or older.  
9 The whole idea is when are you going to discover  
10 they're in danger, and they're in the formative  
11 periods of their lives, and this will affect them  
12 physically, cause mental retardation, and that's why  
13 you should be able to get them at the age of six  
14 years old of under seven years of age.

15                   COUNCIL MEMBER JACKSON: And let me  
16 just ask this question here.

17                   I've asked this question before, and  
18 I didn't get an answer, and I don't assume that  
19 there is an answer, but I'm going to ask it anyhow,  
20 I'm going to ask it the same way that I asked the  
21 Commissioners.

22                   My understanding is within the first  
23 21 days a landlord doesn't have to use certified  
24 workers for abatement.

25                   MR. MICHELS: Right.

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2 COUNCIL MEMBER JACKSON: In your  
3 opinion, if you have an opinion, is it in the best  
4 interest of children to have a certified lead  
5 abatement specialist or uncertified lead abatement  
6 people to carry out that particular work?

7 MR. MICHELS: I was here under that  
8 unbelievable colloquy between you and the  
9 Commissioner, that's a no-brainer. Of course it's  
10 better to have certified and trained workers than  
11 uncertified workers.

12 COUNCIL MEMBER JACKSON: Why is that?

13 MR. MICHELS: Because we're dealing  
14 with lead dust. You have to have it done in such a  
15 way as to protect the children while they're in the  
16 apartment, you've got to put plastic sheeting over  
17 it, you've got to make sure it's done properly,  
18 you've got to test it afterwards, and you've got to  
19 be able to pick it all up, and people are trained to  
20 do this. You get the superintendent, or somebody, a  
21 well-meaning person to do it, they can not only not  
22 do it properly but they can exacerbate the  
23 situation, cause more lead dust, and cause the  
24 children to be more lead poisoned than ever before.

25 So, that, I don't understand the



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2 answer to that question that the Commissioner gave.

3 It's a no-brainer, it should be done. You should

4 always have experts taking care of lead dust and

5 lead paint.

6                   You wouldn't let an untrained

7 asbestos worker come into your apartment and remove

8 asbestos, why should you have an untrained lead

9 abatement specialist come in?

10                   COUNCIL MEMBER JACKSON: Now, do you

11 have any opinion, either one of you, concerning the

12 Commissioner of HPD indicated the fastest way to get

13 attention is to call 311 if there is a peeling paint

14 in the household and there are children under the

15 age of six years old; is there any opinion whether

16 or not that's working or not? If you have any

17 expertise in that?

18                   MR. MICHELS: First of all, that's not

19 proactive, that's reactive. And I have an opinion

20 that I don't know how many people know to use 311.

21 And especially people who don't have phones, and

22 people living in these poor situations don't know

23 about it. It's one of the additional weapons that

24 should be used and could be used and it's an

25 important thing to use, but the most important thing

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2 is to get in there and inspect that lead paint,  
3 inspect those children and test those children,  
4 that's what you do. You've got to be proactive, go  
5 after the children, go right up to the premises and  
6 check it out.

7 COUNCIL MEMBER JACKSON: Thank you,  
8 Madam Chair.

9 Thank you. Thanks for coming in.

10 MR. MICHELS: Thank you very much.

11 ACTING CHAIRPERSON COMRIE: Okay,  
12 there are no more questions. I want to thank you,  
13 Mr. Niblack and former Council Member Michels, for  
14 attending, and we'll call the next panel at this  
15 time, but one question first, is the representative  
16 for the Brooklyn Borough President here, Iris Mule?  
17 Is she still in the room? Okay, and in that case we  
18 will call out the City Comptroller, Mr. William  
19 Thompson, to the panel, and Andrew Cuomo. And we're  
20 going to ask Lee Chong, representing Manhattan  
21 Borough President Virginia Fields to join them at  
22 the podium, at the table.

23 Council Member James Davis would like  
24 to make a statement while the panel is settling in.

25 Council Member Davis.

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2 COUNCIL MEMBER DAVIS: Thank you,  
3 Acting Chair Leroy Comrie.

4 I'd like to say that this issue is  
5 about life, this is about people, this is about  
6 health, and being a person who tries to vote my will  
7 of my constituents and also vote and have a good  
8 conscience at the end of the night, I'm proud, I'm  
9 very proud of Councilman Bill Perkins for his  
10 leadership on this particular issue.

11 And I would like for everyone to be  
12 mindful, this is not about dollars and cents, this  
13 is about life, giving every child an opportunity to  
14 grow, to be here in this great City of ours.

15 So, let's think from the standpoint  
16 about life and health, and last but not least, there  
17 are times when as a Council member, there appears to  
18 be a conflict of interest, and when those times  
19 rise, it's important that the integrity of the  
20 Council is never compromised, and those are the  
21 times when we all have to make tough decisions, and  
22 abstain and recuse and make those decisions, and  
23 never allow our personal interests to compromise  
24 what we're here to do.

25 So, I'm sure that all the members of

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2 this Council, especially this Committee, which  
3 Madeline Provenzano is doing a great job, will make  
4 those tough decisions and not make decisions based  
5 on their personal interest, the decisions based on  
6 preventing lead poisoning, protecting our children.

7 Thank you, Mr. Chair.

8 ACTING CHAIRPERSON COMRIE: Thank you,  
9 Council Member Davis.

10 Gentlemen, I hope that you do mind we  
11 have Ms. Chong joining. We didn't want her to be on  
12 the panel herself, but we would start with our  
13 esteemed Comptroller, Mr. William Thompson.

14 COMPTROLLER THOMPSON: Thank you,  
15 Councilman, and Acting Chair Comrie.

16 Members of the City Council, members  
17 of the Committee on Housing and Buildings, good  
18 afternoon.

19 I'm pleased to testify in support of  
20 Intro. 101-A, the New York City Childhood Lead  
21 Poisoning Prevention Act of 2003, and on this  
22 extremely important health issue.

23 Childhood lead poisoning is a wholly  
24 preventable and devastating disease. Although the  
25 permanent neurological damage that can result from

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2 lead poisoning can be reduced with prompt medical  
3 treatment and special education, the damage to the  
4 long-term education and vocational prospects of  
5 lead-poisoned children cannot be undone.

6                   In addition to the serious and  
7 unnecessary harm to affected children and their  
8 families, lead poisoning has fiscal consequences for  
9 the City, including the cost of medical  
10 intervention, special education and damages, paid  
11 out in lead-poisoning lawsuits brought against the  
12 City.

13                   Since it is now more than four  
14 decades since the City's lead paint ban was put into  
15 place, I'm greatly concerned by New York City  
16 Department of Health and Mental Hygiene figures,  
17 revealing that in 2000, 7,657 children, ages six  
18 months to less than six years, had elevated levels  
19 of lead in their blood, and 817 children were newly  
20 identified as being lead poisoned.

21                   These numbers likely underreport the  
22 City's ongoing childhood lead poisoning levels  
23 because only a fraction of young children are tested  
24 in the manner required by state law.

25                   Alarming, the threat of continued

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2 lead-paint poisoning in New York City is all too  
3 real.

4                   A report released by the Pratt Area  
5 Community Council this month revealed that more than  
6 one-third of the residential buildings that were  
7 tested for lead in Bedford Stuyvesant had lead  
8 levels that range from five to 100 times the federal  
9 threshold.

10                   Recent medical research has revealed  
11 two more disturbing facts about lead. First, lead  
12 exposure has immeasurable negative impact on  
13 children's IQ, even when their blood lead levels are  
14 below the federal threshold.

15                   According to a recent article  
16 published in the New England Journal of Medicine,  
17 blood lead concentration is inversely and  
18 significantly associated with IQ.

19                   In fact, the study described in the  
20 article, found that children whose blood levels of  
21 lead were below federal standards showed even  
22 greater changes in IQ, as a result of lead exposure  
23 than children whose level exceeded federal  
24 standards.

25                   Second, children are only the victims

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2 of lead poisoning. Adults with moderately elevated  
3 blood lead levels died more frequently of  
4 circulatory and cardiovascular illness, than adults  
5 with lower blood lead levels. According to research  
6 published in the Archives of Internal Medicine.

7                   Making matters worse, in May 2002, I  
8 confirmed that the Department of Housing  
9 Preservation and Development for the two prior  
10 fiscal years had not spent the amount originally  
11 budgeted for lead control and removal activities.

12                   For example, for Fiscal Year '02,  
13 actual HPD expenses for lead control and removal  
14 activities were approximately \$6 million as compared  
15 with an expense budget for that fiscal year of  
16 approximately \$25 million for these activities.

17                   In Fiscal Year 2003, the budget  
18 expenditures have fallen \$17.2 million.

19                   Additionally, lead paint poisoning  
20 imposes a heavy burden on New York City taxpayers,  
21 because of the monetary damages it has to pay as the  
22 result of court judgments involving lead poisoned  
23 youngsters.

24                   In Fiscal Year 2002, the City entered  
25 into 15 settlements and paid out \$4.5 million. In

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2 Fiscal Year 2003, to date the City has entered into  
3 34 settlements and has paid out \$4.2 million.

4                   Based on our knowledge and years of  
5 experience contending with this public health  
6 threat, the City's current lead poisoning prevention  
7 program clearly is not adequate.

8                   Most notably, Local Law 38 does not  
9 define lead dust as a hazard and shifts the tenants'  
10 responsibility of notifying the landlord that  
11 children under the age of six are living in the  
12 building.

13                   As the City learned from its  
14 experience with the window guard law, the best law  
15 requires active landlord vigilance.

16                   Intro. 101-A, sponsored by City  
17 Councilman Bill Perkins, and 35 other Council  
18 members, would help the City to craft and implement  
19 a better lead paint poisoning prevention program  
20 that is achievable under Local Law 38.

21                   If enacted, it would consolidate the  
22 administration and enforcement of the City's Lead  
23 Poisoning Prevention, which is now unnecessarily  
24 divided between HPD and the Department of Health and  
25 Mental Hygiene.



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2                   It would establish clear standards  
3 and benchmarks that would allow the City to  
4 ascertain how well it is receiving its public health  
5 goals and the Department of Health and Mental  
6 Hygiene would have the primary responsibility for  
7 promulgating rules and developing procedures, as  
8 well as for monitoring the specific programs  
9 required by State law.

10                   For example, passage of Intro. 101-A  
11 would restore legal protections to New York City's  
12 children, between the ages of six and seven, and it  
13 would establish specific goals for the rate of blood  
14 lead testing and for reduction of the number of  
15 children who become lead poisoned.

16                   Intro. 101-A defines lead dust as a  
17 hazard, a critical omission in Local Law 38, and it  
18 establishes important inspection, notice and  
19 correction standards that will help New York protect  
20 the health of its youngest and most vulnerable  
21 residents.

22                   Enactment of this bill would also  
23 expand provisions for the J-51 tax incentive program  
24 to cover residential lead inspections, risk  
25 assessments and abatements in the homes of children

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2 from the time of birth through their seventh  
3 birthday, even if these children are not lead  
4 poisoned.

5 I applaud this provision for its  
6 importance in improving lead paint poisoning  
7 prevention.

8 The financial implications of the  
9 passage of this bill are positive for the City.  
10 According to the report, and you've heard from IBO  
11 earlier, the total net annual cost of implementing  
12 101-A is \$8.1 million.

13 By any calculation, this is many  
14 millions of dollars less than the amount the City  
15 will have to spend on medical care and special  
16 education for lead poisoned children, in addition to  
17 amounts paid to settle claims brought by their  
18 families.

19 Lost tax revenues that result from  
20 the lowered lifetime earnings of lead poisoned  
21 children is another significant financial cost. The  
22 loss of one IQ point is associated with a reduction  
23 in lifetime earnings of an estimated almost 2.4  
24 percent, according to an article cited in the July  
25 2002 issue of Environmental health Perspectives.

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2 Some estimates translate this impact into earnings  
3 losses of more than \$1 billion a year.

4                   The unacceptably high numbers of  
5 children still being sickened by lead paint point to  
6 serious problems in the City's lead poisoning  
7 prevention efforts. The deficiencies in the current  
8 local law highlight the need for the City Council to  
9 act promptly on Intro. 101-A.

10                   In this City, far too many children  
11 still suffer from the effects of lead poisoning.

12                   We all have an obligation to protect  
13 the health and welfare of our most vulnerable  
14 population. I urge the City Council to take action  
15 on this important matter.

16                   And once again, I'd like to thank you  
17 for the opportunity to testify today.

18                   ACTING CHAIRPERSON COMRIE: Thank you,  
19 Comptroller.

20                   We are honored by the presence of our  
21 former Housing, former Secretary for Housing and  
22 Urban Development, Andrew Cuomo. Thank you for  
23 coming.

24                   MR. CUOMO: Thank you very much. It's  
25 my honor to be here. Let me applaud the Committee

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2 for their leadership in this issue and Madeline  
3 Provenzano, and yourself, Council Member Comrie, and  
4 especially Bill Perkins. Bill Perkins has been a  
5 tremendous advocate for people who need a voice in  
6 this City. And I say that in the manner of full  
7 disclosure. As HUD Secretary I was often on the  
8 other side of advocacy and I still have the bruises  
9 to prove it, but he is an effective, effective  
10 advocate and it's my pleasure to be with him once  
11 again.

12 COUNCIL MEMBER PERKINS: Thank you  
13 very much.

14 MR. CUOMO: Stanley Michels is here,  
15 who showed leadership on this issue before it was  
16 popular and it's a pleasure to associate myself with  
17 his comments and it's a pleasure to join the City's  
18 great Comptroller in his intelligent testimony  
19 before this Committee.

20 Let me mention, for brevity's sake,  
21 because so much has been covered, a couple of points  
22 that have not been raised, in my opinion.

23 My experience on this issue comes  
24 from a federal experience.

25 For eight years I was in the

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2 Department of Housing and Urban Development, and  
3 lead paint is a national issue, it is not a New York  
4 issue. And President Bill Clinton targeted lead  
5 paint as one of his priorities and put together a  
6 national task force. At that time Tipper Gore headed  
7 the task force and the two lead agencies were EPA  
8 and HUD. And I worked on that task force and we came  
9 up with a plan, implemented that plan in cities all  
10 across the nation, and that's the perspective that I  
11 bring here today.

12                   New York, in some ways why this is a  
13 national issue, New York has it worst because we  
14 have one of the highest percentages of older  
15 housing. Sixty-three percent of our housing is  
16 per-1960 housing. Literally one of the highest rates  
17 in the nation. That then drives this issue.

18                   So, while it's national in scope,  
19 unfortunately New York is critical.

20                   What we came up with at the end of  
21 the task force was that to do this right you need a  
22 comprehensive approach, and we had a four-pronged  
23 approach. We started with education, inspection,  
24 enforcement and remediation.

25                   We had a lot of good success with the

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2 education effort. We partnered with a lot of private  
3 sector companies and just getting out the word of  
4 what lead paint was all about, places like Home  
5 Depot and Sears and Loews, home centers, just in  
6 communicating the issue so people were aware of it.

7                   Enforcement is also key in my  
8 opinion.

9                   No matter how many laws you have, all  
10 too often we'll pass a law and then the enforcement  
11 is not what it should be, and Attorney General Janet  
12 Reno and myself made a point of enforcing these  
13 laws, and I can tell you, you don't have to bring  
14 that many cases before the industry gets the  
15 message.

16                   And communication of not only the  
17 seriousness, but the enforcement and stamina behind  
18 the actions. And also, the point that we know more  
19 about lead paint over the past decade, and it is not  
20 any longer just a question of peeling paint. The  
21 potato chip theory, that unless the paint is flaking  
22 off the walls, it's not an issue. The dust is the  
23 issue, and it is insidious and you don't have to see  
24 it, and it's not obvious, but the window frames, the  
25 door jams, putting forth a light dust, a child then

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2 crawls across the floor, the hands and feet pick up  
3 the dust, the child eats a cookie and now the child  
4 just ingested lead. And once you're aware of the  
5 dust issue, it goes to an entirely different  
6 methodology, in terms of remediation.

7                   This issue, to me, raises the two  
8 most important principles I think of public policy  
9 debate now-a-days.

10                   One is, understanding that in many  
11 ways our priorities are reversed, and we are so good  
12 as a society in government at solving problems at  
13 the back end, rather than making sure they don't  
14 happen at the front end, and we are still so good at  
15 paying for prison cells and juvenile justice  
16 facilities, and we don't understand that paying on  
17 the front end for a school room and nutrition and  
18 counseling is a much better investment.

19                   The Comptroller's comments are  
20 exactly right. This does not cost money, this saved  
21 money. The money that you spend up front is going to  
22 be recouped with dividends at the back end.

23                   This was also true nationally. What  
24 we found on the task force, we estimated that you  
25 could save \$8.9 billion by investing in an

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2 education, enforcement and remediation.

3           So, if you're going to do this in  
4 dollars and cents, then weigh the entire equation,  
5 and the entire formula. Not the cost on day one, but  
6 the cost over ten years, and the cost of paying for  
7 children who suffer the disability.

8           And the second principle in the  
9 public policy debate, is that all too often in this  
10 system it is the squeaky wheel that gets the grease,  
11 and the people we're talking about here are not  
12 especially powerful, they don't have powerful  
13 lobbyists, they don't have powerful attorneys, and  
14 they all too often get the short end of the stick.

15           Many of the Council members joined me  
16 in working on the Rockefeller drug laws recently  
17 that were before the State. Those laws were not  
18 reformed, despite every evidence and criteria that  
19 they were outdated at best.

20           Why? Ninety-four percent of the  
21 people who go to jail under the Rockefeller drug  
22 laws happen to be African-American or minority. And  
23 that's one of the reasons in my opinion that the  
24 political clout was not mounted to make the changes  
25 necessary.



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2                   Lead paint is very much the same way,  
3 it is the same dynamic. Eighty-one percent of the  
4 people affected happen to be minorities, and they  
5 happen to be poorer communities.

6                   I visited lead paint sites all across  
7 the nation, it's always the same. It's always on the  
8 wrong side of town, it's always on the wrong side of  
9 the tracks, it's always the low-cost housing, always  
10 the public housing, it's always the Section 8  
11 housing, it's always the low-rent housing. And these  
12 are always the people that happen to be victimized  
13 by the system.

14                   I applaud this Committee for its  
15 leadership. I hope the Council follows the  
16 leadership of this Committee and ends this once and  
17 for all.

18                   New York City is a leader in  
19 progressive government. We were not a follower. We  
20 went first. We didn't wait for other jurisdictions  
21 to go and then we followed their lead, we went  
22 first.

23                   New York City lead the way on lead  
24 paint. We're the first to ban lead paint. It took  
25 everyone else 20 years to catch up to us. Show that

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2 same leadership, the way we showed it once before,  
3 because we still are the progressive capital, and we  
4 still are the progressive capital for people who  
5 don't have the power and the resources to speak for  
6 themselves.

7                   That's what this Committee is all  
8 about. It's my honor to be here.

9                   ACTING CHAIRPERSON COMRIE: Lee Chong.

10                   MS. CHONG: Thank you. Good afternoon.  
11 My name is Lee Chong. I am the Director of Land Use,  
12 Housing and Development for the Manhattan Borough  
13 President, C. Virginia Fields. She sends her  
14 apology, she had a scheduling conflict, but I wanted  
15 to testify on her behalf.

16                   I am here to testify in support of  
17 Intro. 101, otherwise known as the "Childhood Lead  
18 Poisoning Prevention Act.

19                   I would also like to thank the Chair  
20 of this Committee, the honorable Madeline  
21 Provenzano, for allowing me to testify today. I  
22 would also like to thank the honorable Bill Perkins,  
23 the primary sponsor of this bill for inviting me to  
24 testify.

25                   The current law that governs lead

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2 poisoning prevention, Local Law 38, was passed in  
3 1999 as a legislation that ineffectively addressed  
4 lead remediation in residential dwellings.

5                   This law was passed without regard to  
6 the numerous testimonies from public health  
7 professionals who asserted that this law would be  
8 inadequate in protecting the health of children.

9                   Local Law 38 does not define lead  
10 dust the most significant causal factor for lead  
11 poisoning as a hazard. The law does not mandate lead  
12 abatement practices that adequately protect the  
13 workers or the families who live in these homes.

14                   Intro. 101-A, however, offers greater  
15 protection for children and their families from the  
16 ill-effects of lead poisoning than Local Law 38.

17                   Specifically this legislation defines  
18 lead dust as a hazard to be abated, requires safer  
19 lead abatement practices, sets shorter time frames  
20 for landlords and the appropriate City agencies to  
21 deal with lead hazards, focuses inspections on those  
22 communities most affected by lead poisoning and  
23 requires other measures that will ensure lead-free  
24 environments.

25                   The Department of Health and Mental

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2 Hygiene contends that lead poisoning is not as  
3 significant a public health problem as it was in the  
4 past.

5                   City Health officials have cited  
6 statistics that show the incidence of lead poisoning  
7 among children has continued to decrease, even under  
8 Local Law 38. These officials have not focused on  
9 the fact, however, that 19.4 children out of every  
10 1,000 tested continue to have elevated blood lead  
11 levels.

12                   They have not focused on the fact  
13 that only 27 percent of the City's one- and  
14 two-year-old children are tested for lead poisoning,  
15 indicating that there may be many more lead poisoned  
16 children who have not been identified and  
17 consequently are continuing to live in these  
18 hazardous environments.

19                   Moreover, City health officials are  
20 quick to say that the incident of lead poisoning has  
21 continued to decline. However, they have not  
22 publicized the fact that the rate of decline slowed  
23 after the implementation of Local Law 38.

24                   I also would like to add that 90  
25 percent of lead poisoned children in New York City

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2 are from communities of color, and so it seems to me  
3 that a lax lead poisoning prevention law, like Local  
4 38, is not only a public health problem, but an  
5 environmental justice problem.

6                   Certain communities continue to  
7 experience unacceptably high rates of environmental  
8 public health problems that are preventable.

9                   For example, recent studies have  
10 verified that East Harlem and Central Harlem have  
11 among the highest, if not the highest, rate of  
12 asthma in the nation. These same communities also  
13 have two of the highest childhood lead poisoning  
14 rates in this City.

15                   Washington Heights, which houses the  
16 lead-safe house that we developed, is the community  
17 that has the most lead paint violations in this  
18 City.

19                   It is no wonder, therefore, that this  
20 community continues to experience high rates of lead  
21 poisoning.

22                   I'd also like to note that strong  
23 lead poisoning prevention legislation, like Intro.  
24 101-A, should also require lead-safe housing  
25 alternatives, as family homes are abated for lead

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2 hazards.

3                   I suggest as an addition to Intro.  
4 101-A, that at least one lead-safe house be built in  
5 each borough, and that the Administration baseline  
6 the operations of these lead-safe houses.

7                   Currently the Manhattan lead-safe  
8 house is in the third and final year of a City  
9 Council mandated funding for operations of the  
10 lead-safe house.

11                   As of this moment, the Manhattan  
12 lead-safe house operator, Northern Manhattan  
13 Improvement Corporation, has not received a penny of  
14 its FY '03 funding. In fact, they only in the past  
15 week signed their FY '03 contract, and as of July  
16 1st there will be no funds to operate the only  
17 lead-safe house in the City of New York.

18                   In 1999, the Council in its infinite  
19 wisdom allocated \$12 million for the development and  
20 operations of ten lead-safe houses, two in each  
21 borough.

22                   Today, four years later only one  
23 lead-safe house exists, and this lead-safe house was  
24 not built with Council funding but with \$1.7 million  
25 from our capital budget.

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2                   Where did your \$12 million go? The  
3 Department of Health pegged that money because there  
4 were no lead-safe houses. The Administration did  
5 nothing to find sites and only our office was able  
6 to find a site in Washington Heights, and an  
7 organization, NIMIC (phonetic) to own and operate  
8 it.

9                   Members of the Council, I implore you  
10 to include in this bill, funding for the development  
11 and operational lead-safe houses, with the possible  
12 increased detection of lead poisoned children and  
13 the requirement to abate, there will be a need to  
14 house these families who cannot find other shelter  
15 during the abatement period. One cannot exist  
16 without the other.

17                   The health care costs and special  
18 education costs of lead poisoned children to the  
19 City would be significantly decreased if Intro.  
20 101-A was passed and enacted as law.

21                   I firmly believe that passage of this  
22 bill would mean greater protection from childhood  
23 lead poisoning than Local Law 38 currently provides.

24                   That is why I supported the parent  
25 version of Intro. 101-A, Intro. 205 in the previous

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2 City Council session, and why I immediately threw my  
3 support behind Intro. 101 as soon as it was  
4 introduced last year.

5 I therefore pledge to work with the  
6 Council to ensure that Intro. 101-A or a similar  
7 version of this legislation is passed and  
8 implemented.

9 Thank you, again, for allowing me to  
10 testify.

11 CHAIRPERSON PROVENZANO: Thank you.

12 And I didn't diss you, Mr.  
13 Comptroller and Andrew Cuomo, I was right next door  
14 listening. It always amazes me, Andy, how much you  
15 sound like your father.

16 Do we have any questions?

17 COUNCIL MEMBER PERKINS: Yes, I'd like  
18 to ask one or two quick questions.

19 CHAIRPERSON PROVENZANO: Go ahead.

20 COUNCIL MEMBER PERKINS: First I want  
21 to thank all the panelists for their testimony and  
22 the time that they've spent with us today, I know it  
23 has been rather long.

24 I would ask everyone else that's due  
25 to testify to please bear with us, it's very, very



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2 important that you don't leave, if possible.

3                   Mr. Comptroller, one quick question  
4 to you. So, I just want to make it clear, fiscally  
5 speaking, this bill is not a problem?

6                   COMPTROLLER THOMPSON: This is not an  
7 irresponsible bill. This is something that is in the  
8 best fiscal interest of the City of New York, and  
9 the people of the City of New York.

10                   COUNCIL MEMBER PERKINS: Thank you for  
11 that authority.

12                   It's very, very important. It  
13 conforms with the opinion of the Independent Budget  
14 Office, and it contradicts severely the  
15 Administration's testimony to the opposite. So, it's  
16 very important for the record that things will be  
17 cleared up from the objective and from the point of  
18 view of an expert whose job is to let us know when  
19 we are going down the wrong way fiscally.

20                   I want to take a moment to thank you  
21 again, Mr. Cuomo, for your attendance and for the  
22 work you've been doing on the Rockefeller law and so  
23 many other things. And you know, I had forgotten  
24 about the wealth of experience that you had with HUD  
25 in this particular matter, and I just wanted to take

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2 a moment to thank you for taking the time to comment  
3 and giving us your expertise on this matter as well,  
4 and that's all I really wanted to do.

5 Thank you.

6 CHAIRPERSON PROVENZANO: Council  
7 Member Jackson.

8 COUNCIL MEMBER JACKSON: Thank you,  
9 Madam Chair.

10 Good afternoon. I thank you, all  
11 three of you, for coming in to give testimony this  
12 morning. And I was in the Committee room trying to  
13 get some food in my stomach, and I was listening  
14 very intensely as to what was being said.

15 And I just want to compliment to all  
16 three of you for coming in to give testimony.

17 Obviously, this is a very sensitive  
18 issue that is being closely watched by advocates on  
19 both sides of the issue, and for you, the City  
20 Comptroller, Bill Thompson, to come in and give  
21 testimony so strongly, as far as in my opinion, in  
22 favor of Local Law 100 from the fiscal point of view  
23 and in other opinions is complimentary to you in my  
24 opinion.

25 And Mr. Cuomo, you are to be

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2 complimented for coming in and giving testimony, as  
3 to your thoughts and opinions about this subject  
4 matter, and especially, let me be right up front,  
5 you know, both of you have been cited by many people  
6 as individuals that will hold higher office in this  
7 great City and great state, and to come out and take  
8 a position with some people feel that they don't  
9 want to for one reason or another, I applaud you  
10 whole-heartedly for doing that. Because I do know, I  
11 do know that you're position that you're taking is  
12 in the best interest of the children, the thousands  
13 and thousands of children that could be saved as far  
14 as lead poison.

15                   I don't know if you were here  
16 earlier, and I'll get to my question, Madam Chair,  
17 but Bill Perkins in his opening statement had made a  
18 comment about, if you don't believe this needs to be  
19 done, then allow your children, your individual  
20 children, to go live in a house that has lead paint  
21 for two months and crawl on the floor, and I don't  
22 believe that anyone in here would allow their child  
23 to do that because they know the affects are so  
24 devastating and lifelong-lasting. So, I thank you  
25 for coming in.

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2                   Now, my question is really to the  
3 Manhattan Borough President representative, and I  
4 appreciate you giving the testimony, statistically,  
5 where did you get the statistics that Washington  
6 Heights has the highest number of lead paint  
7 violations in the City of New York.

8                   My understanding was that Central  
9 Brooklyn had the highest number of incidents.

10                  MS. CHONG: Violation complaints. And  
11 it comes from the Children's Committee and their  
12 statistics that recently came out.

13                  COUNCIL MEMBER JACKSON: The  
14 Children's Committee?

15                  MS. CHONG: Yes. I think so. If I  
16 think there are people in the room that know better  
17 than I.

18                  I know the development end of the  
19 lead-safe house, so this is information that came  
20 from I think the Children's Committee of New York  
21 that they put out recently and I can provide that to  
22 you, if you want.

23                  COUNCIL MEMBER JACKSON: Yes, I would  
24 like for you to provide it to the Committee.

25                  MS. CHONG: I think it had 9,000 plus

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2 compared to the next highest which was I think in  
3 Ridgewood Bushwick was 6,000.

4 COUNCIL MEMBER JACKSON: Would you --

5 MS. CHONG: Yes, I can provide that.

6 COUNCIL MEMBER JACKSON: Could you  
7 please provide us with a copy of that?

8 MS. CHONG: Definitely.

9 COUNCIL MEMBER JACKSON: And Mr.  
10 Thompson, you referred to a report that you cited  
11 from. I mean, I don't have a copy of that report,  
12 did you submit that as part of the record?

13 COMPTROLLER THOMPSON: I'll submit  
14 that as part of the record, as well as get it  
15 directly to you also, Councilman.

16 COUNCIL MEMBER JACKSON: I would  
17 appreciate that. Because I did not know the cost  
18 factor involved, as far as I believe you cited, did  
19 you cite that every one percentage point as far as  
20 the IQ is valued -- where did you get this billion  
21 dollar figure that you cited from? What was that  
22 again, I'm sorry?

23 COMPTROLLER THOMPSON: Let's see, July  
24 2002 issue of Environmental Health Perspectives. And  
25 in that it looks at the IQ, what's attached to that,

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2 at least the value that they attach to it, as well  
3 as the larger estimate dollar amount. So, we'll be  
4 happy to get that to you.

5 COUNCIL MEMBER JACKSON: Thank you.

6 And Mr. Cuomo, now, as a former HUD  
7 Commissioner; is that correct? I'm sorry.

8 MR. CUOMO: Secretary.

9 COUNCIL MEMBER JACKSON: Secretary.

10 MR. CUOMO: I had to do all of the  
11 typing.

12 COUNCIL MEMBER JACKSON: How did New  
13 York City compare to other parts of the country if  
14 you can make a comparison, if you have any knowledge  
15 of that at this point in time?

16 MR. CUOMO: Councilman, that's a good  
17 question. What I mentioned in my opening comments,  
18 this is a national problem. The older cities have a  
19 worse problem across the country, obviously. New  
20 York City probably, arguably, the worst in the  
21 nation, for the very simple reason that we have a  
22 higher percentage of pre-1960 housing.

23 COUNCIL MEMBER JACKSON: I heard you  
24 say that. I heard you say 63 percent.

25 MR. CUOMO: Sixty-three percent, and

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2 it's the older homes with obviously the older paint  
3 that creates the problem. So, that is no fault of  
4 our own, but will give probably the worst problem in  
5 the nation.

6 COUNCIL MEMBER JACKSON: And those  
7 statistics are 63 percent, because this is the first  
8 time that I've heard that figure; is that available  
9 in some sort of analysis that either HUD did or that  
10 you can provide this Committee, because I'll be  
11 interested in looking at those statistics, because I  
12 knew that our reference was prior to 1960, but this  
13 is the first time I've heard a figure of 63 percent  
14 of the households were built prior to 1963 -- 1960,  
15 I'm sorry.

16 MR. CUOMO: I will get the Committee  
17 the reference material on that, Councilman.

18 And if I may in reference to your  
19 earlier question to the Manhattan Borough  
20 President's representative. On the number of  
21 complaints from an area, what we found was, when you  
22 provide the education, the number of complaints go  
23 way up, and areas that have received better  
24 information have higher levels of complaint. It's  
25 not necessarily a correlation to who has the worst

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2 problem.

3 COUNCIL MEMBER JACKSON: Okay.

4 MR. CUOMO: It's whose aware of the  
5 issue in the first place.

6 COUNCIL MEMBER JACKSON: I see.

7 Because I thought maybe because we had the worst  
8 problem area.

9 MR. CUOMO: You may have the worst  
10 problem area, but because the residents are not as  
11 familiar with the issue, they don't know about it  
12 and they're not making the complaints.

13 COUNCIL MEMBER JACKSON: And is that  
14 because this group that you made reference to was  
15 focusing on that area?

16 MS. CHONG: That may or may not be  
17 true. I believe what Mr. Cuomo is saying is true,  
18 because there are non-profits in particular areas  
19 who do outreach and Northern Manhattan Improvement  
20 Corporation, by the way, who will be speaking later,  
21 will probably tell you some more detailed  
22 statistics, but because of their outreach people are  
23 more aware that they have this right and that what  
24 is lead poisoning, they don't necessarily know that  
25 kids are being lead poisoned, unless they're told



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2 what the symptoms are.

3 COUNCIL MEMBER JACKSON: I appreciate  
4 you coming and giving testimony, and the fact that  
5 the Manhattan Borough President was a leader in  
6 pushing forward the lead house in Washington  
7 Heights, I believe, if I'm not mistaken, I have to  
8 try to figure it out, I believe that sits in my  
9 district, but it's for all of Manhattan; is that  
10 correct?

11 MS. CHONG: I think it sits in Council  
12 Member Martinez' district. But it impacts your  
13 district.

14 COUNCIL MEMBER JACKSON: Thank you.

15 MS. CHONG: We service the entire City  
16 of New York since we are the only lead-safe house,  
17 and DOH sends clients from all over the City, and I  
18 think the director of the lead-safe house will be  
19 talking in more detail about that.

20 COUNCIL MEMBER JACKSON: Well, I  
21 appreciate all three of you coming in, and thank you  
22 very much for giving your testimony.

23 And Mr. Cuomo, if you can please, did  
24 you have any written testimony that you wanted to  
25 submit in the record?

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2 MR. CUOMO: Not at this time,  
3 Councilman. But I'll get you the back-up material  
4 and provide you with whatever other information you  
5 need.

6 COUNCIL MEMBER JACKSON: Thank you  
7 very much.

8 Thank you, Madam Chair.

9 CHAIRPERSON PROVENZANO: Council  
10 Member Davis has one little question.

11 COUNCIL MEMBER DAVIS: Yes, one little  
12 question.

13 Now I heard, again, I'm like everyone  
14 else, grateful that the Comptroller has taken up his  
15 time, and Andrew Cuomo has also come in with his  
16 vast history in housing.

17 Has anyone, I'm going to ask the  
18 question, the question is at the end so we've got to  
19 do the little commentary first with the questions at  
20 the end, and the question will be, have we figured  
21 out how much this will cost the City?

22 And Andrew Cuomo's testimony spoke  
23 about on the back end, and I would like to ask the  
24 Comptroller on the back end, but first I wanted to  
25 introduce the thought of the special education.

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2 People are not thinking of the impact, lead  
3 poisoning, special education. People are not  
4 thinking about the medical cost down the road that's  
5 going to have the impact on the City, they're not  
6 thinking about the drop-out rate, as far as young  
7 people dropping out of school, as a retired police  
8 officer and a chair and a juvenile justice  
9 committee, they're not thinking about the dropping  
10 out of school connection right into the juvenile  
11 justice lead poisoning. They're not thinking about  
12 how much parents have to stay off from school -- how  
13 much parents have to not go to work, because they  
14 have to take the child to the hospital. So, this  
15 thing is a Domino effect, again, now the question:

16                   Have you come up with a number,  
17 Comptroller, and to the best of your ability, how  
18 much will it cost the City on the back end?

19                   COMPTROLLER THOMPSON: Given all the  
20 factors that you've just laid out, and all of the  
21 things that it inevitably has their cost associated  
22 with, I don't know that it's possible to calculate  
23 how much in fact lead poisoning winds up costing us  
24 in the long run. I just don't know if there is that  
25 calculation that's possible to do, because it has an

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2 impact over decades over a lifetime.

3 COUNCIL MEMBER DAVIS: Well, we can  
4 say it's a huge number.

5 COMPTROLLER THOMPSON: It is safe to  
6 say that. It is safe to say absolutely.

7 COUNCIL MEMBER DAVIS: Mr. Cuomo?

8 MR. CUOMO: I agree with the  
9 Comptroller both in his comment now and what he said  
10 in the opening statement. On the theory of if you  
11 can pay me now or you can pay me later, this is one  
12 of those issues where you pay less now than you will  
13 pay later.

14 On a straight economic analysis,  
15 forgetting human cost, on a straight economic  
16 analysis you will pay more later, it's truly the  
17 case of New York City, it was truly nationally.

18 We increased the funding for lead  
19 paint to the tune of several hundred million  
20 dollars. We estimated that we would save \$8.9  
21 billion when you calculated the back-end costs.

22 So, in my opinion, it's not even a  
23 closed analysis.

24 COUNCIL MEMBER DAVIS: Thank you.

25 CHAIRPERSON PROVENZANO: Thank you. I

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2 think that's all the questions. Thank you very much.

3 Thank you so much.

4 In order to kind of speed things up,

5 I really apologize, we're going to put people in

6 panels of three. And as there aren't too many

7 Council members left, there probably won't be too

8 many questions.

9 The next panel will be Gilbert Ross,

10 M.D., Carol Lamberg,, Settlement Housing Fund, and

11 Renee Menschel.

12 The panel after that, just so you can

13 get ready, and I'll keep doing this, will be Dr.

14 Rosen, Dr. McBride, Yvonne Henry, these are two

15 parents so I agreed to put them together, but I'm

16 not sure of this last name. The last name is Guido,

17 so that will be the next panel up.

18 So, Doctor, do you want to start?

19 And once again, I'm asking, if you

20 have very lengthy testimony, just try and sum it up

21 and you know make it as brief as possible. We're

22 very interested in what everybody has to say, and

23 you've all be wonderful, but we would like to get as

24 many people on as possible.

25 Thank you.

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2 DR. GILBERT: Thank you very much,  
3 Madam Chair. I'll try to be as extremely brief.

4 I'm the Medical Director of the  
5 American Council on Science and Health. We're a New  
6 York-based consumer education public health  
7 not-for-profit, advised by 350 physicians and  
8 scientists all around the country.

9 All of our work is peer reviewed and  
10 internally and published in independent peer review  
11 scientific journals, and we're about to celebrate  
12 our 25th year promoting public health here in New  
13 York and around the country.

14 In 1997, my organization researched  
15 and wrote a report entitled Lead and Human Health,  
16 which was published in the journal Echo Toxicology  
17 and Environmental Safety, which is peer reviewed by  
18 experts in toxicology, epidemiology, pediatrics, et  
19 cetera.

20 We updated this report in 2000, and  
21 our conclusion based on this data in these reports  
22 is as follows:

23 Lead remains an important  
24 environmental toxicant, especially for young  
25 children. It exerts its toxic effects on a wide

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2 variety of organ systems. These effects, however,  
3 are dependent on a level of exposure as is true for  
4 all toxicants.

5                   Mere detection of lead in a person's  
6 blood is not grounds for calling it lead poisoning.  
7 Precautions need to be taken to prevent children  
8 from lead exposure, and children with blood lead  
9 levels over ten micrograms per deciliter should be  
10 evaluated for excessive exposure.

11                   CHAIRPERSON PROVENZANO: Bring the mic  
12 a little closer.

13                   DR. GILBERT: How's that? I'm sorry,  
14 I'm not used to public speaking.

15                   CHAIRPERSON PROVENZANO: I love  
16 telling a doctor what to do.

17                   Go ahead.

18                   DR. GILBERT: The levels of lead  
19 exposure among US children over the past three  
20 decades has decreased dramatically, thanks to  
21 multiple public health efforts, including removing  
22 paint and lead from paint and from gasoline.

23                   Reducing workplace lead exposure has  
24 helped lower lead levels in adults at the same time,  
25 and the best estimates are that blood levels now for

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2 American children are between two and three  
3 micrograms per deciliter, and not much different for  
4 adults.

5                   Three to four percent of American  
6 children, however, have elevated blood lead levels  
7 that is defined by the Center for Disease Control  
8 and Prevention over ten.

9                   The fraction of those with levels  
10 over 20, though, which might be more appropriately  
11 termed lead poisoning, is down well below one  
12 percent in the 0.4 percent range, and severe  
13 symptomatic lead poisoning generally associated with  
14 levels over 40 is essentially unheard of now.

15                   The American Council on Science and  
16 Health advocates a lead-safe, not lead-free approach  
17 as an appropriate public health target.

18                   Targeted screening programs and  
19 remediation of problem housing is the best way to  
20 proceed to limit lead damage, children living in old  
21 and dilapidated housing need to be screened. Leaving  
22 intact lead paint alone is usually the proper  
23 procedure in most cases, and in fact disrupting  
24 intact paint actually increased children's exposure,  
25 to toxic lead.



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2                   Public education is also very  
3 important, especially concerning personal and family  
4 hygiene measures and friendliness.

5                   This will reduce children's exposure  
6 to lead in the home and environment, including  
7 dusting and cleaning, and washing of toys and hands.

8                   Another factor I'd like to point out  
9 is that it has been shown in several studies that as  
10 children from homes whose parents smoke have higher  
11 blood lead levels. This is not often taking  
12 cognizance of.

13                   It is important to bear in mind that  
14 elevated blood lead levels, as defined by the CDC,  
15 is not the same thing as lead poisoning. It is  
16 unclear to the body of medical science how much  
17 actual harm results from slightly elevated blood  
18 lead levels, that is between ten and 15. That being  
19 said, we must do everything that we can reasonably  
20 do to make sure that fewer and fewer children are  
21 exposed to unsafe levels of lead.

22                   Thus, we now discuss reports briefly  
23 issued by the New York City Department of Health and  
24 the Commissioner of Health, Dr. Frieden, whom you  
25 certainly saw earlier today.

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2                   In 2002, the DOH's report on lead  
3 levels in New York City turned the City's approach  
4 to success with annual dramatic reductions in  
5 children with slightly and elevated and moderately  
6 elevated blood lead levels, and he pointed out that  
7 lead levels in New York City's children were in a  
8 "steep steady decline." Thus we seem to be on the  
9 right track, and in a new Department of Health  
10 report issued just two weeks ago, Dr. Frieden  
11 pointed out that the drop in both the prevalence of  
12 elevated lead levels and new cases has continued at  
13 similar levels, thus since 1995 we've experienced a  
14 79 percent decline in new cases of elevated blood  
15 lead levels.

16                   A substantial number of the new cases  
17 also are in the new immigrant population, whom we  
18 presume mostly experience their lead exposures in  
19 their prior residences, and also were not screened.

20                   In 2002, there were just under 4,000  
21 new cases being identified, which as I think we all  
22 agree is 4,000 too much, and 628 had moderately  
23 elevated levels, which means slightly elevated on  
24 more than one occasion, or moderately elevated at  
25 any time, was triggered an environmental

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2 investigation on case monitoring.

3                   By any measure, this decline in the  
4 number of youngsters with elevated levels represents  
5 a public health success story.

6                   Why should the City change now? One  
7 area, however, which should be improved is the low  
8 percentage of our City's kids who are screened at  
9 both one and two years of age as per law, while 86  
10 percent were screened at least once, only 31 percent  
11 were screened twice, which is a violation of the  
12 law, and I think we should do better than that. Even  
13 in this area, though, the City is ahead of the rest  
14 of the state.

15                   Lead poisoning is a throwback to an  
16 earlier, less sophisticated time in our City's  
17 history. And even one case is unacceptable from a  
18 personal standpoint.

19                   This condition is highly preventable,  
20 but from a public health point of view, great  
21 strides have been made over the past two years, as  
22 can be appreciated from a review of the Department  
23 of Health summary of 2001 and 2002.

24                   This approach has been working. The  
25 American Council on Science and Health says lead

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2 safe should be our goal, with targeted screening for  
3 high risk, and expose children.

4                   The persistent fall in lead levels is  
5 a testament to the fact, that the current regulatory  
6 approach is effective in protecting public health.

7                   Thank you very much.

8                   CHAIRPERSON PROVENZANO: Thank you.

9                   MS. MENSCHER: Thank you, Madam  
10 Chairman, and members of the Committee.

11                   I'm Ronay Menschel, and I'm Chairman  
12 of Phipps Houses, having been president of Phipps  
13 Houses for eight years.

14                   Phipps Houses is a not-for-profit  
15 owner developer of housing. We've been in existence  
16 since 1905. We are very concerned about our tenants.  
17 We build on top of good housing with educational  
18 social service programs, including Head Start  
19 programs.

20                   I'm also an admirer of Council Member  
21 Bill Perkins. I am sorry to say that I am here to  
22 urge you to continue to support Local Law 38, not to  
23 change the law and adopted the recommended Intro.  
24 101-A.

25                   My concern is about the welfare of

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2 children, and particularly those who live in our  
3 inner-city communities, but as Secretary Cuomo said,  
4 you need to consider this in the broad context, and  
5 the context that I would suggest is the context of  
6 the state of housing in the City of New York.

7                   As we all know, we have a number of  
8 properties that are in poor condition, we have  
9 people who are living homeless, we have a housing  
10 shortage and we have finite resources. So, the  
11 question is how we best target our resources to meet  
12 the housing, the safe housing needs, the need for  
13 safe housing by our children.

14                   One of the provisions of the bill, as  
15 I understand it, is the likelihood that sheetrocking  
16 would be required if paint, lead-based paint is  
17 found in an apartment, and I think that would be a  
18 mistake. I think there are other ways of  
19 encapsulating paint that has lead in it, and that to  
20 sheetrock an apartment you're not going to get a  
21 very good result, you're going to shrink the  
22 apartment and environmentally going to have  
23 something less than desirable.

24                   A second provision of the bill, as I  
25 understand it, is the extension of the presumption

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2 that lead-based paint still exists in a building  
3 constructed prior to 1960, beyond the HPD article,  
4 and I think that this is fraught with peril.

5                   It's going to invite tort litigation  
6 that unnecessarily, and puts on the landlord a  
7 presumption that the paint is filled with lead, and  
8 this is not a fair or balanced presumption if you,  
9 in a society in today's world, where two thirds of  
10 the paint that has been tested by HPD in fact has  
11 been lead free.

12                   I think that what is needed and what  
13 has been suggested is a better targeting of HPD  
14 inspections, a better targeting of enforcement, and  
15 I think to a better public education program.

16                   I noted with interest that Secretary  
17 Cuomo mentioned that the four prongs of the federal  
18 program began with education. I think he also said  
19 where there was education, there were more reports  
20 generated of lead-based paint finding, or perhaps  
21 reports of lead poisoning. So, education does work.

22                   Now, at Phipps Houses, at our Head  
23 Start Center, we receive some very helpful booklets  
24 from the Health Department, and we circulate them  
25 among the parents of our children. We educate the

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2 parents on the perils and the dangers of lead-based  
3 paint.

4 I think maybe you want to consider  
5 requiring that all child care centers, all Head  
6 Start centers provide that education of families  
7 with children who may be vulnerable.

8 But beyond that, again, I would  
9 advocate that you stick with Local Law 38 for awhile  
10 longer. It has produced some good results. You urge  
11 the Department to continue to enforce it vigorously,  
12 you add the public education, and we continue to  
13 reduce the number of reported instances of children  
14 with elevated lead-based paint levels.

15 MS. LAMBERG: I'm Carol Lamberg of  
16 Settlement Housing Fund, and I'm also representing  
17 the New York Housing Conference. I'm a lifelong  
18 housing advocate and have spent my life devoted to  
19 improving housing conditions in New York City.

20 And I applaud the motive behind  
21 Intro. 101-A, but what I'd advocate instead would be  
22 probably what some people would say would be more  
23 expensive, I think as a good loan program or grant  
24 program, as the case may be, to get rid of lead  
25 paint, to either provide sheetrock, I'm a fan of

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2 sheetrock, I'm sorry, or a very good way of  
3 encapsulating the walls.

4                   My problem with Intro. 101-A is  
5 procedural rather than substantive. It's 55 pages,  
6 very difficult to understand, and I read a lot of  
7 legislation, but maybe it's my fault still, and it  
8 would seem difficult to implement, a combination  
9 that in the past leads to quite a bit of corruption  
10 and lack of enforcement.

11                   The procedural problems, for example,  
12 the owner is mandated even to retain various  
13 certificates and records, and pass them onto the new  
14 owners. Now, through City programs and other  
15 programs, as a non-profit we've acquired buildings,  
16 there's no way of getting the records from the  
17 owners.

18                   It's hard enough to get a rent roll,  
19 and most of the time, because it's part of our  
20 mission, we take over these buildings anyway, but in  
21 this case, we immediately could I think be liable to  
22 be accused of a misdemeanor because we don't have  
23 the previous owner who may have been not such a  
24 reliable owner.

25                   We don't have their records. That's



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2 just one example. There are windows of five to 16  
3 days for agencies and owners or managing agents,  
4 they're liable too, to comply with inspections,  
5 notices, abatements or repair of hazards or  
6 underlying conditions.

7                   And it's very hard to provide the  
8 right kind of remediation without using the  
9 proscribed records because of the risk of creating  
10 the dust that is also a hazard.

11                   And then you could ask for  
12 postponements, because I read the legislation, but  
13 it's discretionary, and by the time you go through  
14 that, I just think to use the phrase of somebody on  
15 my staff, "you get tied up in your underwear and  
16 nothing happens," and I've seen this happen in other  
17 code enforcement efforts. It's just too onerous. At  
18 least my reading of the bill.

19                   Unless we have funds to sheetrock an  
20 entire building, I wouldn't take over a building,  
21 and I don't know whether very many owners who really  
22 want to do the right thing would, unless I guess  
23 they think it's a great investment for the future,  
24 and that's not why we're into this.

25                   So, even under Local Law 38 it's hard

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2 to comply. Just one case that we have, and, yes, it  
3 is a hard case but it's not unheard of, there's  
4 somebody in a building we took over, I think in one  
5 of your districts, Councilman Perkins or Council  
6 Member Jackson, and we've been working with you. We  
7 have funds to renovate the building.

8                   While we were developing plans, this  
9 one tenant didn't pay rent for six, seven months,  
10 you go to Housing Court, get the lead-based  
11 violation.

12                   Fine, we renovate the apartment  
13 upstairs, even though we'll have to renovate it  
14 again when we get the renovation funds, because of  
15 the lead paint violation, the guy won't move.

16                   We fix up another apartment for him  
17 to move into, he still won't move, so we'll be going  
18 back to court, it's very, very difficult to comply.  
19 Maybe it's the bulk of Housing Court rather than the  
20 bills, but it's the kind of thing we're up against,  
21 and this new law could add criminal liability to our  
22 other problems, which we're taking on again because  
23 of our mission.

24                   The answer to the problem, again, is  
25 to provide a good loan fund, or grants through

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2 various federal, with the adequate appropriations,  
3 so with procedures that are clear and easy to  
4 follow, I think the bill is well intentioned, but at  
5 least on its face to me it seems unworkable.

6 CHAIRPERSON PROVENZANO: Thank you  
7 very much.

8 MS. LAMBERG: And I hate to be in  
9 opposition to people that I usually would go to war  
10 for.

11 COUNCIL MEMBER PERKINS: Just a quick  
12 observation or comment.

13 CHAIRPERSON PROVENZANO: Robert  
14 Jackson also has a comment.

15 COUNCIL MEMBER JACKSON: I'll yield.

16 CHAIRPERSON PROVENZANO: Okay.

17 COUNCIL MEMBER PERKINS: I just want  
18 to express how deplorable I think it is that you  
19 would be here representing slumlords' point of view  
20 about remediating lead poisoned, where there's lead  
21 paint and lead poison in these homes, and how  
22 shameful it is, since you are a supposedly  
23 not-for-profit community-based-oriented developer,  
24 and therefore one would expect you to be in the  
25 forefront of trying to make sure that these homes

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2 are safe.

3 Thank you.

4 MS. LAMBERG: Can I answer it?

5 CHAIRPERSON PROVENZANO: We're trying  
6 to move this meeting along, this doesn't help.

7 Yes, you may respond.

8 MS. LAMBERG: I'm very hesitant to be  
9 critical but it is what it is, and I am not in favor  
10 of keeping lead paint. I think we should get rid of  
11 it once and for all, but in a procedural way that at  
12 least we can follow better, and I respect what  
13 you're trying to do, but I hope you can respect my  
14 point of view.

15 CHAIRPERSON PROVENZANO: Council  
16 Member Jackson.

17 COUNCIL MEMBER JACKSON: Thank you,  
18 Madam Chair.

19 My question is to Dr. Gilbert Ross.

20 Mr. Ross, you're the Medical Director  
21 for the American Council on Science and Health in  
22 New York City; is that correct?

23 DR. ROSS: That's correct.

24 COUNCIL MEMBER JACKSON: This  
25 testimony that you're giving here today, is this the

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2 testimony that was approved by the Council? And what  
3 body approved this particular testimony, if any at  
4 all?

5 DR. ROSS: Only my organization, the  
6 American Council on Science and Health.

7 COUNCIL MEMBER JACKSON: Your Council  
8 is aware that you've given this testimony today?

9 DR. ROSS: Yes, sir.

10 COUNCIL MEMBER JACKSON: Okay, now, I  
11 was reading your testimony, I believe, and I'm  
12 trying to give a page reference. Let's see, there's  
13 no page number one. On page two, you say that it is  
14 important to bear in mind that elevated BLL as  
15 defined by CDC does not mean "lead poisoning."

16 Well, what is your definition of lead  
17 poisoning? I mean, yours, meaning either you as an  
18 individual, medical doctor, or the American Council  
19 on Science and Health?

20 DR. ROSS: Well, perhaps I'm somewhat  
21 influenced by my years in practice as an internist,  
22 but when I think of the word "poisoning," I think of  
23 somebody who is exerting, who is evidencing some  
24 evidence of toxicity from a particular toxicant.

25 Back when I started in practice which

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2 was in the mid-seventies, we actually saw cases in  
3 emergency rooms where I worked, including Bellevue  
4 and Jacobi, of young people especially, who were  
5 showing signs of neurological toxicity and  
6 gastrointestinal toxicity and kidney toxicity from  
7 lead levels over 40 and much higher than that, which  
8 as I said essentially disappeared. So, when I think  
9 of lead poisoning, I think of people that are  
10 exerting, are showing symptoms of intoxication from  
11 a substance.

12                   So, elevated blood lead levels is a  
13 potential risk. It should be dealt with as per my  
14 talk, but I think that's just saying, and I've heard  
15 this a lot today, since I've been sitting here, that  
16 our children are poisoned, poisoned, poisoned, and I  
17 don't think that a person with a blood lead level of  
18 ten or 11 or 12 should be called poisoned, I think  
19 they should be called somebody that has an elevated  
20 level of lead and it should be dealt with  
21 appropriately.

22                   COUNCIL MEMBER JACKSON: Is there any  
23 level, based on your knowledge or expertise, or do  
24 you have an opinion, at what level would it be  
25 appropriate to call someone as being lead poisoned?

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2 DR. ROSS: Well, that would vary with  
3 the individual because everybody's tendency to show  
4 signs of toxicity is different.

5 People, for instance, can drink five  
6 shots of liquor and not show any evidence, and then  
7 another person could drink two and be walking around  
8 in a staggered fashion. So, that's not an easy  
9 question to answer.

10 But I say if you can do a blood test  
11 on somebody, even somebody who is not showing signs  
12 of an illness, you can do a blood test and find  
13 evidence of kidney dysfunction, nerve impairment, or  
14 blood cell abnormalities, which are actually often  
15 the earliest sign of lead poisoning. That person  
16 could be called lead poisoned; whereas if you do a  
17 screening and you find that some people have a lead  
18 level of between ten and 15, I would say those  
19 people have elevated blood lead levels.

20 COUNCIL MEMBER JACKSON: And let's  
21 assume that even at a blood level of -- I mean, I  
22 think CDC is ten; is that correct?

23 DR. ROSS: The action level from the  
24 CDC is ten. I don't think they call it poisoning.

25 COUNCIL MEMBER JACKSON: Okay, well, I

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2 guess the point that I'm trying to make is that  
3 there could be a child with lead levels of seven and  
4 eight that could be poisoned; is that correct? Based  
5 on what you said.

6 DR. ROSS: That is true.

7 COUNCIL MEMBER JACKSON: Okay. And  
8 would the symptoms of brain damage, as a result of  
9 the fact that someone has been exposed to lead, by  
10 elevated levels of five, six or ten or 15, and as a  
11 result of that has been determined at the ingestion  
12 of lead dust or lead paint chips have caused the  
13 educational achievement of these children to not  
14 reach their potential, would that be considered that  
15 child being poisoned as a result, in your opinion?

16 Because I've head testimony here  
17 today, from the Commissioner of Health, and other  
18 individuals, and you may have been here and heard  
19 testimony yourselves, that the lack of achievement,  
20 educational levels, have been clearly connected to  
21 the lead exposure, or in my opinion, I would call  
22 lead poisoned.

23 DR. ROSS: Well, I think I heard most  
24 of that testimony and I don't agree with your  
25 characterization of it.



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2                   I don't think that anything is clear  
3 when it comes to the relationship of intellectual  
4 impairment and low blood lead levels, such as five  
5 to ten. I think that the science is still unclear  
6 even in the thing like ten to 15.

7                   Now, that is not to say that there  
8 may not be some children who have been damaged by  
9 levels between five and ten, but I don't think  
10 that's widespread, that's my personal opinion.

11                   And I also heard testimony, and this  
12 is certainly true, that to try to control a group,  
13 in other words, to take a group of kids who have  
14 been exposed to lead and have slightly elevated lead  
15 levels and try to compare their IQ changes to  
16 another group that has less than five let's say, is  
17 devilishly hard because of all of the variabilities  
18 that one has to take into account.

19                   You can't just control for lead  
20 levels and not socioeconomic environment, caretakers  
21 and many other things, which I won't bore you by  
22 repeating.

23                   So, it's really not clear. But, yes,  
24 if you could point to a child and say that child has  
25 had intellectual impairment due to exposure to lead,

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2 I would say that child was lead poisoned, yes.

3 COUNCIL MEMBER JACKSON: Okay. And,  
4 finally, and I know Madam Chair has asked me to keep  
5 my questions brief, and I'm trying to, but  
6 considering that you're a medical doctor.

7 I'm sorry, I just lost my train of  
8 thought for one second.

9 Oh, I read, and listened to you as  
10 far as your testimony, I get the impression, and you  
11 could correct me if I'm wrong, that your position  
12 and the position for the American Council on Science  
13 and Health is that you're against Intro. 101 as  
14 being a replacement for Local Law 38; am I right or  
15 wrong in that assumption?

16 DR. ROSS: That is correct.

17 COUNCIL MEMBER JACKSON: And had that  
18 position been approved by your board or directors or  
19 your group?

20 DR. ROSS: Yes, sir.

21 COUNCIL MEMBER JACKSON: Okay, thank  
22 you very much.

23 DR. ROSS: Thank you.

24 CHAIRPERSON PROVENZANO: Council  
25 Member Clarke.

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2 COUNCIL MEMBER CLARKE: Thank you,  
3 Madam Chair.

4 Just in listening to your testimony  
5 here, I'm just a bit concerned about where we're  
6 heading as a society.

7 Ten years ago my predecessor was  
8 elected and in the 40th Council District that I  
9 represent, we had an exceedingly high lead poison  
10 situation, and it's well known, it's documented, and  
11 Local Law 38 went into effect, and recently I was  
12 visited by the Department of Health and HPD and what  
13 amazed me was that even the passing of Local Law 38,  
14 we remain an extremely high community for lead  
15 poisoning.

16 And then I read the testimony of our  
17 doctor Gilbert Ross from the American Council on  
18 Science and Health, and on his final page he states,  
19 and I quote, "lead poisoning is a throwback to an  
20 earlier less sophisticated time in our City's  
21 history," and it just made me think that perhaps my  
22 community is frozen in time.

23 I represent an immigrant community  
24 with those pre-war buildings that everyone has been  
25 describing. I've walked through them personally, and

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2 I don't want to generalize, I want to make it clear  
3 that some of my best friends, relatives and  
4 associates own buildings. So, I understand the whole  
5 maintenance issue.

6                   My concern, however, is how we are  
7 nickel and diming the issue of lead poisoning, how  
8 we as human beings got it to the point where we can  
9 diminish our own humanity by trying to figure out  
10 and really rack our brains about how much is really  
11 poisoning.

12                   If you're not born with lead in your  
13 system, at what point do you say that I found lead  
14 in the system, I wasn't born with it so now I'm  
15 carrying something ailing to my body that is  
16 harmful; at what point do we say that? You know,  
17 we're nickeling and diming ourselves here. And I  
18 want to know, for those who say let's give it more  
19 time, and my predecessor was here for ten years,  
20 that's a decade, and in that time many children have  
21 undoubtedly been poisoned.

22                   I want to know how much we're willing  
23 to risk. Are we willing to risk another decade?  
24 Because if in ten years the statistics for the  
25 community that I live in and represent has not

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2 changed due to a local law, significantly, if it has  
3 not changed significantly, do we wait another ten  
4 years? Do we wait another 20 years? At what point do  
5 we become proactive in communities where poverty is  
6 really what we're dealing with? And do we do the  
7 bold step and say, you know what? We need to take  
8 this matter into our own hands, because what we've  
9 done in the past does not work.

10                   At what point do we set the  
11 benchmark?

12                   As I said, I'm listening to what  
13 everyone has to say, and I understand there's a cost  
14 to landlord. I can't compare the cost of the  
15 landlord to the cost of a child, of a parent, a  
16 young parent who is psychologically damaged with  
17 knowing that she brought her child, or he brought  
18 his child into an apartment, unknowingly and  
19 unwittingly, that had lead dust that lead to their  
20 child being poisoned, and what that parent must have  
21 to go through to seek services for their child;  
22 what's that cost?

23                   Who is going to get that dollar  
24 figure together? I haven't heard that dollar figure.  
25 What happens to those families in their growth and

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2 their development, bright-eyed, happy to have  
3 children, want to see the best happen for them in  
4 life and then they end up in an apartment and  
5 unbeknownst the paint, the paint is poisoning their  
6 children. Who is going to be responsible for that?  
7 Who is going to quantify that?

8                   What American association of bla bla  
9 bla, who is that mystical group that is going to  
10 finally sit down and count that out for us?

11                   Because I would like to know, when we  
12 get to the point in our humanity where we cannot  
13 call crime a crime, all right? When we cannot say  
14 that we want to fix something and move aggressively  
15 to do that, when it does not become a priority for  
16 us to look at these communities that have been  
17 disadvantaged and our throwbacks are living in the  
18 21st century in throwback situations, then we're  
19 really at a loss as a society.

20                   And, you know, listen, I know your  
21 group has got to do a whole lot of bake sales to  
22 mitigate those circumstances, but you know what, I  
23 think that bake sale is working if one child is not  
24 poisoned as a result of you aggressively,  
25 aggressively and proactively going to make sure that

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2 your buildings have not one speck of lead paint that  
3 would poison someone's child.

4 CHAIRPERSON PROVENZANO: Council  
5 Member Clarke, do you have a question?

6 COUNCIL MEMBER CLARKE: I don't know.  
7 Can anyone give me the cost factor for what I put  
8 out there?

9 DR. ROSS: I'd like to respond, if I  
10 may?

11 CHAIRPERSON PROVENZANO: Go ahead.

12 DR. ROSS: I'll try to be very brief.

13 First of all, I'm sorry if I didn't  
14 make clear what I was trying to say with the word  
15 "throwback." I mean that it's something that  
16 existed in the past and should not be in existence  
17 now, like tuberculosis and cholera and small pox,  
18 that's what I meant. It still exists but it  
19 shouldn't and it could be eradicated possibly with  
20 more intensive public health efforts. That's what I  
21 meant. It is a result of poverty, as you pointed  
22 out. I certainly didn't mean to say anything else.

23 But you did mention something about  
24 we're not born with lead in our systems, so why are  
25 we nickeling and diming, et cetera. We can't, we

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2 have a certain number of dollars to spend. The  
3 United States of America, the City of New York, we  
4 only have a finite amount of resources. We could aim  
5 to get lead levels down --

6 COUNCIL MEMBER CLARKE: Excuse me,  
7 sir. I can appreciate, you know, the lesson in  
8 budget matters, but I don't think I'm the person you  
9 want to give that lesson to, okay? So, you can hold  
10 that commentary.

11 DR. ROSS: I shall.

12 MS. LAMBERG: And I think you need  
13 more money, not less money. But it doesn't help when  
14 we're taking over buildings that were painted 20  
15 years ago to make us responsible in the interim  
16 until we get the funds -- while we're waiting for  
17 the funds to sheetrock and do the work, that I'm  
18 very nervous about the implementation, the process,  
19 not the substance of the legislation.

20 CHAIRPERSON PROVENZANO: Thank you all  
21 very much.

22 The next panel is Dr. Rosen, Dr.  
23 McBride, Yvonne Henry, and Blanca Quito.

24 DR. ROSEN: Madam Chair, besides my  
25 own testimony, I am also transmitting testimony from



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2 Dr. Bruce Lanphear from the University of  
3 Cincinatti.

4                   CHAIRPERSON PROVENZANO: Someone will  
5 take it from you. Just have a seat.

6                   DR. ROSEN: My name is Dr. John Rosen,  
7 I'm Professor of Pediatrics at the Children's  
8 Hospital of Montefiore. I've treated, supervised the  
9 treatment, and management of over 25,000 children  
10 with childhood lead poisoning as of today.

11                   The claim by the New York City  
12 Department of Health, that there's been a  
13 substantial decrease in the prevalence of childhood  
14 lead poisoning is not substantiated by an  
15 epidemiologically or scientifically sound study.

16                   To cite an EPA document that was  
17 published in 2000, screening programs identify  
18 individual children with elevated blood lead values  
19 for referral to management and treatment.

20                   Blood lead testing of this type is  
21 considered a snapshot of ongoing exposure. The true  
22 prevalence of childhood lead poisoning in any  
23 community must consider an epidemiologically sound  
24 survey to characterize the true prevalence of  
25 childhood lead poisoning. No such study has been

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2 undertaken by the New York City Department of  
3 Health.

4                   Furthermore, the 1997 screening rate  
5 published by the DOH in '02 indicated that only 27  
6 percent of the snapshot group of children to  
7 identify lead poisoned children for referral to  
8 physicians for clinical management, only 27 percent  
9 of children were actually tested.

10                   New York City is in general following  
11 national trends in the reported decreases in  
12 childhood lead poisoning, but this has been  
13 demonstrated scientifically and soundly only in  
14 federal studies.

15                   As an aside, you may hear later this  
16 afternoon a myth, and the myth is that childhood  
17 lead poisoning in this City is caused by children  
18 tracking in lead from soil exterior to their homes.

19                   This is an incredible myth which  
20 posits the unlikely possibility that lead and soil  
21 has targeted only specific communities in the City  
22 of New York and only children of color.

23                   Getting to the strengths, some of the  
24 strengths of Intro. 101-A, which I support  
25 wholeheartedly. Federal standards of acceptable

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2 levels of lead in household dust are included in  
3 Intro. 101-A, as they were reported in the federal  
4 register by the USEPA on January 7, 2001.

5                   Further, as an aside, in a HUD survey  
6 that was published in October '02, it was shown that  
7 in one out of three households where lead-based  
8 paint was intact, intact, there were hazardous  
9 quantities of lead in household dust.

10                   Furthermore, in Intro. 101-A, there  
11 is ongoing responsibility for landlords to maintain  
12 a lead-safe environment for young children.

13                   Lastly, as a brief summary, from the  
14 meeting upstate with the New York State Department  
15 of Health last week, it's very clear that CDC has  
16 lit the fire under the New York State Department of  
17 Health and probably will in New York City soon to  
18 implement programs for the primary prevention of  
19 childhood lead poisoning, and Intro. 101-A goes a  
20 long, long way in at least paving the way and  
21 providing a stepping stone for the total elimination  
22 of childhood lead poisoning.

23                   I do want to add one minor correction  
24 from the Manhattan Borough President's  
25 representative this morning, in that we do have a

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2 safe house with seven apartments at the Children's  
3 Hospital at Montefiore, which was initially  
4 supported and funded on going by then Borough  
5 President Ferrer and it's recently undergone an  
6 extensive renovation and is about to open. So, there  
7 are two safe houses in New York City, and I would  
8 urge the City Council to continue support for these  
9 two critical facilities in New York City, as well as  
10 in the Bronx.

11                   Turning next to blood lead values  
12 less than ten micrograms per deciliter, there are  
13 several studies, not just one but several studies in  
14 the peer review literature which indicate that there  
15 are adverse health effects of lead at blood lead  
16 values well below ten micrograms per deciliter. And  
17 there are 38 references in my testimony. I was  
18 struck this morning by the lack of any reference to  
19 peer reviewed literature in over four hours of  
20 testimony.

21                   For instance, Tong, et al in 1999,  
22 Schwartz, et al in 1994, Bellinger in 1993, Dr.  
23 Deitrich also in 1993, Dr. Lanphear in 2000, have  
24 all demonstrated from Cincinatti, as well as the  
25 USEPA, that there adverse cognitive effects of lead

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2 well below ten micrograms per deciliter, which was  
3 further demonstrated roughly a month or so ago in  
4 the New England Journal of Medicine in an article by  
5 "Canfield and Co-workers," which indicated that  
6 going from a blood lead value of one to ten  
7 micrograms per deciliter, on average there was an  
8 eight point loss in IQ.

9 Overall, in summary, because I know  
10 the hour is late, I would be very surprised by a  
11 Council Member who would allow their young child, or  
12 their young grandchild to lose eight or more IQ  
13 points when a stronger lead law for this City, a law  
14 provided by 101-A, has the potential to ensure the  
15 health and full growth potential of that dearly  
16 loved one.

17 Thank you.

18 CHAIRPERSON PROVENZANO: Dr. McBride.

19 DR. McBRIDE: My name is Andrew Dennis  
20 McBride, I am currently the Health Director for the  
21 City of Milford, Connecticut. I'm former State  
22 Health Director for North Carolina, and also served  
23 as the Health Director for Stamford, Connecticut,  
24 for about ten years. I want to thank the City  
25 Council for inviting me here, and I especially want

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2 to acknowledge Bill Perkins who is the sponsor for  
3 this bill, that I support wholeheartedly.

4 I've been in public health for a long  
5 time, and I'm a practitioner in public health,  
6 unlike my colleague and friend John Rosen, I'm not a  
7 academic, I'm a practitioner of public health. There  
8 is not a more vexing issue for me in public health  
9 than childhood lead poisoning.

10 I always used to think what is  
11 history going to say about a country in which half a  
12 million or more children are poisoned while we sit  
13 by, we in public health sit by and do nothing but  
14 hide behind bureaucratic escape holes.

15 In Connecticut several years ago, I  
16 had the opportunity to, we had a school that had a  
17 lead situation in school, and I had to close the  
18 school down as the health officer, the local health  
19 officer, and that started sort of my career in lead  
20 control with children.

21 When I started with Stanford, we had  
22 about 38 percent of the -- 34, 38 percent of the  
23 children had lead levels of above ten. We started,  
24 we adopted a more strenuous standard than you have  
25 before you now. We would go out and make

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2 interventions at levels of ten micrograms per  
3 deciliter, and after ten years we had levels across  
4 the board of our screening, about three percent of  
5 children had levels of about ten micrograms per  
6 deciliter.

7                   No differences white and black, no  
8 differences rich or poor, we more or less had done a  
9 lot of inroads into the lead poison issue.

10                   We had a multifactorial approach, we  
11 dealt with education, landlords, Housing Code  
12 enforcement, and the like.

13                   During my tenure there was a lot of  
14 discussion, like you hear before you, where there  
15 are a lot of hand ringing and the like about how  
16 much is it going to cost, and how we're going to  
17 drive the low-income housing out and that sort. In  
18 my ten years in Stanford, and with the population of  
19 about 100,000 people, and we had 20 percent or so in  
20 the poverty level, there was not a single house, not  
21 a single unit was lost because of our very tough  
22 enforcement.

23                   In fact, just last week, it's the  
24 only thing I can hand to you, so it might be a  
25 little bit self-promoting, in an editorial by a

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2 local newspaper they acknowledged what we did in  
3 Stanford.

4                   We did it through a joint approach.  
5 We had executive leadership, we had legislative, a  
6 very willing and cooperative legislation, like you  
7 do here, as well as we had the community behind us.

8                   I am hearing the first four hours  
9 here, and I want to say, quite frankly, you might  
10 pass this law, but you've still got your work cut  
11 out for you, in terms of getting the law enforced  
12 with the vigor that you need to have it done.

13                   Once the community decides something,  
14 it will happen, but you're going to have to have  
15 bureaucrats like myself wholeheartedly behind this,  
16 and I'll just give an example of the bureaucrats I  
17 had behind me who was a Housing Code inspector. One  
18 Housing Code inspector got so enthusiastic about it,  
19 about the lead and dealing with the lead, she  
20 learned how to draw blood, Housing Inspector learned  
21 how to draw blood, so when we went into the house,  
22 we not only tested the kid who came in with the  
23 elevated blood, we tested every kid there, and,  
24 plus, we started testing everybody in the building  
25 in multi-family dwellings. And rich and poor alike



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2 were all affected by this issue.

3                   It disturbs me, for when you hear  
4 this talk about targeting, when CDC hasn't been  
5 given any formula for targeting whatsoever, and I  
6 didn't hear any formula here for targeting, but  
7 somewhat arbitrary formulas.

8                   The target I think we should have is  
9 one which is the child, that's our target. And no  
10 matter where the child is, we have to protect that  
11 child. I think that is pretty well understood in  
12 public health, but why do we treat things  
13 differently with lead than we do with other public  
14 health interventions? Why do we do that?

15                   I go into a restaurant and the food  
16 is not the right temperature. You don't have to show  
17 me a lot of people with dysentery or e.coli  
18 infection and what have you before I'll take an  
19 intervention. I will just say the food is not up to  
20 the right temperature, we know that's a danger. But  
21 lead, we still require, which I noticed there's a  
22 little shift here in terms of the saying, we still  
23 require an elevated lead, or a "complaint" in order  
24 to make an intervention. That's a sad situation for  
25 us in public health.

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2                   I do feel that there are connections  
3 here between, as you Councilwoman Clarke, and I know  
4 in your opening remarks, Councilman Perkins, that  
5 there's connections here between lead poisoning and  
6 the rest of the problems, health problems in our  
7 community. Lead scientifically is an  
8 intergenerational toxin, it is not only important to  
9 the children, but is carried by mothers and passed  
10 on to children.

11                   But there's a saying, "the absence of  
12 evidence, is not evidence of actions." Most of what  
13 we don't know about lead is because we haven't  
14 studied it, and some of which --

15                   CHAIRPERSON PROVENZANO: Could I just  
16 ask you to sum up, because we have so much more  
17 testimony that we probably won't even get to and we  
18 have these parents here, too, that we would like to  
19 hear from.

20                   DR. McBRIDE: Certainly.

21                   Most of what we don't know about lead  
22 is what is -- one way of controlling a problem is  
23 not to study it. In all these relationships we talk  
24 about children in our criminal justice system,  
25 children in our special education efforts and all

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2 that, the relationship between that and lead is not  
3 well taken, because basically there's not much  
4 continuity between the prenatal or the pre-school  
5 efforts for lead.

6                   What I say is that, in summary and in  
7 ending this, that do not be frightened by the  
8 arguments of budget as you hear them forward, I  
9 think that a community that embarks on a lead  
10 poisoning intervention strategy will indeed profit  
11 in the longrun.

12                   Thank you.

13                   CHAIRPERSON PROVENZANO: Yvonne Henry.  
14 Who is Yvonne? Do you have a few words to say? Just  
15 push the button. If it's off, you're on. Identify  
16 yourself, please.

17                   MS. HENRY: Hi. Good afternoon. My  
18 name is Ms. Yvonne Henry, a resident from Queens,  
19 and I hear so many questions and a little answer to  
20 what I'm really feeling right now, I lost a son with  
21 cancer in the lungs from lead poisoning. When I  
22 found out that he had lead, it was from the clinic  
23 that I took him to get his blood result, and came  
24 down that he had lead.

25                   I got in contact with HPD and they do

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2 the renovation with my four children. It wasn't easy  
3 for me. They could have put us somewhere else to do  
4 the renovation, but they do the renovation with us.  
5 I lost him, and I'm suffering now with three  
6 poisoned children, struggling along in poverty and  
7 still mourning.

8                   So, I wouldn't like this to happen to  
9 the next family. If they can prevent it, can the  
10 parents wouldn't move in before this would happen it  
11 would cost the City less money. Clean up the lead  
12 and just let us have a happy family.

13                   I'm not living with a normal family  
14 now. I don't have a normal family, and I'm asking  
15 the system what can they do for me right now,  
16 because I'm mourning.

17                   I'm from Jamaica, you know, and I'm a  
18 very strong mother. I have ten children, and I lost  
19 five of them. I just lost a little girl after 9/11,  
20 I was seven months pregnant and still mourning on  
21 that child, I have stress. So, I'm looking for help  
22 for my children that is now suffering from lead  
23 poison. When the hunger and the stress, I call and  
24 it's not their problem. So, prevent lead, please,  
25 because it's like a weapon to the children of

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2 tomorrow. This is the end.

3                   Last but not least, this is the three  
4 other children that are struggling right now. It's  
5 painful. It's definitely painful.

6                   CHAIRPERSON PROVENZANO: Thank you  
7 very much.

8                   Is Leslie Powell here? Ms. Powell.

9                   MS. POWELL: Yes, I'm ready.

10                  CHAIRPERSON PROVENZANO: Just identify  
11 yourself before you speak.

12                  MS. POWELL: Hello. Good afternoon. My  
13 name is Leslie Powell.

14                  CHAIRPERSON PROVENZANO: Bring the mic  
15 in a little closer to you.

16                  MS. POWELL: My name is Leslie Powell,  
17 and I live at 1925 Seventh Avenue, apartment 2E in  
18 the Grand Court Building and it's run by residential  
19 management.

20                  I'm a mother of a lead poisoned  
21 child. She was diagnosed at the level of 22. She's  
22 three years old. At the time she was diagnosed she  
23 was two and a half. I am just really moved by this  
24 last woman's story, so you have to excuse me. It's a  
25 shame that we are still going through this type of

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2 -- that we still have this type of problem in our  
3 society today. It's 2003 and I cannot believe that  
4 we are still going through this same issue. And why  
5 is it being brought into our community?

6                   Why is it that lead poisoning, that  
7 our children are still being lead poisoned.

8                   You know, it's so funny, because I  
9 could not find anything to wear this morning. I'm  
10 still washing clothes, I've gone to an abatement  
11 process, they left my apartment in a shambles. The  
12 leak that caused the lead in the first place is  
13 back. I'm going to have to go through that process  
14 all over again.

15                   The only thing that I could find,  
16 which I felt was very appropriate, was this little  
17 shirt. And it has the American Flag on it, and the  
18 last time I checked there was an African-American  
19 woman in the United States of America, that should  
20 be treated equally like everyone else in America.  
21 And I don't understand why, I don't understand why I  
22 am not treated equally, but why my family is not  
23 treated equally.

24                   Lead poisoning is killing our  
25 children. It's killing. It's making our children

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2 unhealthy. It's causing them to be less adequate, to  
3 make us work harder, to make them, to educate them.

4                   I found what I heard on this panel  
5 appalling by those three people that sat here right  
6 before I got on. They looked fabulous, mind you. I  
7 want to commend them on how well they looked, for  
8 someone who said that they might have a problem  
9 buying real estate if the law is changed. And I  
10 found that to be disgusting.

11                   You know, 60 apartments, six our  
12 environment, what is the problem? It's very simple.  
13 There is a war going on. There is an absolute war  
14 going on. It's between good people and evil people,  
15 and evil people are allowing children to be  
16 poisoned, and that is disgusting, it's absolutely  
17 disgusting and unacceptable.

18                   And I want to thank Perkins and  
19 Jackson and Clarke, the three people that I have  
20 noticed today that have stood up for this bill.

21                   The Health Department could not help  
22 me. The Health Department, I went to them and asked  
23 them for help, they send you to the City agencies  
24 and everybody sends you back to the landlord, the  
25 same person that is poisoning the children, and the

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2 funny thing about the Health Department and the  
3 abatement process is that when the abatement process  
4 is over, when your child is diagnosed with lead, and  
5 when they send you out of the house, I was one of  
6 the fortunate ones that were able to find housing,  
7 be put up in a safe house while my apartment was  
8 being done. I was one of the fortunate people.

9                   When you are out of your apartment,  
10 you are at the mercy of the landlord and the  
11 abatement company and the Health Department, and  
12 they go in and they rip up your apartment and you  
13 are trying to tell them, listen, this is where the  
14 problem is, this is where the problem is, and no one  
15 listens to you.

16                   And then the great thing about this  
17 whole process is the dust wipe samples, they swipe  
18 the floor and the windowsill. That's it. They don't  
19 go over the furniture, they don't go over the  
20 clothes, they don't do anything. And then the Health  
21 Department wants to send you back into the  
22 environment without physically going back and  
23 checking the apartment to make sure it is okay. And  
24 the kids, because I'm able to see this process, I  
25 was able to speak up, but I want to tell you how



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2 many people went back into their environment not  
3 being able to speak up, because maybe they didn't  
4 know how to verbalize it, they went back into their  
5 apartments and the children got sick again.

6                   And these people here have the nerve  
7 to sit up here and talk about how, you know, oh,  
8 well, maybe we should educate the children, educate  
9 the parents. Well, you know when the education needs  
10 to be? It needs to be when the parent goes to sign  
11 that lease and the landlord says and gives you that  
12 disclosure form, which they're supposed to do, but I  
13 didn't get one. And they should tell you then we  
14 have a problem with lead. But you know what? We're  
15 going to fix your apartment because that will solve  
16 the problem, but I guess that's really too easy.

17                   They rather have you go in there, get  
18 poison and then have to deal with all the things  
19 that come in afterwards. All the things that alter a  
20 parent's life. Look at this woman. Look at her. She  
21 lost somebody. How disgusting is that? How  
22 disgusting is that?

23                   Any of you people who are parents,  
24 you must go and look at your child's face, and  
25 wonder if the next day you see that child and see

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2 how you felt and knowing that it could have been  
3 prevented. That's the worst part about it. It could.  
4 This is so provinceable (sic). It is so simple. It's  
5 just so simple. And I just don't understand what the  
6 problem is. I don't understand what the problem is.

7 CHAIRPERSON PROVENZANO: Thank you for  
8 your testimony.

9 Ms. Quito.

10 MS. QUITO: (In Spanish.)

11 CHAIRPERSON PROVENZANO: Thank you  
12 very much. And you will get us copies in English?

13 MS. QUITO: Yes.

14 CHAIRPERSON PROVENZANO: Thank you  
15 very much.

16 (Written testimony of Blanca Quito  
17 read into the record.)

18 My name is Blanca Quito. My  
19 daughter's name is Ashley guano and she was lead  
20 poisoned.

21 Ashley was born here in New York  
22 City, and is now a year and a half. I discovered  
23 that my daughter was lead poisoned when she received  
24 a blood lead test, as required by WIC. She was 11  
25 months.

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2                   Before this happened, I had not heard  
3 of lead poisoning before. I do not know how to even  
4 describe how I felt when I found this out, I felt  
5 more than confused.

6                   I felt desperate, without knowing  
7 what to do. I still feel bad about this, but not as  
8 much as before because now I know more about how to  
9 help my daughter.

10                  For instance, I have learned about  
11 the proper nutrition to help reduce the lead. Now I  
12 feel like I have a bit more control in this  
13 situation.

14                  Evelyn Suero, the Social Worker at  
15 the Lead Safe House (LSH) a NYC DOHMH staff person  
16 have helped me and have taught me a lot of  
17 information. When I found out that my child had been  
18 lead poisoned, Ashley was too quiet; she did no want  
19 to play or eat. Now that we are staying at the Lead  
20 Safe House, she is more active and I feel that her  
21 health has improved.

22                  Currently, I feel very worried  
23 because I do not know what is happening in my  
24 apartment, and I have waited a long time to return  
25 to my apartment. It has been two and a half months.

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2 My family moved into the LSH April 11th, 2003, and  
3 we are still there. It has been very difficult to  
4 relocate to the LSH. I am not near my friends and  
5 relatives. One can feel alone. However, the Lead  
6 Safe House has been a great help. It would be  
7 impossible to stay somewhere else at a relative's  
8 home, and there is no money to pay and stay  
9 elsewhere.

10                   When my landlord was notified that  
11 there was lead in the apartment and that my daughter  
12 had been lead poisoned he said that it was not his  
13 problem and because we had only been living in his  
14 property for one month so my baby could not have  
15 been poisoned in his property.

16                   However, at the end he agreed with  
17 making the repairs. He said that it would not be  
18 problem.

19                   Before the City found the lead  
20 violations, the Superintended (sic) was the one that  
21 would do the painting and anything that had to do  
22 with the repairs of the paint.

23                   The landlord said that he would hire  
24 specialists to fix the paint.

25                   Also it is important that you know

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2 that I never received the documents where the  
3 landlord asks whether there is children younger than  
4 age six and whether he knows if there is lead in  
5 your apartment.

6 I, as a mother, would not want for  
7 this to happen to any other child. This has been a  
8 very difficult experience. And we need your help to  
9 make sure that this does not happen to other  
10 children.

11 (End of written testimony.)

12 CHAIRPERSON PROVENZANO: It's 4:15, we  
13 have time for two more panels and then this meeting  
14 will be over.

15 I realize that people have been here  
16 all day, so have it, so have Council Member Perkins,  
17 we will recess the hearing and pick it up at another  
18 date. So, we will have two more panels.

19 (Audience speaking out.)

20 CHAIRPERSON PROVENZANO: I didn't ask  
21 you if you liked it, that's the way it will be. All  
22 written testimony can be turned in and we will put  
23 it on the record. So, if you have anything that  
24 you've typed up, please hand it to the  
25 Sergeant-At-Arms, and it will be included in the

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2 record for today's hearing. Thank you all very much.

3                   The next three will be, MarySol

4 Rodriguez; Marilyn Davenport and Dan Margulies.

5                   Again, I thank you all for your

6 patience, and if you do have testimony, please

7 submit it.

8                   Whoever wants to begin, begin.

9                   MS. RODRIGUEZ: Good afternoon. My

10 name is MarySol Rodriguez, Director of New York City

11 Affairs for the Partnership of New York City.

12                   The Partnership is a business

13 organization with a mission of straightening the

14 economy of the five boroughs.

15                   We try to provide information and a

16 business perspective on the economic impact of

17 proposed legislative action, in hope that this will

18 be valuable as you weigh public policy decisions. We

19 are testifying in opposition to Intro. 101-A because

20 we believe this proposed law is both unnecessary and

21 expensive.

22                   The City Council passed Local Law 38

23 in 1999, and that law has worked well.

24                   You heard this morning the Department

25 of Health testify that it was a public health

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2 success story and continues. They cited numerous  
3 figures showing the decline in cases.

4                   The Bloomberg Administration has  
5 reinforced the positive of the law by rigorous  
6 prosecution of property owners who are not in  
7 compliance and stepping up enforcement and  
8 educational efforts in targeted neighborhoods where  
9 lead paint remains a problem.

10                   Intro. 101, as you heard earlier,  
11 would create new administrative and reporting  
12 requirements and increased exposure to litigation  
13 for property owner, including the City of New York.  
14 Adding to the cost without evidence of commensurate  
15 benefits to the public health. The steady budget  
16 would be impacted as a result of the increased costs  
17 of City inspections, emergency repairs and other  
18 management burdens.

19                   In a time of fiscal crisis, we cannot  
20 afford to incur these costs, unless the actions are  
21 absolutely essential to the public health. This  
22 simply has not been proven.

23                   The cost of implementing the actions  
24 that are proposed in this legislation exceeds likely  
25 benefits in two ways: City administrative costs and

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2 the exposure to litigation.

3                   IBO estimates the changes to the  
4 current law would cost the City at least 8.2  
5 million. In additional enforcement, this is on top  
6 of the 35 million the City is already spending.

7                   This is about 35 percent more than  
8 current expense budget spending levels by HPD and  
9 the Department of Health.

10                   IBO further estimates the cost could  
11 be as high as 150 million a year, if the legislative  
12 proactive inspection provisions are broadly  
13 interpreted to include inspection of all at-risk  
14 units.

15                   From past experience, we know about  
16 two-thirds of reported complaints turn out not to be  
17 lead-related. Educational outreach to parents and  
18 landlords is likely to be more effective in  
19 combatting lead poisoning.

20                   Current law provides adequate  
21 recourse for cases where lead poisoning occurs, and  
22 its source can be clearly identified.

23                   Expanding the opportunities for  
24 litigation, would encourage more frivolous and  
25 unfair claims against the City and other property



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2 owners.

3                   New York City already expends over  
4 500 million per year for payment of claims and the  
5 settlement of lawsuits.

6                   The City Comptroller has recently  
7 launched a campaign to combat fraudulent claims  
8 stating in these tough fiscal times, millions of  
9 taxpayers' dollars are lost each year due to people  
10 filing false claims against the City.

11                   The money should be going to schools,  
12 hospitals and other vital services. We agree.  
13 Shifting legal burdens to property private owners,  
14 such as those set forth in Intro. 101-A, may be  
15 detrimental to the real estate investment in this  
16 City and expose smaller property owners to unfair  
17 litigation that they simply cannot afford.

18                   No one can oppose legislation that  
19 truly is necessary to safeguard the health of  
20 children. We do not believe Intro. 101-A is either  
21 necessary or appropriate to achieve this goal.

22                   Thank you.

23                   CHAIRPERSON PROVENZANO: Thank you  
24 very much.

25                   MS. DAVENPORT: Good afternoon. I'm

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2 Marilyn Davenport with the Real Estate Board of New  
3 York.

4                   New York City is a leader in the  
5 nation in that our currently law addresses lead  
6 paint before it becomes a hazard and before children  
7 are harmed.

8                   Aptly named, the Lead Poisoning  
9 Prevention and Control Law, the statute emphasizes  
10 preventive maintenance of paint and painted  
11 surfaces.

12                   The law presumes that lead paint in  
13 an apartment built before 1960 where a child under  
14 six lives contains lead, and requires that it be  
15 treated as such, and must be maintained in good  
16 condition. If the paint is peeling or the surface it  
17 is on is deteriorated, it must be repaired using  
18 safe work practices outlined in the law.

19                   The work practices ensure that the  
20 correction is done in a safe and clean manner.

21                   The law further requires that  
22 apartments be inspected for peeling paint when they  
23 become vacant and when a child under six lives in a  
24 unit.

25                   Landlords give tenants a Department

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2 of Health brochure on lead poisoning when they rent  
3 an apartment or renew a lease.

4                   Additionally, owners ask tenants  
5 annually whether a child lives in a unit and inspect  
6 it if they do.

7                   Since the law was adopted, we have  
8 learned that there is substantially less lead paint  
9 in apartment buildings than anyone expected.

10                   The Department of HPD found that 76  
11 percent of over 8,000 cases of peeling paint that  
12 were tested contain no lead paint.

13                   Most importantly, childhood lead  
14 poisoning cases have dropped dramatically.

15                   The Department of Health attributes  
16 the dramatic decline to banning the use of lead in  
17 paint, gasoline, and the remediation of lead hazards  
18 in housing.

19                   But even with this remarkable  
20 success, there unfortunately remain children with  
21 elevated blood lead levels. We all want to see lead  
22 poisoning eradicated, a goal that is within our  
23 reach. The Department of Health reports  
24 concentrations of lead poisoning cases in eight  
25 neighborhoods in the City, predominantly poor

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2 neighborhoods.

3                   Instead of passing unnecessary laws  
4 that will carry substantial costs to the City to  
5 reorganize its existing and effective lead poisoning  
6 control program, the City should focus any  
7 additional resources that are made available on  
8 outreach in these neighborhoods.

9                   The additional resources that a new  
10 statute would inevitably require could better be  
11 used in these neighborhoods for programs which  
12 promote early testing, greater inspections and  
13 repair efforts of deteriorated housing, and  
14 investigation of other sources of lead.

15                   We all want to see childhood lead  
16 poisoning eliminated.

17                   We need to work together on programs  
18 that will work, not pass unnecessary legislation  
19 that will not.

20                   CHAIRPERSON PROVENZANO: Thank you  
21 very much.

22                   Mr. Margulies.

23                   MR. MARGULIES: Good afternoon. My  
24 name is Dan Margulies, I'm Executive Director of  
25 Community Housing improvement Program.

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2                   Thank you for the opportunity to  
3 testify today. Intro. 101-A is significant  
4 legislation that threatens to set back the efforts  
5 New York City has made in addressing lead paint  
6 problems and reducing childhood health problems. It  
7 is imperative that the bill not be passed.

8                   Ironically, the stated goals of the  
9 bill have almost been met. Already the reduction in  
10 children with elevated blood lead levels above ten  
11 micrograms found in 2002 is less than the goal of  
12 under 4,000 children set by Intro. 101-A for 2004.

13                   In other words, we're two years ahead  
14 of where the sponsors of Intro. 101-A wanted us to  
15 be.

16                   Obviously, we shouldn't be satisfied  
17 with that, but we do have to be encouraged that the  
18 trend line under existing law remains so positive.

19                   I would like to briefly highlight  
20 some of the flaws in Intro. 101-A, and hope we can  
21 soon begin focusing on new legislative ideas that  
22 will actually help children.

23                   The first problem to be considered is  
24 that 101-A defines lead paint as containing .7  
25 micrograms per centimeter squared and requires it to

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2 be measured by XRF, "corrected for performance  
3 characteristic sheets," released by EPA or HUD.

4                   Unfortunately, EPA and HUD use a  
5 different standard, one microgram, and XRF  
6 equipment, per the performance characteristic sheets  
7 cannot be used to test for .7 reliably. It is  
8 foolish and costly to legislate a standard of  
9 performance that simply doesn't exist.

10                   The second impossible standard is  
11 incorporated in the definition of a lead paint  
12 hazard as "any condition and a dwelling unit that  
13 causes exposure to lead from lead contaminated dust,  
14 lead contaminated soil, or lead-based paint."

15                   As I am sure is obvious to most  
16 people, apartment building owners in New York have  
17 little control over airborne dust or tracked-in soil  
18 or tenants cleaning practices. HPD tests have well  
19 documented that lead can be found in dust in  
20 lead-paint-free apartments. It's hard to understand  
21 how an owner can be made responsible for that, but  
22 in fact this law would do so.

23                   It is also inconceivable that owners  
24 will be able to afford double and triple the price  
25 for every paint job and repair for which Intro.

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2 101-A would require the use of certified abatement  
3 contractors.

4                   Either other surfaces will suffer, or  
5 work will get done improperly. Perhaps the greatest  
6 achievement of Local Law 38 is a workable,  
7 affordable work standard, and owners can meet with  
8 existing staff and contractors.

9                   Intro. 101-A would be thousands of  
10 these handimen painters and small contractors out of  
11 business.

12                   The costs to the City have to be  
13 considered as well. It is extraordinary that the  
14 Independent Budget Office relegates HPD's estimate  
15 of the number of inspections and repairs necessary  
16 to footnotes and appendices. This is the agency that  
17 would be largely interpreting and implementing  
18 Intro. 101-A and yet the IBO considers it  
19 irrelevant. Little wonder when the estimate of the  
20 agency charged with interpreting the law would put  
21 the costs hundreds of millions of dollars higher  
22 than the IBO wanted to put it.

23                   The IBO report also omits estimates  
24 for costs related to administration, schools, day  
25 care and playgrounds.

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2                   Despite its peculiar low-balling of  
3 City costs, however, the IBO report does have some  
4 interesting statistics.

5                   It finds that there are only about  
6 87,000 apartments in the City with children under  
7 seven and peeling paint, and only about 21,000 of  
8 them have lead paint. So, that's why we're having  
9 this hearing about dramatic Citywide legislation, to  
10 deal with the potential problem in 21,000 apartments  
11 out of more than 2 million.

12                   I think that speaks very well for the  
13 idea of targeting that was emphasized so much by the  
14 Administration earlier.

15                   Lastly, I would like to mention the  
16 most costly element of Intro. 101-A from both  
17 private owners and the City's perspective.

18                   Section 27-2056.3 is of course what  
19 the trial lawyers really want. It says that, "The  
20 existence of a lead-based paint hazard is hereby  
21 declared to constitute a condition dangerous to life  
22 and health. An owner shall take action to prevent  
23 the occurrence of such a condition and shall  
24 expeditiously correct such a condition that exists."

25                   What this section means to the trial



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2 bar is if a child has an elevated lead level, and  
3 there was lead-based paint in the apartment, or even  
4 just some peeling paint or some lead dust that blew  
5 in, the owner is guilty of not preventing or  
6 correcting the condition. Not knowing about it is  
7 probably not a defense because this is an absolute  
8 standard. It will restore the case law to the  
9 position it was in when the Juarez decision created  
10 absolute liability for owners under Local Law 1, and  
11 by extension, liability to the City when it failed  
12 to fine or enforce violations.

13                   Unfortunately, this is the only part  
14 of Intro. 101-A that is clear and unambiguous. The  
15 primary purpose is not to protect children. It is to  
16 set traps, place blame and ensure liability so the  
17 negligence bar can get its share.

18                   Thank you.

19                   CHAIRPERSON PROVENZANO: Thank you.

20                   Council Member Brewer has a question.

21                   COUNCIL MEMBER BREWER: Dan, I have a  
22 quick question.

23                   CHAIRPERSON PROVENZANO: Okay, go.

24                   COUNCIL MEMBER BREWER: The issue of  
25 cost per apartment, I mean from your experience, I

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2 have renovated buildings, so I have some sense of  
3 them, and I think actually -- you know, what would  
4 it cost under 101 to clean up an apartment? I don't  
5 understand why it would be so expensive. Why is this  
6 cost so high? Forgetting the playgrounds and the  
7 schools and so on.

8 MR. MARGULIES: Let's talk about  
9 ordinary repairs and paint jobs.

10 COUNCIL MEMBER BREWER: Right.

11 MR. MARGULIES: We don't have to get  
12 to special treatments.

13 A turnover, you're going to paint the  
14 apartment. You're going to either sand or scrape,  
15 most likely scrape. You'd never know, this whole two  
16 foot square rule, it's one of those vague things  
17 that we advise owners to ignore.

18 Take the premise that if you're  
19 scraping, it's going to be more than two square  
20 foot. Once you put the scraper on the chard of  
21 paint, you don't know where it's going to peel off.

22 COUNCIL MEMBER BREWER: Right.

23 MR. MARGULIES: It's a meaningless  
24 distinction. It means that every time you disturb  
25 paint under this law, you're going to have to have a

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2 certified abatement contractor do the work, which is  
3 going to somewhere between double and quadruple the  
4 cost of every job.

5                   So, if you have an \$800 paint job,  
6 it's going to be a \$1,600 to \$3,200 paint job. It's  
7 as simple as that.

8                   COUNCIL MEMBER BREWER: And that's  
9 because you're scraping first?

10                   MR. MARGULIES: That's because as soon  
11 as you disturb paint.

12                   COUNCIL MEMBER BREWER: You normally  
13 scrape anyway, in order to put on a better surface,  
14 if it's half-way decently done.

15                   MR. MARGULIES: Exactly.

16                   When you scrape it, you're disturbing  
17 the surface, which under Intro. 101-A that triggers  
18 a requirement to use certified abaters.

19                   COUNCIL MEMBER BREWER: Right, okay.

20                   MR. MARGULIES: So, you're going to be  
21 using certified abaters instead of your ordinary  
22 painters.

23                   COUNCIL MEMBER BREWER: I'm just  
24 asking, wouldn't you be doing that anyway under the  
25 current law where you would have to figure out a way

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2 of making sure that there's no lead there?

3 MR. MARGULIES: No.

4 COUNCIL MEMBER BREWER: I mean, if I  
5 was doing it, that's what I would do.

6 Go ahead.

7 MR. MARGULIES: No. First of all, the  
8 presumption of lead paint does not apply to turnover  
9 work under current law.

10 COUNCIL MEMBER BREWER: Right.

11 MR. MARGULIES: What does apply is the  
12 prohibition against dry-scraping or sanding.

13 COUNCIL MEMBER BREWER: Okay.

14 MR. MARGULIES: And that is, what I  
15 was referring to earlier, as the sort of simple to  
16 understand word practices that work under Local Law  
17 38 very well, is anybody that works in any building  
18 doing painting or repair understands that you can't  
19 work dry anymore, you have to take what is  
20 effectively a plant mister, to spray it on the wall  
21 or surfaces you're going to deal with before you  
22 touch it, to scrape or sand.

23 COUNCIL MEMBER BREWER: Right.

24 MR. MARGULIES: That doesn't require  
25 specialized training, it doesn't require

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2 certification, and it can be done by the handymen,  
3 the porters, the painters who are doing the work  
4 now. This law would make that illegal. Unless you  
5 did a test, unless you hired someone to come in and  
6 test every surface before you touched it.

7 COUNCIL MEMBER BREWER: Right. But I  
8 understood, maybe I'm wrong, that is even in 101  
9 that's your best judgment, and if you scrape down,  
10 I've done my share of this in my lifetime, you'd  
11 scrape it down and you'd put on high-quality paint  
12 that would make it sufficient in terms of safety.

13 MR. MARGULIES: The way I understand  
14 the law, you can't scrape it down unless you're a  
15 certified abater.

16 If it's in a pre-60 building, it's  
17 presumed to be lead paint for purposes of the law,  
18 and you have to treat it with certified abaters.  
19 Under existing law, you presume a violation if  
20 there's peeling paint from the pre-60 building when  
21 your HPD.

22 COUNCIL MEMBER BREWER: Right.

23 MR. MARGULIES: But an owner  
24 addressing that is not assuming that it's legally  
25 lead paint.

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2 COUNCIL MEMBER BREWER: I understand  
3 that.

4 MR. MARGULIES: Is following a work  
5 standard laid out under Local Law 38. There's quite  
6 a difference.

7 COUNCIL MEMBER BREWER: I don't think  
8 the cost gets to be that much, but I appreciate your  
9 response.

10 Thank you very much.

11 MR. MARGULIES: Thank you.

12 CHAIRPERSON PROVENZANO: Council  
13 Member Clarke.

14 COUNCIL MEMBER CLARKE: Thank you,  
15 Madam Chair.

16 I was just wondering, I got each of  
17 your testimony, and it seems as though we're not  
18 that far apart in terms of us believing that we need  
19 to eradicate child lead poisoning. I wanted to know,  
20 of you representing the organizations you represent,  
21 how many of your organizations were active advocates  
22 for Local Law 38?

23 MR. MARGULIES: We supported Local Law  
24 38.

25 COUNCIL MEMBER CLARKE: You supported

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2 Local Law 38?

3 MR. MARGULIES: Absolutely.

4 COUNCIL MEMBER CLARKE: Your

5 organization. And you too?

6 MS. DAVENPORT: Absolutely.

7 COUNCIL MEMBER CLARKE: Okay, thank

8 you.

9 CHAIRPERSON PROVENZANO: Thank you

10 very much.

11 MR. MARGULIES: Thank you.

12 CHAIRPERSON PROVENZANO: We have one

13 more panel, but I don't have the names of the

14 panelists.

15 The next three panelists in this will

16 be the last panel.

17 Hazel Dukes; Dr. Charles Gilbert;

18 John Keenan.

19 Also, for those of you that did not

20 testify, if you can get some written testimony

21 together that you would like to submit, we will have

22 like a two-week window in which you can submit it to

23 us.

24 MS. DUKES: Madam Chair, just let me

25 commend you for this great hearing and to the

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2 members of this Council Committee that have sat  
3 through this testimony this afternoon.

4 I've been here I guess about four  
5 hours now and I'm disturbed. So, what I would like  
6 for you to do is read through, but I want to just  
7 tell you why I'm here so you could really understand  
8 the problems that are before.

9 The NAACP is celebrating this 94th  
10 year as the National Association for the Advancement  
11 of Colored People, and color come in all colors. I  
12 represent New York State with 16 branches throughout  
13 the five boroughs. Our mission is to fight equal  
14 protection under the law for people.

15 I believe this is a classic case of  
16 unequal protection of children of color in  
17 particular, and the NAACP and all its supporters, we  
18 support Intro. 101-A and we'll continue to fight for  
19 a stronger and just law.

20 Let me say to those persons who have  
21 come before us, and I listened very carefully, about  
22 the cost, about what we will have to do for this, I  
23 agree with Councilwoman Yvette Clarke, there is  
24 nothing that money cannot do for the children of  
25 this City.



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2                   From special education that we have  
3 fought, when we are talking about budget crisis, we  
4 need to look at all of the things that we heard here  
5 today for people who lived in it.

6                   I am really pleased that the  
7 partnership would come before us today to talk about  
8 this deal and not see the consequences. I'm  
9 surprised. You are talking about building a stronger  
10 and better City, then you have to include our  
11 children and those children who are being poisoned  
12 daily.

13                   Let me commend you, and I believe  
14 strong-heartedly that the men and women that is  
15 being elected by the citizens of these boroughs will  
16 do the right thing, that is to bring out 101-A for  
17 the betterment of all our children.

18                   CHAIRPERSON PROVENZANO: Thank you.

19                   Dr. Gilbert.

20                   DR. GILBERT: Good afternoon. I'm Dr.  
21 Charles Gilbert. I am a toxicologist and an  
22 epidemiologist, and I have a private practice with  
23 some partners out on Long Island.

24                   Before I did that, I was the Director  
25 of the Northeast Regional Ed Training Center, one of

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2 six EPA-funded regional ed training centers in the  
3 United States, and I have either directed myself, or  
4 directed other individuals to train, somewhere  
5 around 5,000 people in childhood lead poisoning  
6 prevention, including members of New York City HPD,  
7 NYCHA and public health.

8                   I have a testimony that I submitted,  
9 and I could go into a number of different things. I  
10 will tell you that lead is a very, very potent  
11 enzyme poison. And while I heard earlier today, we  
12 were trying to figure out at what concentrations  
13 lead exerts its toxic effect, that has changed. The  
14 target changes over time.

15                   And as we get more and more data, we  
16 find out that lower and lower levels cause mischief.

17                   Way back when we thought it was 60,  
18 then it was 25, and now we're down at ten and  
19 possibly we'll go even lower. As we look at  
20 different biological systems, we see that there is  
21 more and more of a problem, especially with respect  
22 to the nervous system.

23                   Lead causes this mischief also by  
24 opening the blood-brain barrier and causing mischief  
25 with the amount of enzymes that are in the brain.

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2                   But one of the things that I would  
3 like to talk about is two-fold: When I first started  
4 with childhood lead poisoning prevention, Dr. Robert  
5 Klein, the Director of the Massachusetts Department  
6 of Public Health's lead poisoning prevention  
7 program, I said to him, gee, and this was in 1975, I  
8 said, gee, didn't we fix this already? I mean, it's  
9 lead, it's housing, it's children, shouldn't we have  
10 fixed it? And he said to me, young man, it's the  
11 money. And I listened later with him, I listened  
12 without him, I was Director of the Lead Poisoning  
13 Prevention Program, then I listened today, and I  
14 don't think it's changed. It's the money.

15                   I will refer to another time when I  
16 was in Connecticut. I was asked to be an advisor to  
17 a group that was submitting a proposal to HUD for  
18 funding, and they said to me, we would like this  
19 Childhood Lead Poisoning Prevention Program to go on  
20 after the HUD funding was ended, and by that time I  
21 became a little bit jaundice, and I said the Lead  
22 Poisoning Prevention Program in this community  
23 probably will stop when the ink dries on the last  
24 check that you submit.

25                   So, I say these things because I want

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2 you to think very carefully about how we proceed  
3 today, and I think of something someone wise said to  
4 me, that it is by our actions that we will be  
5 judged, not necessarily by our abilities.

6 Thank you.

7 CHAIRPERSON PROVENZANO: Thank you.

8 Mr. Keenan.

9 MR. KEENAN: Thank you. My name is  
10 John Keenan. I'm a Business Agent for Labors Local  
11 78.

12 Before I worked for Local 78, I was  
13 an asbestos lead abatement worker, back in 1990, and  
14 I had a number of 79. That was my blood level. And I  
15 worked for a company, they really gave us no  
16 protection, and you know, you develop this -- it's  
17 very bad in adults, but it's so much worse in kids.

18 When I think back and what I still go  
19 through, I can't imagine what a kid with, you know,  
20 any kind of lead poisoning could go through, because  
21 it's fiscal, it's mental and it stays with you for a  
22 long time.

23 Still today I have a number of 17 in  
24 my bones. And I feel the effects every day of lead  
25 poisoning. Now I work for a union that represents

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2 the workers that do lead work, and almost every day  
3 I visit HPD jobs, and it's scary what I see.

4 I see companies and workers that  
5 don't know what they're doing. I've been in  
6 apartments where people, where I've seen children  
7 walking into the room that they're abating. Just  
8 walking right through a plastic curtain that doesn't  
9 protect anybody.

10 And you know, there was an example, I  
11 was on an HPD job uptown New York in Manhattan and a  
12 little three-year-old child walked into the room as  
13 I was there visiting the site, and the kid didn't  
14 even know what he was walking into, and nobody  
15 stopped him, and he just wandered around and I  
16 pulled him out and I found his mother outside and  
17 she didn't know what was going on either. She was  
18 just told, you know, you have to leave the apartment  
19 all day and come back later, we'll have the lead  
20 removed.

21 You know, to see it every day, these  
22 laws have got to be more stringent. They're just not  
23 protecting the people that live there.

24 We also cover in our jurisdiction  
25 Long Island, and to give you a comparison, I was at

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2 a house in Albertson, which is a pretty affluent  
3 area, and they were doing the whole second floor of  
4 the house and it was put in full containment, as if  
5 it was an asbestos project, and to see the  
6 difference, you know, the way people with money, and  
7 poorer people, the way the work is done, is just not  
8 right.

9                   Those laws should be in effect and  
10 should be in effect for everybody to protect the  
11 people. Because, you know, I lived it firsthand. I  
12 know what lead can do to people, and it's sad to  
13 see, and I think if we can change the laws -- like  
14 Mr. Margulies stated before from the Real Estate  
15 Board, that they want to try to prevent, it sounded  
16 to me, like experienced contractors coming in.  
17 Certified contractors. To me it's the opposite.  
18 That's what you need to do this work. Not workers  
19 off the street that don't know what they're doing,  
20 and putting people in danger when they leave the  
21 job. Because somebody has to go back into that  
22 house, and if it's not done correctly, the lead is  
23 just spread throughout the house. Not just maybe on  
24 the windows anymore, it might be the children's toys  
25 and everything else. I see it every day. I see the

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2 way this work is done and the laws have got to  
3 change to help the people.

4 CHAIRPERSON PROVENZANO: Thank you  
5 very much.

6 Council Member Jackson.

7 COUNCIL MEMBER JACKSON: I'm sorry, I  
8 didn't get your title. Are you an M.D.?

9 DR. GILBERT: No, I'm a Ph.D,  
10 toxicologist and epidemiologist.

11 COUNCIL MEMBER JACKSON: Okay, because  
12 I was going to ask you some questions concerning the  
13 whole issue of the interpretation of lead poisoning.

14 Were you here when I believe that  
15 individual that was representing that association,  
16 he was a medical doctor.

17 DR. GILBERT: Dr. Ross?

18 COUNCIL MEMBER JACKSON: Yes, Dr.  
19 Gilbert Ross, and my questioning about the  
20 interpretation of what his opinion is with lead  
21 poisoning; were you here for that? Do you remember  
22 that?

23 DR. GILBERT: Yes. I don't remember  
24 his response entirely, I do remember your question.

25 COUNCIL MEMBER JACKSON: Do you

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2 consider yourself an expert in the field of  
3 toxicology?

4 DR. GILBERT: I've been called that,  
5 yes.

6 COUNCIL MEMBER JACKSON: Okay.  
7 And how long have you worked in this  
8 field as far as toxicology more specifically  
9 concerning the issue of lead exposure?

10 DR. GILBERT: I've been a student of  
11 childhood lead poisoning since undergraduate days,  
12 25 years.

13 COUNCIL MEMBER JACKSON: Okay. So,  
14 about 25 years of experience in this field.

15 DR. GILBERT: Yes.

16 COUNCIL MEMBER JACKSON what is your  
17 opinion as to the -- what is it, the micro levels of  
18 lead poisoning, of lead exposure to determine what  
19 is poisoning of a child, if you have any?

20 DR. GILBERT: Micrograms per  
21 deciliter?

22 COUNCIL MEMBER JACKSON: Yes. I'm  
23 sorry, is that the terminology?

24 DR. GILBERT: Yes.

25 COUNCIL MEMBER JACKSON: I'm sorry.



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2 DR. GILBERT: Childhood lead poisoning  
3 has been changing over time as we learn more and  
4 more. It's also true with adult lead poisoning, as  
5 we learn more and more about the impact of lead on  
6 different biological systems and enzyme systems, we  
7 discover that some sort of an impact, a deleterious  
8 impact, occurs at lower and lower concentrations.

9 As recently as the last CDC  
10 guidelines, which I believe are somewhere around  
11 five or six years old, we said that ten or above was  
12 indicative of childhood lead poisoning, and that  
13 nine and below was not indicative of childhood lead  
14 poisoning.

15 These rules appear to be changing  
16 because we're taking a look at more sensitive  
17 indicators, if you will, and soon there may be  
18 biomarkers that take a look at different enzyme  
19 systems or enzyme metabolites at lower and lower  
20 levels in different parts of the human system.

21 And I know I didn't answer that  
22 really.

23 COUNCIL MEMBER JACKSON: I think I  
24 understood your answer.

25 I think you might have said it's the

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2 money. Did I quote you correct?

3 DR. GILBERT: Yes. That was one of my  
4 first interactions, the childhood lead poisoning.

5 COUNCIL MEMBER JACKSON: Okay, in your  
6 opinion, if the cost factor let's assume was \$200  
7 per apartment to deal with this issue, or if it was  
8 very little at all, in your opinion do you believe  
9 that there would be what I perceive to be so much  
10 opposition to this Intro. 101-A, if you have an  
11 opinion on that?

12 DR. GILBERT: I don't know what that  
13 amount is. I really don't know what that dollar  
14 amount is. I don't know where that's going to come  
15 into play.

16 As far as I can see, there are five  
17 different groups, if you will, that have an interest  
18 in childhood lead poisoning - owners, bankers,  
19 insurance, families and children, and I separate the  
20 families and children because they come at it from a  
21 slightly different perspective, but they all have to  
22 be invested in this. They all have to see a real  
23 need in lead poisoning prevention in order for this  
24 to occur to move ahead, and unless all these  
25 different parts of society, these interest groups,

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2 if you will, unless they all feel that they have a  
3 vested interest in this, I see us doing this again  
4 in 20 years.

5 COUNCIL MEMBER JACKSON: I'm sorry,  
6 doing what?

7 DR. GILBERT: Doing this again in 20  
8 years, having a hearing just like this.

9 COUNCIL MEMBER JACKSON: In 20 years?

10 DR. GILBERT: I see it.

11 COUNCIL MEMBER JACKSON: Now, have you  
12 reviewed the text of Intro. 101-A, because I'm going  
13 to ask your opinion about it, as far as whether or  
14 not in your opinion as a professional, do you  
15 believe that this is a workable intro or law if it  
16 was passed? Because I'm hearing from management  
17 representatives that it's unworkable, unrealistic,  
18 that it's not good.

19 In your opinion, is this good or bad?

20 DR. GILBERT: I like the phrase that  
21 this is imperfect, this law is imperfect, and it's  
22 very, very difficult, until you bring those  
23 different interest groups into play, into crafting  
24 the law, you're not going to get a perfect law. This  
25 is very, very difficult to do.

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2 COUNCIL MEMBER JACKSON: But in the  
3 longrun, if this Intro. 101-A was passed --

4 DR. GILBERT: I like the way it reads.  
5 I like the way that 101 reads, by and large, yes.

6 COUNCIL MEMBER JACKSON: Okay. Let me  
7 switch.

8 You work for a union right now; what  
9 union do you work for?

10 MR. KEENAN: Laborers Local 78.

11 COUNCIL MEMBER JACKSON: What is the  
12 difference, if any? Were you here earlier when I  
13 asked the question of I believe the Commissioner as  
14 to whether or not, and I'm turning back to my  
15 question of that; were you here in the beginning  
16 when the Commissioners were testifying?

17 MR. KEENAN: I was here at the end of  
18 that.

19 COUNCIL MEMBER JACKSON: Okay. Well, I  
20 asked this question, and I want to ask it of you.

21 Within the first 21 days that a  
22 landlord has to fix a problem, they can use their  
23 laborers or whoever they want and not have to use  
24 certified workers for abatement. They can use  
25 certified but they don't have to. And I asked the

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2 question in the best interest of the children  
3 involved, would it be better to use certified  
4 workers, versus uncertified?

5 MR. KEENAN: Oh, absolutely.

6 COUNCIL MEMBER JACKSON: And the  
7 commissioners basically did not answer that. They  
8 answered it by saying that as long as the landlord  
9 handles the matter within the current law, it's  
10 satisfactory. But I asked them an opinion, and they  
11 didn't give me an opinion, even though they gave  
12 opinions on other matters. On certain things they  
13 wanted to give opinions and on other things they did  
14 not.

15 I'm asking you, are you certified  
16 yourself?

17 MR. KEENAN: Yes, I am.

18 COUNCIL MEMBER JACKSON: In your  
19 opinion, is it better to use certified or  
20 uncertified workers? And give me a reason why or why  
21 not.

22 MR. KEENAN: Well, it's absolutely  
23 beneficial to have certified workers.

24 COUNCIL MEMBER JACKSON: Tell me why.  
25 Tell us why.

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2                   MR. KEENAN: Pretty much like the  
3 example that I had given. You know, because without  
4 certified workers, and without the guidelines for  
5 the company, they're basically just going in and  
6 scraping the paint off and just doing what they want  
7 with it.

8                   I mean, there has to be a guideline  
9 to say, okay, the lead comes off this way in a  
10 confined area, in my opinion. That's the way it  
11 should be. Not where you just put up a piece of  
12 plastic in the room, divide the room and it blows  
13 away and everything else, and the guys go to work.  
14 It needs to be set up with guidelines and workers to  
15 follow those guidelines. And workers that know the  
16 difference, when they can say to somebody, wait,  
17 this is not right what we're doing here. The workers  
18 I come across, they don't know the difference. They  
19 think they're doing the right thing because they're  
20 not certified. They don't know any better, that's  
21 the problem.

22                   COUNCIL MEMBER JACKSON: But let me  
23 take a so what attitude. So what, if they do that,  
24 let's assume for a minute there are no children  
25 around, does the lead paint or lead dust or

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2 whatever, does it have a negative impact on adults?

3 MR. KEENAN: Absolutely. When I got  
4 lead poisoned in 1990 I was 25 years old.

5 COUNCIL MEMBER JACKSON: You were 25/.

6 MR. KEENAN: I was 25 at the time. You  
7 know, and when you do these apartments and it's not  
8 done correctly and you leave that dust in the  
9 apartment, it's just going to be moved around and  
10 recirculated through the air, where the children or  
11 adults are going to breathe that in later when the  
12 workers are gone.

13 You know, there's still a problem  
14 that exists. Just 'cause you get it off the wall or  
15 the window or the radiator, you know, the dust is  
16 still there if it's not done properly.

17 COUNCIL MEMBER JACKSON: Now, they  
18 talked about the expense. In your opinion, if you  
19 know, I'm trying to get a comparison of a landlord,  
20 and I'm sorry I didn't ask that question of the HPD  
21 Commissioner, because I wanted to know, of all of  
22 the landlords that took action within the 21-day  
23 period, how many used certified workers versus  
24 uncertified? And I don't even know if they have  
25 those statistics. I meant to ask that question.

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2                   Is this an expensive proposition for  
3 landlords to use certified workers to do that,  
4 versus using uncertified? If you have any thoughts  
5 on that? I'm trying to understand everything.

6                   MR. KEENAN: Right. In my opinion  
7 would be yes, it would be a little more expensive,  
8 you know, if they made more stringent guidelines,  
9 you should be putting it in containment. The cost  
10 of the certification for the worker is nothing. You  
11 know, that's nothing. It would more be to follow the  
12 procedures the correct way.

13                   But for that little bit of money it's  
14 well spent, it really is, not to have somebody go  
15 through lead poisoning.

16                   COUNCIL MEMBER JACKSON: Yes, sir?

17                   DR. GILBERT: I'd like to comment on  
18 that a little bit, put it into perspective with  
19 respect to dose and exposure, if you will.

20                   COUNCIL MEMBER JACKSON: Okay.

21                   DR. GILBERT: The children, the target  
22 population that we're talking about probably can't  
23 handle any more than about 100 micrograms of lead a  
24 day, that's how much they can take in, 100  
25 micrograms of lead.



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2 COUNCIL MEMBER JACKSON: I have no  
3 clue what that is, so give me some sort of reference  
4 points here.

5 DR. GILBERT: I will.

6 COUNCIL MEMBER JACKSON: Please, if  
7 you don't mind.

8 DR. GILBERT: The next point is that  
9 when we're talking about lead painted surfaces, a  
10 chip about the size of your fingernail, one square  
11 centimeter, contains thousands of micrograms of  
12 lead. So, we have to be very, very careful because  
13 we have thousands and thousands of micrograms of  
14 lead on different components inside a dwelling, and  
15 we're taking that paint off, in one fashion or  
16 another, whereas a child can only handle, safely  
17 take in only about 100 micrograms of lead a day.  
18 That's why I personally am concerned about how this  
19 is handled.

20 COUNCIL MEMBER JACKSON: Thank you,  
21 Madam Chair.

22 Thank you.

23 CHAIRPERSON PROVENZANO: Council  
24 Member Perkins.

25 COUNCIL MEMBER PERKINS: Thank you

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2 very much.

3                   Doctor, I have one question. If 4,000  
4 children are poisoned, would you consider that the  
5 law is working?

6                   DR. GILBERT: I also would need a  
7 reference. Right out of the box, 4,000 children that  
8 are poisoned, that seems high to me. That does seem  
9 high. I would like to know what the case rate was in  
10 a prior time period, let's say the prior year, and  
11 it would be nice to see what it is the following  
12 time period.

13                   But I suspect you're talking about  
14 children with blood levels greater than 10  
15 micrograms per deciliter over the past probably 2002  
16 is my guess?

17                   COUNCIL MEMBER PERKINS: The latest  
18 numbers, yes.

19                   DR. GILBERT: That does seem a little  
20 high.

21                   COUNCIL MEMBER PERKINS: So that  
22 suggests that some fixing needs to be done,  
23 something better needs to be done.

24                   DR. GILBERT: Some evaluation at  
25 least, yes.

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2 COUNCIL MEMBER PERKINS: Madam Chair,  
3 I'd like to ask Mr. Shufro a question.

4 CHAIRPERSON PROVENZANO: No, he was  
5 not called on to testify. This panel is the last  
6 panel.

7 COUNCIL MEMBER PERKINS: Just one  
8 quick question.

9 CHAIRPERSON PROVENZANO: No. You're  
10 doing it again Perkins.

11 COUNCIL MEMBER PERKINS: Okay. Well,  
12 my question to Mr. Shufro, if I could have asked  
13 him, but I can't ask him --

14 CHAIRPERSON PROVENZANO: No, you can  
15 ask it privately.

16 COUNCIL MEMBER PERKINS: I'm going to  
17 ask a question of one of the panelists. Are the  
18 measures in Intro. 101-A more protective than Local  
19 Law 38? Can anybody answer that question?

20 Are the measures in Intro. 101-A more  
21 protective than those found in Local Law 38?

22 It may be that the only person that  
23 has the answer is the one that's not going to be  
24 allowed to answer.

25 CHAIRPERSON PROVENZANO: I don't need

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2 advice from you. He has not been called on to  
3 testify.

4 DR. GILBERT: Mr. Perkins, yes, I  
5 agree that 101 would provide better protective  
6 measures than Local Law 38.

7 MR. KEENAN: I agree also.

8 DR. GILBERT: And I say so in my  
9 testimony.

10 COUNCIL MEMBER PERKINS: Yes?

11 MR. KEENAN: And I agree also.

12 Definitely.

13 COUNCIL MEMBER PERKINS: Okay, thank  
14 you very much.

15 CHAIRPERSON PROVENZANO: Okay, I thank  
16 all of you.

17 We have decided not to adjourn this  
18 meeting. We will recess it, which means we will pick  
19 it up at another time, and those folks who did not  
20 get a chance to testify will be able to testify when  
21 we pick up the recessed meeting.

22 The people that have filled out those  
23 little papers, we will contact you to let you know,  
24 and I thank all of you or the few of you that had  
25 the patience to stay here, stay here til the end

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2 with us, and to thank you for the really considerate  
3 way in which you attended and conducted yourself at  
4 this hearing. I thank you.

5 I guess I can't hit the gavel because  
6 it's recessed, right?

7 (The following written testimony was  
8 read into the record.)

9

10 WRITTEN TESTIMONY OF:

11 Hillary Rodham Clinton

12 New York Senator

13 United States Senate

14 Washington, DC

15 I wish that I could be there with you  
16 today to discuss the significant public health  
17 problem of lead poisoning that prevents so many of  
18 our children from learning and growing to their  
19 fullest potential.

20 In New York State in 1999, over  
21 12,000 children suffered from lead poisoning, and  
22 9,533 of those children were in New York City alone.

23 In Brooklyn, more than a third of the buildings in  
24 one community have a lead- based paint hazard.

25 Parents of children with lead poisoning are being

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2 told that nothing can be done until their children's  
3 lead poisoning becomes worse. How can we ask  
4 parents to watch and wait while their sons and  
5 daughters suffer from lead poisoning before we  
6 remove the lead from their homes?

7                   That is why I was proud to introduce  
8 the Home Lead Safety Tax Credit Act of 2003. This  
9 legislation would provide a tax credit to aid  
10 homeowners in making approximately 85,000 homes each  
11 year safe from lead, which, is more than ten times  
12 the number of homes made lead safe by current  
13 federal programs. It would greatly accelerate our  
14 progress in ridding New York and the rest of our  
15 nation of the significant problem of childhood lead  
16 poisoning.

17                   We will never stop childhood lead  
18 poisoning unless we get lead out of the buildings in  
19 which children live, work and play. I commend  
20 Councilman Bill Perkins, the other elected and  
21 community leaders here today, and the members of the  
22 NYC Coalition to End Lead Poisoning for pursuing  
23 this issue and working to improve the lives of the  
24 residents of New York City.

25

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2 WRITTEN TESTIMONY OF:

3 Robert F. Kennedy, Jr.

4 I encourage the New York City Council  
5 to pass the Childhood Lead Poisoning Prevention Act,  
6 also known as Intro 101.

7 The Childhood Lead Poisoning  
8 Prevention Act, sponsored by Councilmember Bill  
9 Perkins and originally proposed by former  
10 Councilmember and long- time environmental lead  
11 Stanley Michels, has the strong support of  
12 internationally known experts on childhood lead  
13 poisoning. These experts include Dr. Philip  
14 Landrigan of the Mount Sinai School of Medicine, Dr.  
15 John Rosen of the Montefiore Medical Center, Dr.  
16 Irving Mauss of Cornell University College of  
17 Medicine, Dr. Bruce Lanphear of the University of  
18 Cincinnati (who did ground- breaking studies on the  
19 effects of lead- contaminated dust), Dr. Herbert  
20 Needleman of the University of Pittsburgh, and  
21 toxicologist Dr. Ellen Silbergeld of the Johns  
22 Hopkins University Bloomberg School of Public  
23 Health. The bill is also supported by a broad array  
24 of public health, environmental, racial justice and  
25 community groups and leaders of faith- based

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2 organizations.

3                   It is unjust to continue to allow  
4 young children to be exposed to lead paint.  
5 Childhood lead poisoning causes permanent  
6 irreversible brain damage. Childhood lead poisoning  
7 results in a loss of intelligence and behavioral  
8 problems that make it difficult for a child to  
9 succeed in school.

10                   While the numbers of children with  
11 lead poisoning have gone down over the years  
12 nationwide, several thousand new cases of lead  
13 poisoning still occur in New York City every year.  
14 Most of the children today who suffer from lead  
15 poisoning are low income children of color who  
16 already face many challenges in life. The City  
17 Council should take the strongest and most effective  
18 action possible to put an end to this tragic  
19 poisoning of children.

20                   For these reasons, I urge the City  
21 Council to move forward now to enact the Childhood  
22 Lead Poisoning Prevention Act.

23

24 WRITTEN TESTIMONY OF:

25 Jordi Reyes- Montblanc



1 COMMITTEE ON HOUSING AND BUILDINGS

2 For and On Behalf of the

3 Board of Directors

4 The HDFC Council

5                   I am Jordi Reyes- Montblanc,  
6 President and Chairman of the Board of Directors of  
7 the HDFC Council. The HDFC Council was organized in  
8 1993 as the HDFC Coalition to represent the interest  
9 of the HDFFC and TIL community. Also, I am a member  
10 of the Board of Directors of the Council of New York  
11 cooperatives and Condominiums and a member of the  
12 Federation of New York Housing Cooperatives and Vice  
13 Chairman of the Parodneck Foundation. Finally, I am  
14 a Board member of my own HDFC co- op, 601 West 136th  
15 Street, HDFC located in the beautiful Hamilton  
16 Heights District in the Village of Harlem.

17                   Our missions are to advocate for laws  
18 that benefit the best interests of the HDFC co- op  
19 apartments home- owners, to provide mutual  
20 assistance, to promote economy of scale programs and  
21 to carry- out political action that may be required  
22 to achieve our mission. I am here on behalf of our  
23 Board of Directors and membership to make the  
24 comments that follow on Intro 101- A.

25                   I believe that it is essential that

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2 the City council be made aware of some relevant  
3 facts not addressed by the proposed legislation that  
4 could adversely affect our HDFC cooperative  
5 community and to request that they be considered and  
6 be made part of the record and with your indulgence  
7 will proceed:

8                   Background: The Housing Preservation  
9 and Development Division of Alternative Management  
10 Programs (HPD/DAMP) and particularly Tenant Interim  
11 Lease (TIL) Program since it started in August 1978  
12 has created over 1,000 HDFC cooperatives, the most  
13 successful provider of decent affordable housing for  
14 New York's self- supporting working poor" 25,000 of  
15 whom are now proud cooperative apartment home-  
16 owners.

17                   Through other programs there are  
18 approximately 350 HDFCs, most are cooperatives and  
19 the others are not[- for- profit rentals, including  
20 many Tenant- controlled Mutual Housing Associations.

21                   One of the essential relationships in  
22 cooperative tenant- ownership is the contract  
23 between the tenant- owners of the cooperative  
24 corporation as represented by the Proprietary Lease.

25                   The Proprietary Lease clearly and

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2 unequivocally places the full and absolute  
3 responsibility for the maintenance and repair of the  
4 interior of the apartment walls, floors and ceilings  
5 of a cooperative apartment on the tenant- owner of  
6 the shares for such apartment.

7                   Previous anti- lead paint legislation  
8 always considered such situation and reflected  
9 explicitly verbiage to the effect that the abatement  
10 of any lead paint was the responsibility of the  
11 tenant- owners and not of the cooperative  
12 corporation.

13                   There is another issue that is also  
14 ignored in the legislation as currently proposed.  
15 That is that the HDCFCs either bought the buildings  
16 from the City of New York directly through the  
17 previously mentioned DAMP programs and that prior to  
18 1995 those buildings were sold in an unimproved  
19 condition. Therefore any lead paint found in the  
20 buildings should have been abated b the City of New  
21 York prior the sale of said property. We firmly  
22 believe that morally if not legally the City of New  
23 York must bear the cost of such lead abatement as  
24 may be necessary. This same moral if not legal  
25 responsibility extend to those HDFCs that were

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2 purchased with New York City Municipal loans or loan  
3 guarantees.

4                   Therefore, we request that this  
5 Committee consider including verbiage in the final  
6 legislation adopted by City Council that will  
7 provide for a fund to be made available to cover the  
8 cost of any lead- paint abatement required to be  
9 done in any HDFC apartment.

10                   Finally since 1995 HPD/DAMP has gut-  
11 rehabilitated the buildings sold to the Tenant  
12 Associations for conversion to HDFC cooperatives, we  
13 submit that any lead- paint found in those buildings  
14 are also the responsibility of the City of New York  
15 and whatever funds are made available should be  
16 sufficient to cover all HDFCs.

17                   The protection of our children being  
18 of paramount importance to all New Yorkers we  
19 believe that the public will support such corrective  
20 action by the New York City Council and the  
21 administration of Mayor Bloomberg.

22                   I thank you for your attention and  
23 support.

24

25

1 COMMITTEE ON HOUSING AND BUILDINGS

2 WRITTEN TESTIMONY OF:

3 Steve Aronson

4 Executive Director of PACC

5 Pratt Area Community Council

6 I appreciate the chance to testify to  
7 the Housing and Buildings Committee today. My name  
8 is Steve Aronson and I am the Executive Director of  
9 the Pratt Area Community Council, a community  
10 development corporation that has developed over 60  
11 buildings and currently manages over 600 apartments  
12 in Fort Greene, Clinton Hill and Bedford-  
13 Stuyvesant, Brooklyn. I am here to offer the view  
14 of a non-profit building owner who knows the trials  
15 and tribulations that are involved with managing  
16 low-income housing. As well, the apartments we  
17 manage are located in the middle of Brooklyn's "lead  
18 belt," and so we have a unique obligation and  
19 perspective on this issue.

20 The bottom line is this: Intro. 101  
21 will cause PACC, and other building owners, to do  
22 more to prevent childhood lead poisoning. It will  
23 force landlords to be increasingly proactive in  
24 identifying which apartments house children under  
25 seven, a cost that some landlords will surely deem

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2 burdensome. Currently, under local law 38, a  
3 landlord like PACC only needs to mail an annual  
4 notice asking tenants to respond if they have young  
5 children present. Right now, if tenants fail to  
6 respond, for whatever reason, the landlord need do  
7 nothing more.

8                   But we all know how many letters we  
9 receive in the mail, and how frequently we toss them  
10 in the trash. Under Intro 101, landlords that do  
11 not get a response from their tenants must visit  
12 their properties to determine whether in fact  
13 children are present. With thousands of children  
14 poisoned each year, we embrace this added  
15 responsibility wholeheartedly.

16                   Other building owners fear that  
17 Intro. 101 will make it prohibitively costly to fix  
18 hazardous units. But according to a comprehensive  
19 study conducted by the Pratt Institute Center for  
20 Community and Economic Development, the cost is  
21 usually around \$540 per room or less. This figure  
22 seems undeniably reasonable, especially when one  
23 considers that the other option is to allow  
24 hazardous apartments to remain that way and put our  
25 children's health in jeopardy.

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2 I am here to say that PACC, as a non-  
3 profit housing developer and building manager, is  
4 strongly in favor of Intro 101, the Childhood Lead  
5 Poisoning Act. We work every day in neighborhoods  
6 that are at a high- risk for lead hazards, and know  
7 the tremendous pain that parents of lead- poisoned  
8 children must endure. For all of these reasons, I  
9 am confident that Intro. 101 is the right choice for  
10 the children of New York city and urge the city  
11 Council to pass the proposed legislation without  
12 delay and without compromise.

13

14 WRITTEN TESTIMONY OF:

15 Wilfredo Larancuent

16 Vice President

17 UNITE Laundry Workers Joint Board

18 Good afternoon, my name is Wilfredo  
19 Larancuent and I am a Vice President with UNITE, the  
20 Union of Needletrades, Industrial and Textile  
21 Employees and manager of the Laundry Workers Joint  
22 Board.

23 UNITE represents some 60,000 active  
24 and retired members in New York City. While the  
25 union is able to secure a decent wage, healthcare

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2 benefits and retirement security for our members,  
3 they aren't wealthy. The vast majority of our New  
4 York city membership is recent immigrants or  
5 African-Americans living in apartments in lower-  
6 income communities. Many are raising families with  
7 young children.

8                   UNITE members try to provide a safe  
9 environment for their families, but we are often  
10 stymied by the lack of affordable, decent housing.  
11 The neighborhoods where we can afford to live are  
12 among the highest in New York city for lead  
13 poisoning. Look at the map charting where  
14 dangerously high blood lead levels have been found  
15 in kids. UNITE members live in the areas where the  
16 highest numbers of children have been affected- Bed  
17 Sty, sunset Park, Jackson Heights, the South Bronx,  
18 Washington Heights, Chinatown and Southeast Queens.

19                   On a personal note, I live in  
20 Bushwick, as do many of the laundry workers I  
21 represent. The housing stock there has some of  
22 highest levels of lead paint in the city and as a  
23 result, we have many children with learning  
24 disabilities and behavioral problems. Most  
25 immigrant families don't know about lead paint, let



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2 alone the damage it can cause their kids. They  
3 think they are providing a safe home for their  
4 families, but even low levels of lead paint in their  
5 homes can be harmful to a child's development.

6                   New York City must protect all our  
7 kids. Landlords must be required to make homes,  
8 offices and businesses lead- free in a timely  
9 manner, with a safe abatement and clean- up-  
10 process, including full removal of lead dust. The  
11 current law makes none of these requirements, and as  
12 a result, thousands of children, mostly kids of  
13 color in low- income neighborhoods, are being  
14 poisoned. Not just a home, but also in day care  
15 centers and schools, places where we think our kids  
16 are safe.

17                   It's a disgrace that Local Law 38,  
18 which is at best inadequate and at worst downright  
19 dangerous, was ever passed. It's a boon to the  
20 slumlords of this City who prey on poor immigrant  
21 families. The Council needs to take immediate  
22 action to ensure that the environments in homes,  
23 schools and businesses throughout our city aren't  
24 killing us.

25                   Thank you for attention. On behalf of

1 COMMITTEE ON HOUSING AND BUILDINGS  
2 the 60,000 UNITE members in New York City and their  
3 families, please pass Intro 101A immediately.

4

5 WRITTEN TESTIMONY OF:

6 Andrew Darrell  
7 New York Regional Director  
8 of Environmental Defense  
9 La- Verne Parris, Legal Intern

10 Good morning and thank you for the  
11 opportunity to testify today. My name is La- Verne  
12 Parris, and I am a legal intern testifying today on  
13 behalf of Andrew Darrell, New York Regional Director  
14 of Environmental Defense. We urge the city Council  
15 to enact the childhood Lead Poisoning Prevention Act  
16 (Intro 101A).

17 Environmental Defense is a national  
18 non- profit environmental organization with over  
19 300,000 members nationwide and about 50,000 members  
20 and activists in New York. Our national  
21 headquarters are located here in New York City. Our  
22 teams of scientists, lawyers and economists develop  
23 solutions to a broad range of environmental  
24 challenges, and our Living Cities program is  
25 specifically dedicated to solving environmental

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2 challenges in urban areas. The director of our  
3 Health program, Dr. John Balbus, is a medical doctor  
4 with specific expertise in public health.

5                   Very day, New York City's children  
6 risk contracting lead poisoning from exposure to  
7 lead paint and dust in their apartments, schools,  
8 day care centers and playgrounds. Lead poisoning is  
9 an insidious disease that causes permanent brain  
10 damage, behavioral disorder, decreased intelligence,  
11 and short attention spans. The Childhood Lead  
12 Poisoning Prevention Act is a unique opportunity to  
13 lead the entire City towards eradicating lead  
14 poisoning and protect the City's most vulnerable  
15 citizens- the children.

16                   We believe that New Yorkers should be  
17 free of exposure to dangerous levels of pollutants,  
18 both indoors and outdoor. For this reason, we join  
19 this bill's many supporters to call for stricter  
20 regulation of lead exposure. In our view, current  
21 law is not adequate to protect public health, and we  
22 applaud the City Council Members who have stepped  
23 forward to offer Intro. 101- A.

24                   There is no question that children's  
25 exposure to lead is a serious and tragic problem in

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2 New York City. In 2000, for example, the New York  
3 city Department of Health and Mental Hygiene  
4 reported 6,231 new cases of lead poisoning. The  
5 Department also disclosed that 931 of the children  
6 tested had blood lead levels equal to or exceeding  
7 20 microgrammes per deciliter, which triggers the  
8 need for emergency intervention by City agencies.

9                   In addition to tragic health  
10 consequences, this intervention can often result in  
11 the City incurring costs for medical treatment and  
12 remedial education if necessary. Intro 101- A is a  
13 crucial defense against lead poisoning which gives  
14 the city ability to act early and avoid these costs.

15       The Childhood Lead Poisoning Prevention Act  
16 strengthens protection for children and helps fill  
17 loopholes in existing law that leaves children at  
18 risk. Passing Intro 101- A will safeguard children  
19 in the places where parents trust they are safest-  
20 their homes, schools and day care centers.

21                   The bill calls for three key steps to  
22 move the city towards a lead- free future for its  
23 children. These steps are:

24                   First. Comprehensive Coverage. L  
25 Intro. 101- A addresses dust, playgrounds, schools,

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2 day care centers and other key areas not yet  
3 addressed in current law. It calls on landlords to  
4 correct lead paint hazards, including lead paint  
5 dust in tenants' apartments, and calls for the  
6 immediate removal of deteriorated lead paint and  
7 lead painted playground material.

8                   Secondly Clear Deadlines. Intro 101-  
9 A sets clear deadlines for correcting lead paint  
10 hazards and shortens the timeframe for completing  
11 clean- ups. Under current law, for example,  
12 landlords can delay clean- ups for up to 220 days.  
13 Given children's susceptibility to lead, that  
14 timeframe is too long to prevent harmful exposure.  
15 The proposal now before the City Council would  
16 require that corrective action be taken in 21 days.  
17 In addition, under Intro 101- A, landlords who  
18 choose to ignore lead paint hazards will incur costs  
19 from the City.

20                   Thirdly, Professional Standards.  
21 Intro 101- A ensures that lead paint hazards are  
22 abated according to generally accepted professional  
23 standards. In contrast, current law allows  
24 untrained workers to conduct abatement, with little  
25 guarantee of success.

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2                   Simply put, existing law leaves this  
3 City's children vulnerable in the fight against lead  
4 poisoning, and Intro 101- A gives them a fair chance  
5 at eradicating the source of exposure. Six thousand  
6 children a year with serious lead poisoning is far  
7 too many. We urge the entire City Council to  
8 endorse this vital bill.

9

10 WRITTEN TESTIMONY OF:

11 Christina Holowacz

12 President

13 Greenpoint Property Owners, Inc.

14                   Having reviewed Int. No. 101, which  
15 amends the administrative code of the City of New  
16 York regarding lead- based paint, we suggest the  
17 following comments for consideration:

18                   We believe the current law Local Law  
19 38 works fine. Since its enactment there has been  
20 over a 40% drop in the incidence of lead poisoning.  
21 This can be found on the SOH website. We understand  
22 that the DOH and HPD can be found on the DOH  
23 website. We understand that the DOH and HPD  
24 commissioners gave extensive testimony in November  
25 2002 and concluded they saw no need for changes to

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2 the current lead law. We believe the current lead  
3 law will continue to advance the drop in lead  
4 poisoning incidents.

5                   We understand that RSA and CHIP  
6 oppose this bill. We are also opposed to parts of  
7 this bill. Lead- abatement has to be done by Lead-  
8 Certified Contractors. The replacement of walls,  
9 windows, doors, etc, would run as high as \$25-  
10 \$30,000 per apartment. Regarding Landmark  
11 Buildings, the cost could be twice as high due to  
12 the severe governmental restrictions entailed in  
13 repair and replacement of any element of the  
14 building. Where will these astronomical sums come  
15 from? Example: Eight family houses, apartments and  
16 hallways, equal two hundred to two hundred fifty  
17 thousand dollars in Lead- Abatement cost. Small  
18 property owners can't afford this. Is the City  
19 ready and willing to spend this kind of cash on  
20 their apartment buildings and schools in these times  
21 of fiscal hardship as well?

22                   How does the City intend to dispose  
23 of the lead refuse if we are not allowed to contain  
24 or seal the lead in a proper manner? Will the City  
25 burn it? Bury it? Ship it to other states? Store

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2 it? Where? In open air dumps?

3                   The high cost of making major  
4 renovations to eliminate lead- risk will be  
5 devastating to small property owners, especially  
6 those burdened by the restrictions of Intro 101 27  
7 2056.9e, which advised tenants in a pamphlet that  
8 they do not have to consent to a rent increase for  
9 work relating to a lead violation. Landlords do not  
10 pass on expenses for necessary repairs but Rent  
11 Control and Rent Stabilization to allow increases  
12 for gut renovation or replacements; that is walls,  
13 doors, windows, ceilings, etc. To burden small  
14 property owners with heavy expenses, without  
15 compensation, will lead to ruin for many small  
16 property owners.

17                   This restriction will also encourage  
18 landlords to avoid renting to pregnant women or  
19 families with children under seven. And since  
20 children should be our primary concern, City and  
21 state government ought to educate parents through  
22 schools and newsletters regarding safety measures to  
23 avoid lead poisoning.

24                   According to the Department of lead  
25 Poisoning Prevention, New York State mandates that



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2 children should be tested at ages one and two and  
3 New York City mandates that children should be  
4 tested from ages six months to six years. Whether  
5 these laws are strictly enforced, as they should be,  
6 is something I have not been able to find out.

7                   Richard Stapleton, who is an expert  
8 on lead, having authored an authoritative book on  
9 this subject after his infant son was afflicted with  
10 lead poisoning, is also a paid advisor to the  
11 Environmental Protection Agency regarding this  
12 subject.

13                   He addressed the Greenpoint Property  
14 Owners Association on Tuesday, May 6, 1997. He  
15 noted that lead is everywhere from household objects  
16 like plates and cups to plastic Venetian blinds that  
17 secrete lead dust after being exposed to direct  
18 sunlight for a time.

19                   For instance, today many immigrants  
20 bring unglazed pottery containing lead into New York  
21 City for dining purposes and there are candies on  
22 the market containing lead wrappings and leaded  
23 lollipop sticks that emanate from Third World  
24 countries. (See example in Steve Malanga's article  
25 and the article Childhood Lead Poisoning Associated

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2 with Tamarind Candy and folk Remedies California  
3 1999- 2000).

4                   For example, California case number  
5 5, the child was born and raised in the United  
6 States; raised in a house built in 1986; tested at  
7 one year old he had an acceptable 5 BLL. For three  
8 years he ate Mexican candies regularly. At age 4  
9 his BLL reached an unacceptable 22. Also, many  
10 parents work in lead saturated industries and bring  
11 the lead home on their clothes, skin and hair. Mr.  
12 Stapleton gave us a crash course on the lead problem  
13 in america and we listened closely and took notes.

14                   Europe stopped using lead paint in  
15 the 1920's because they knew what damage it could do  
16 to people. By 1925 Germany, Poland, Czechoslovakia  
17 and most other Industrialized Nations had outlawed  
18 lead paint. The United States government knew this,  
19 but encouraged the use of lead paint anyway.  
20 Meanwhile, the Paint Companies made hundreds of  
21 millions of dollars in profit.

22                   Now America has a lead problem. Does  
23 the Federal Government accept any responsibility for  
24 this? The answer is no. Are the Paint Companies  
25 penalized in anyway? Again, the answer is no. Who

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2 gets stuck with the responsibility for lead-  
3 abatement? The answer is the Property Owners. Who  
4 gets penalized? Answer, the Property Owners. Is  
5 lead- Insurance available to Property Owners in New  
6 York State? It usually is not. Or it is offered at  
7 an astronomical cost.

8                   Taking a cue from the actions of the  
9 Federal Government toward Tobacco companies,  
10 wouldn't it be fair to say that the major Paint  
11 Companies, who have made hundreds of millions on  
12 lead- based paint, be held accountable for some of  
13 the expense incurred in the elimination of lead?

14                   The Federal Government also should  
15 bear some responsibility toward financing the  
16 cleanup since Federal standards allowed and even  
17 mandated the use of lead paint in the past. But we  
18 don't see that happening. We do see a situation  
19 where Property Owners lost the equity they've worked  
20 for all their lives through unfair lawsuits. If  
21 safeguard for Property Owners are not set in place,  
22 we are afraid whatever lead bill becomes law will be  
23 a Property Owners nightmare.

24                   Mr. Stapleton stated that first  
25 testing of children should begin at six months old

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2 and every year after that. This is state law and  
3 doctors should be forced to abide by it. We also  
4 stated that at the age of two the brain of a child  
5 reorganizes and any damage incurred from lead  
6 becomes irreversible, causing the loss of four or  
7 more points from the child's intelligence level,  
8 (IQ), permanently.

9                   If lead testing was mandatory by City  
10 Law, permanent damage could be avoided, protecting  
11 the child's health and the Property Owners interests  
12 at the same time. Mr Stapleton said that while lead  
13 is a danger, reason and common sense must prevail in  
14 the issuance of laws dealing with this subject.

15                   For instance, a few years ago the  
16 city of Baltimore created a very stringent anti-  
17 lead bill that reached far beyond the safeguards of  
18 the Federal Law. Once that bill was enforced as  
19 law, whole neighborhoods collapsed overnight. He  
20 told us that the older sections of Baltimore went  
21 into the equivalent of "IN- REM," and tenants soon  
22 found they were deprived of adequate housing because  
23 property owners abandoned properties they could no  
24 longer afford to keep. We must not allow that to  
25 happen here.

1 COMMITTEE ON HOUSING AND BUILDINGS

2 WRITTEN TESTIMONY OF:

3 G.L. TYLER

4 Political Action Director

5 District Council 17007, AFSCME

6 District Council 1701, AFSCME,

7 salutes this City Council for its efforts to protect

8 children.

9 My name is G.L. Tyler and I am the

10 District Council's Political Action Director. On

11 behalf of the District Council's Executive Board and

12 Executive Director Raglan George, I thank you for

13 the opportunity to present our testimony.

14 District council 1707, AFSCME wants

15 to add the voices of its nearly 30,000 members to

16 the multitude of individuals and organizations who

17 have allied themselves to protect the real future of

18 New York City, its children. The introduction of

19 101A surpasses previous local laws relating to

20 childhood lead poisoning. Our members

21 are employed at nearly 600 public day care and Head

22 Start Centers in New York. Like you we believe the

23 removal of peeling lead paint and lead dust and a

24 comprehensive lead paint hazard reduction plan would

25 greatly reduce the exposure our children would have

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2 to conditions that should be easily preventable if  
3 we establish a rational plan and impose tangible  
4 legal safeguards and corroboration.

5                   Added to our concern is the fact that  
6 this preventable condition strikes hard in the  
7 communities of low income and color due to  
8 disingenuous neglect and the concern for profit.

9                   We are also pleased that public day  
10 care centers, playgrounds, public schools and other  
11 locations that children and toddlers frequent will  
12 be eventually free from peeling lead paint and lead  
13 dust by trained and qualified personnel with the  
14 provision of temporary relocation added if  
15 necessary.

16                   Lead paint poisoning is preventable.  
17 An entirely preventable disease is wasting thousands  
18 of young lives. Direct, deliberate action is due  
19 now. Thank you.

20

21 WRITTEN TESTIMONY OF:

22 Philip J. Landrigan, MD, M.Sc, DIH, FAAP  
23 Chairman, Dept. Of Community and Preventive Medicine  
24 Ethel H. Wise, Professor of Community Medicine  
25 Director, Center for children's Health and

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2 Environment

3                   Lead poisoning among children in New  
4 York City today       is a good news/bad news story.  
5 The good news is that the number of cases of lead  
6 poisoning is far lower than at any time in the past  
7 100 years. This is largely due to the removal of  
8 lead from gasoline in the United States that  
9 occurred between 1976 and 1995. That action resulted  
10 in a drop of more than 90 percent in the average  
11 blood lead level of American children and a decline  
12 of more than 90 percent in the number of children  
13 with lead poisoning across the United States.

14                   New York City children have been a  
15 part of this good news story. The number of  
16 preschool children in New York City newly diagnosed  
17 each year with blood levels of 10 micrograms/dl or  
18 more declined from hundreds of thousands in the  
19 1970s, to 19,232 in 1995 and to 6,231 in 2000. And  
20 unquestionable the numbers have fallen still further  
21 since then, as they have across the United States.  
22 Causes of this decline in New York City include  
23 removal of lead from gasoline; abatement of lead  
24 paint in homes and apartments; removal of lead from  
25 tin cans and plumbing solder; and education of

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2 parents about the dangers of lead.

3                   The national goal of the United  
4 States Department of Health and Human Services is to  
5 eliminate childhood lead poisoning in the United  
6 States by 2010. However, eliminating the disease  
7 can only be accomplished with stringent legislation  
8 that focuses directly on the source of childhood  
9 lead poisoning; lead contaminated dust present in  
10 the homes of children.

11                   This Council has heard much testimony  
12 about the costs of removing lead from houses and  
13 apartments. However, it is critical that you also  
14 bear in mind that lead poisoning itself carries very  
15 high costs. Therefore failure to act against lead  
16 poisoning is very expensive.

17                   The economic costs of childhood lead  
18 exposure nationally in the United States are  
19 estimated to be \$43.4 billion each year. The major  
20 contributor to this expense is the loss of lifetime  
21 earning capacity that results from the damage that  
22 lead causes to children's brains. This estimate was  
23 derived from national census data. It is important  
24 to emphasize that these costs accrue each and every  
25 year as each year's new crop of babies comes along



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2 and is poisoned by lead.

3                   Using this same method, we have now  
4 computed the economic consequences of lead poisoning  
5 to children of New York City. According to the 2000  
6 census, New York City has approximately 111,000  
7 children born each year. Assuming an average blood  
8 lead level of 2.7ug/Dl and a subsequent loss per  
9 child of 0.675 IQ points, the corresponding lifetime  
10 earnings loss for New York city children is \$1.27  
11 billion. Again, I emphasize that these costs are  
12 accrued each and every year.

13                   These economic costs are tremendous,  
14 yet they still underestimate the true economic costs  
15 of lead poisoning. These are several reasons for  
16 this. The national average lead level of 2.7 ug/dL  
17 is likely conservative and is a poor substitute for  
18 urban areas such as New York City where large  
19 numbers of young children live in old homes and are  
20 known to have blood lead levels above the national  
21 average. Also, our formula ignores the costs of  
22 pain and suffering, the additional costs for  
23 educating children with special needs, and the costs  
24 for late complications of lead poisoning.

25                   Local Law 38 requires that only one

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2 lead dust sample be obtained at the conclusion of  
3 abatement of doors and molding, except that a window  
4 sill and window well sample must be taken if the  
5 lead based paint removal work is conducted on or  
6 near a window. This sample can be taken by the  
7 landlord or by those who conduct the abatement work.

8

9                   By contrast, current EPA and  
10 preexisting DOH regulations require four clearance  
11 lead dust tests for lead- based paint removal work  
12 on walls, ceilings, doors, molding or windows. Under  
13 EPA regulations, the clearance dust samples must be  
14 taken by an independent contractor not financially  
15 linked to the landlord.  
16 These and other weakened safety regulations have  
17 increased the likelihood of young children becoming  
18 exposed to lead- contaminated dust and paint chips  
19 in the home environment.

20                   The conclusion is major advances in  
21 public health have resulted from the bans that were  
22 imposed in this City and in the United States on  
23 lead- based gasoline and lead- based paint. Lead  
24 levels in American children have fallen by 90  
25 percent over the past two decades as a result of

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2 those courageous actions. But our work is not yet  
3 done.

4                   Too many children are still exposed  
5 to lead and the silent epidemic of lead poisoning  
6 continues. To end this tragedy, we need your help.  
7 We pediatricians cannot do the job alone. We alone  
8 cannot end children's lead poisoning in this City or  
9 this nation by 2010. Lead paint and lead-  
10 contaminated dust are the most important sources of  
11 lead for our children and account for 75- 80 percent  
12 of cases of lead poisoning. To combat this  
13 epidemic, we your help.

14                   I urge the members of this Committee  
15 and the City Council to reexamine the issue of  
16 childhood lead paint poisoning and to embark on a  
17 legislative process informed by science and best  
18 practice. I, and my colleagues are available to the  
19 Council to support this critical task.

20

21 WRITTEN TESTIMONY OF:

22 Elaine N. Feliz, MPH

23 Program Manager

24 Manhattan Lead Safe House

25 Northern Manhattan Improvement Corporation

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2                               On behalf of the Lead Safe House at  
3 Northern Manhattan Improvement Corporation, I would  
4 like to testify in favor of the proposed changes of  
5 Local Law 38 and request the Council's support to  
6 continue the operations of the Lead Safe House. The  
7 Manhattan Lead Safe House has been working to  
8 prevent childhood lead poisoning and to create a  
9 healthier and safer living environment for children  
10 in all of New York City.

11                              The Manhattan Lead Safe House has  
12 five temporary housing units for families living in  
13 apartments with lead- based paint. Families with a  
14 child six years of age or under with a blood lead  
15 level of 20 Ug/dL or above (or two consecutive  
16 results between 15- 19 Ug/dL) who must vacate their  
17 dwelling because lead abatement of their apartment  
18 will begin are eligible to occupy a temporary unit.  
19 Families staying in the Lead Safe House also receive  
20 relocation assistance, coordinated medical care,  
21 case management services, advocacy and legal  
22 assistance. Our efforts have also included  
23 inspecting apartments in the community to identify  
24 families at risk (families with children under the  
25 age of six, and peeling paint) providing extensive

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2 education to parents, landlord and tenant groups in  
3 the community, training in basic childhood lead  
4 poisoning prevention education to social service,  
5 healthcare and childcare providers, and counseling  
6 to the community at large. The Manhattan Lead Safe  
7 House is the only safe house of its kind that is  
8 open (two other lead safe houses exist but are  
9 currently closed for renovation).

10                   The Manhattan Lead Safe House has  
11 served families from almost all of the New York City  
12 boroughs. These families have been culturally  
13 diverse. At the same time, many of them have limited  
14 English proficiency, and are economically  
15 disadvantaged. During their stay at the Lead Safe  
16 House many of these families are enduring a very  
17 stressful and tumultuous time in their lives.

18                   Their lives are disrupted; they are  
19 far from their homes and communities. They are  
20 extremely worried about the health and welfare of  
21 their children, and are making an earnest effort to  
22 provide for them as best as they can. To make  
23 matters worse they often come across uncooperative  
24 landlords, and bureaucratic systems that are very  
25 difficult to navigate. Consequently, we firmly

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2 believe that the Manhattan Lead Safe House provides  
3 substantially valuable services to families in New  
4 York City to ease this transitional period.

5                   It is important to note that in our  
6 advocacy work with the families at the Lead Safe  
7 House we have observed that many landlords are not  
8 cooperative, generally by not beginning the lead  
9 abatement work promptly, ignoring safety work  
10 practice guidelines, not submitting dust wipe sample  
11 tests for clearance on a timely manner and abusing  
12 deadline extensions granted by NYC DOHMH. This has  
13 resulted in many families staying at the Lead Safe  
14 House beyond our established length of stay limits  
15 of 45- 60 days; some families have stayed at the  
16 Lead Safe House for as long as six to seven months.

17                   The frequent use of untrained workers  
18 to lead abate these homes is also a serious problem.  
19 Some families are distrustful and reluctant to  
20 relocate to the Lead Safe House because they fear  
21 their belongings may be stolen or damaged by these  
22 workers. Moreover, most of the parents that we  
23 encounter at the Lead Safe House and at our  
24 workshops in the community have never received the  
25 notice of disclosure of information of lead based

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2 paint and/or hazards and the inquiry form regarding  
3 children less than six years of age from their  
4 landlord. This local law 38 must also be addressed.

5                   Additionally over the past 23 years  
6 Northern Manhattan Improvement Corporation has  
7 developed a set of comprehensive programs to serve  
8 the needs of an overcrowded and largely poor  
9 community, primarily composed of immigrants from  
10 Latin America. We are committed to providing  
11 adequate and affordable housing, access to  
12 employment and safety for the residents of  
13 Washington Heights and Inwood. Our programs include:  
14 Legal services in such areas as eviction prevention  
15 and domestic violence; tenant organizing; housing  
16 development; building weatherization; social  
17 services including homelessness prevention and  
18 domestic violence counseling; workforce development  
19 including job training, job placement and work  
20 readiness programs, family daycare training and  
21 network coordination; and English for Speakers of  
22 Other Languages (ESOL) classes. All of our services  
23 are provided free of charge.

24                   When Local Law 38 was passed it was  
25 recognized the lead safe houses were a valuable

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2 intervention to assist families that did not have  
3 temporary housing during the lead abatement process.

4 However, we are currently the last lead safe house  
5 receiving New York City funding and we understand  
6 that our City funding will soon be cut. We are  
7 certain that our services are greatly needed and it  
8 is imperative that we receive your support so we can  
9 continue to provide our invaluable services to  
10 families in New York City.

11

12 WRITTEN TESTIMONY OF:

13 Gregory J. Carlson

14 Executive Director

15 Federation of New York Housing Cooperatives

16 The Federation of New York Housing  
17 Cooperatives is a not for profit building membership  
18 association. Our membership covers 600 buildings  
19 consisting of approximately 150,000 units of  
20 cooperative and condominium housing.

21 The Federation and its members care  
22 for the health and safety of our children. With the  
23 passage of Local Law 38 in 1999, published articles  
24 have indicated the substantial reduction in lead  
25 poisoning occurrence to our children.



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2                   Although these reports have said that  
3 the number of cases are reduced; we cannot  
4 relinquish our effort until there aren't any lead  
5 poisonings. Since it seems Local Law 38 is having  
6 an effect, perhaps a more concentrated and focused  
7 enforcement of the law would be most effective.

8                   The legislators who passed Local Law  
9 38 knew that cooperatives and condominiums are a  
10 different type of housing than rentals. Whereas, in  
11 a rental building, the landlord has control of both  
12 inside and outside the unit. In a cooperative and  
13 condominium building, in most cases, the shareholder  
14 or unit owners takes care of their own decorations  
15 within the unit such as painting. Under local law  
16 38, the legislators recognized that fact and  
17 inserted into the law:

18                   "Notwithstanding any provision hereof  
19 to the contrary, nothing herein shall be construed  
20 to alter existing or future agreements which  
21 allocate responsibility for obligations under this  
22 article between a tenant shareholder and a  
23 cooperative corporation or between the owner of a  
24 condominium unit and the board of managers of such  
25 condominium".

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2                    Though not perfect, it established a  
3 differential between the types of ownerships.

4                    I ask the Committee to please keep  
5 this differential in mind when formulating this and  
6 other policies in the future.

7

8 WRITTEN TESTIMONY OF:

9 Mickey Kelly

10 Director of the New York State Laborers'  
11 Health and Safety Fund

12                    The new York State Laborers' Health  
13 and Safety Fund represents 35 local unions of the  
14 Laborers International Union of North America.  
15 These local unions are comprised of approximately  
16 40,000 men and women who work mostly in the  
17 construction industry. One of the industries  
18 represented is asbestos, lead and hazardous waste  
19 abatement.

20                    I am new to this position, but I am  
21 not new to this issue having worked closely with  
22 Mike McGuire as Executive Director of the Mason  
23 Tenders District Council Political Action Committee  
24 for the past year. Two representatives from the  
25 Laborer's Union testified on this issue the last

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2 time a hearing was held, at the joint meeting of the  
3 Committees on Health and Housing and Buildings,  
4 regarding the efficacy of Local Law 38.

5                   Mike McGuire was one of them. The  
6 other was a Business Agent from Asbestos, Lead and  
7 Hazardous Material Handlers Local 78, John Keenan.  
8 I'm here in John's place today because he is  
9 extremely ill with pneumonia. His doctors tell him  
10 the reason he developed pneumonia is because his  
11 immune system is weakened due to lead dust exposure.

12 John was exposed to the lead dust when he worked  
13 as a bridge painter for a non- union company. Part  
14 of his job involved sandblasting old lead paint off  
15 of structural steel. Because the laws are so weak on  
16 protection from lead poisoning, and because John had  
17 no union to ensure he had the proper safety  
18 equipment and training, he was severely lead  
19 poisoned. This lead poisoning will compromise his  
20 health for the rest of his life.

21                   On a personal level I can somewhat  
22 identify with John's situation and with the children  
23 who have been and are suffering from the effects of  
24 lead contamination. In my 26 years on construction  
25 sites my exposure to asbestos led to my contracting

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2 asbestosis. So I can appreciate how the chronic  
3 nature of lead poisoning can lead to comprised  
4 health and an uncertain future for the victims.

5                 So, it is on John's behalf and on  
6 behalf of abatement workers that I sit here before  
7 you today to ask that you pass Intro 101A with all  
8 due haste. Worker protection are a cornerstone of  
9 any civilized society. Many of the people who work  
10 abating lead and other hazardous materials are  
11 immigrants, most of who have limited proficiency in  
12 the English language. Without strong laws regarding  
13 their health and safety, they will undoubtedly  
14 suffer the same fate as John Keenan.

15                 John is a native New Yorker. English  
16 is his native language and it happened to him.  
17 Unscrupulous landlords will undoubtedly do what is  
18 known in the asbestos industry as "rip and skip"  
19 jobs, quick and dirty abatements they will take the  
20 lead paint off the walls and assuredly leave it as  
21 lead dust on the floors, walls windowsills, and  
22 virtually every surface in the living space,  
23 contaminating anyone who comes into the area. The  
24 workers will be given little or not training or  
25 safety gear.

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2                   Under Intro 101A, removal of lead  
3 hazards must be done according to New York City  
4 Department of Health Safety Standards by trained,  
5 qualified personnel. It also requires clearance  
6 dust testing to assure proper cleanup, stopping  
7 landlords from doing the rip and skip.

8                   Landlords must also provide temporary  
9 relocation if the work cannot be performed without  
10 endangering tenants. This allows for proper  
11 procedures that are virtually impossible to do in  
12 occupied dwelling spaces, such as air- locks and  
13 containment fields.

14                  Intro 101 also requires compliance  
15 with federal regulations for the protection of the  
16 occupational safety and health of persons engaged in  
17 lead hazard removal, repair, renovation or  
18 demolition. Lead wastes must be safely disposed of,  
19 a complicated task in and of itself that should only  
20 be undertaken by qualified personnel.

21                  New York is a great City, in part  
22 because of the people who built it. We have a long  
23 and proud tradition of respecting workers because  
24 there is honor in doing a job well and doing a job  
25 right. I urge you to pass Intro 101A before we end

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2 up with thousands of New York's working men and  
3 women in the same boat as John Keenan. Thank you.

4

5 WRITTEN TESTIMONY OF:

6 Darryl Ramsey

7 President of Local 768

8 Allied Health Service Employees Union

9 Good morning. My name is Darryl

10 Ramsey and I am President of Local 768, the Allied  
11 Health Service Employees Union, part of the District  
12 council 37 family.

13 We represent over 5,000 government  
14 health professionals in this City. This includes  
15 Pest Control Aides and Exterminators, Public Health  
16 Advisors, Medical Records specialists, and hospital-  
17 based Social Workers, just to name a few.

18 In addition to these workers, one of  
19 the most important groups that we represent in the  
20 DOHMH is the Public Health Sanitarians. They are  
21 usually the first ones on the scene to investigate  
22 hazardous lead paint conditions in a building. These  
23 are the folks that also make sure that restaurants  
24 are clean, day care centers are safe and windows  
25 have window guards.

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2                   Local 768's Sanitarians and Advisors  
3 are the core of the DOHMH's Lead Poisoning  
4 Prevention Program. We are dedicated to reducing  
5 the number of children in this City that are victims  
6 of lead poisoning. We inspect the sites, report the  
7 findings and issue violations to negligent  
8 landlords. We educate family members about the  
9 dangers of lead paint and provide information on  
10 good nutrition and health care. We also collect  
11 information from doctors and schools about the  
12 affected children.

13                   The bill we are discussing today,  
14 Intro 101A will decrease the time it takes for lead  
15 paint hazards to be corrected. It will also help the  
16 city prevent lead poisoning from happening in the  
17 first place. We want to be a part of that process,  
18 but we would like this Committee to consider some  
19 concerns from the Sanitarians' point of view.

20                   Number one, this bill needs to be  
21 fully funded. This City just lost over 300 DOHMH  
22 public health professionals to layoffs in School  
23 Health and Pest Control. We cannot afford to create  
24 another unfunded mandate in public health. In order  
25 to make the bill a success, we need the proper

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2 amount of field staff to go out there, to the far  
3 reaches of all five boroughs and conduct proper  
4 investigations and enforcement.

5                 Number two, this bill should not lead  
6 to more complicated paperwork. Sanitarians already  
7 carry around volumes of forms every day. There  
8 needs to be a review of any new forms and processing  
9 that comes out of this bill. We know that the last  
10 things landlords and tenants need are more forms to  
11 complicate the process. This bill will be more  
12 successful if the paperwork is streamlined.

13                 Number three, keep in mind that  
14 statistics are not the only measure of success.  
15 This Committee and perhaps the Health Committee too,  
16 needs to keep track of the results of this bill. Is  
17 it resulting in more satisfied residents, public  
18 health employees and building trades workers? Can  
19 the inspection and abatement teams handle the  
20 caseload? These are questions we need to ask.

21                 As you know, lead poisoning and  
22 elevated blood lead levels in children in this City  
23 continue to fall. Local 768 Sanitarians and  
24 Advisors have made the DOHMHs Lead Poisoning  
25 Prevention Program the success that it is today.



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2 Improvements in reporting, inspection and abatement  
3 can only makes things better for everyone. We want  
4 to make sure that success continues.

5 Thank you for your attention.

6 (Hearing concluded at 5:00 p.m.)

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CERTIFICATION

STATE OF NEW YORK )  
COUNTY OF NEW YORK )

I, CINDY MILLELOT, a Certified  
Shorthand Reporter and Notary Public in and for the  
State of New York, do hereby certify that the  
foregoing is a true and accurate transcript of the  
within proceeding.

I further certify that I am not  
related to any of the parties to this action by  
blood or marriage, and that I am in no way  
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto  
set my hand this 23rd day of June 2003.

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CINDY MILLELOT, CSR.

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

I, CINDY MILLELOT, a Certified Shorthand Reporter and a Notary Public in and for the State of New York, do hereby certify the aforesaid to be a true and accurate copy of the transcription of the audio tapes of this hearing.

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CINDY MILLELOT, CSR.