CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES
of the
COMMITTEE ON SMALL BUSINESS

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June 29, 2009
Start: 01:09 pm
Recess: 04:23 pm

HELD AT:
Council Chambers
City Hall

BEFORE:
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Chairperson

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CHAIRPERSON YASSKY: Good afternoon. I would like to get started promptly since we have a number of people who are here seeking to testify and we have a limited amount of time in this room. We're going to try and get started very quickly. I will say simply as an opening statement that I believe that we absolutely have to do something, period. We have to do something to help small businesses, and in particular, storefronts and bodegas get through this unbelievably difficult time that they are facing. We have on the table today a very creative proposal from Robert Jackson. I know we will hear from him in a moment. He's asked to make an opening statement as the sponsor of this bill, and has pushed it with just extraordinary vigor and dedication. I want him to have the opportunity to speak here. I think it's a very promising idea. It's a bill that we're going to hear testimony about today but I will tell you right away, my inclination is to support this bill. I know that the administration has raised issues and raised concerns about it with the Council. It's not an option to do nothing. If
it's not going to be this bill, then I want to hear what the alternative is for how we're going to help small businesses in this difficult time. You can walk into any store and ask how they did this June compared to last June or how they did this May compared to last May and you will hear numbers that are at best 10%-15% down and at worst you will hear 50%, 60% or 70% down. The mom and pop stores on the commercial strips in our neighborhoods are the heart of the neighborhood. We cannot allow them to be pushed to the point of disappearance, which is what is happening now. The one thing I just want to put right up front with the administration witnesses here is we have to have some solutions to offer. With that, I want to give Councilman Jackson to make an opening statement. I will say also, we're going to be having a very strict time limit on witnesses today. I know it's generally the courtesy to permit unlimited testimony from the administration. I'm going to ask you to keep it to four minutes, not three minutes which is the ordinary. I'll put it to four minutes. I'm going to ask you to stick to that. Your written
statement here will be entered into the record. 
I'm sure there will be questions and answers and I 
don’t want it to be three hours before we hear 
from the public. Then when the public testifies, 
I'm just telling you now at the beginning that 
each witness will be limited to two minutes 
because without that, we're not going to be able 
to hear from most of the people here who want to 
testify. Council Member Jackson, do you wish to 
make a statement?

COUNCIL MEMBER JACKSON: Thank you, 
Mr. Chair. I appreciate the opportunity to make 
this opening statement. Let me just say, I 
appreciate your cooperation as the chair of the 
Small Business Committee in moving this hearing to 
today. In front of you are small business owners, 
associations, and many people that are involved in 
ensuring that small businesses survive in New York 
City. We're talking about shop owners, beauty 
salons, travel agencies, bodegas, small law 
offices, basically mom and pop stores that you see 
lined up along avenues and streets and what have 
you. Mayor Bloomberg has said that small business 
is the backbone of our great city. In fact, in
listening to some of his campaign ads for reelection, they talk about what they're doing for small business. Let me applaud that. I think the more we do for small businesses, the better off this city will be. Quite frankly, I think we need to go a step further, and that is to help small businesses when their leases are expiring to give them the opportunity to stay in business in order to keep them employed, the employees that they have employed and also to help the economy. Clearly, I have seen as a member of the City Council in my own neighborhood in northern Manhattan storefronts where small business owners have been forced out of business because they could not afford the exorbitant prices that landlords were charging for lease renewals. Also, I've read in newspapers where small business owners have been asked either by the real estate agents or by the landlords themselves for anywhere from $10,000 to $20,000 or more in cash before they begin their negotiations for a lease renewal. What this bill will do for small business owners is level the playing field, give them the opportunity to renegotiate a lease with the
landlord so they can stay in business and the employees that they have can stay employed. The landlord will be able to earn some money also and that storefront will not stay vacant for months if not year. So this, in my opinion, is a win/win situation. I thank all of the groups and organizations and individuals that have been involved in this process which brought it here today. I look forward to hearing the testimony, knowing that small business is the backbone of our great city and that without small business, we would be in trouble. I look forward to moving forward this bill, Mr. Chair. This bill was initially introduced about 24 years ago by then City Council Member Ruth Messinger and it did not pass out of the committee by one vote. Today, four out of five members of this committee have signed onto the bill. As of today, 29 out of 51 members of the City Council have signed onto the bill. Mr. Chair, I've said this to you many times before. We can't wait. Every day or every month that we wait, small businesses are going out of business. We are losing the infrastructure of our great city. We can't wait because the time is
now. Let me talk politically for a second. This is an election year. Every member of the City Council is either up for election or reelection or running for higher office. Every position in our city government from mayor, to comptroller, to public advocate to borough presidents, everyone is running. There are many candidates. The commitment has been made by so many people, but the time is now. Talk is cheap. We want action. Thank you.

CHAIRPERSON YASSKY: I know we have Andrew Schwartz from DSBS and Michael Meola from EDC. Mr. Schwartz, are you the one testifying, or both?

ANDREW SCHWARTZ: Both of us.

CHAIRPERSON YASSKY: Please proceed then.

ANDREW SCHWARTZ: Good afternoon, Chairman Yassky and members of the Small Business Committee. My name is Andrew Schwartz and I am First Deputy Commissioner for the Department of Small Business Services. I am joined today by SBS Deputy Commissioner David Margalit on my left and representatives from the New York City Economic
Development Corporation. Thank you for the opportunity to testify regarding Intro 847-A. The mission of SBS is to make it easier for companies in New York City to start, operate and expand by providing direct assistance to business owners, fostering neighborhood development in commercial districts, promoting financial and economic opportunity among minority and women-owned businesses, preparing New Yorkers for jobs and linking employers with a skilled and qualified workforce. We certainly share concerns faced by businesses regarding adequate space, relocation costs, rents and other difficulties faced during the current economic downturn. Accordingly, SBS and EDC offer many programs that support the over 200,000 small businesses in the City. On a community level our Business Improvement District program and Avenue NYC provide support for local businesses and commercial districts throughout the City. The network of 64 BIDs and numerous Local Development Corporations that receive grants through Avenue NYC, know the property owners in their districts and the needs of their communities. When they encounter an increase in
commercial vacancies, they can assist in marketing available properties, help attract businesses to those spaces and aid in linking businesses to services they need. The Department of Small Business Services also provides direct assistance to small business owners through NYC Business Solutions. This is a suite of services to help businesses start, operate and expand in New York City. The services are provided at no cost and address the needs of entrepreneurs and businesses of any size and at any stage. Services include business courses, financing assistance, incentives assistance, legal review of contracts and leases, navigating government and regulations, selling to the government Minority & Women-owned Business Enterprise certification, hiring assistance, and training employees. NYC Business Solutions is launching several initiatives to meet the needs of more small business customers such as developing a legal seminar on commercial leasing and establishing a satellite NYC Business Solutions Center in Washington Heights. Last year, NYC Business Solutions helped 170 clients secure over $11.8 million in financing and 400 businesses hire
over 5,000 employees. SBS also oversees NYC Business Express, a city-wide initiative that will revolutionize the way businesses do business with the City of New York by making starting, operating, and expanding a business clearer, faster, and simpler. By the end of this year, the one-stop online tool will have all the license, permit and tax information and applications needed to do business online and allow businesses to access consolidated information about their interactions with the city. One area of assistance directly related to rental space, is guidance to business owners in the negotiation of commercial leases. Leasing appropriate and adequate space is a key concern for a retail business. It is essential that an owner strategically plan the location of their business, provide for growth and consider what the market may be like when the lease is due for expiration. There is also the fundamental question of whether to purchase or rent space initially, enter into a long term lease and negotiate for an option to renew. Aside from the length of a renewal and the amount of rent, there are numerous other issues
involved in negotiating a commercial lease, including whether the landlord or the tenant will bear the costs of various items, including utilities, taxes and building maintenance. There are often questions regarding the allowable use of the space, hours of operation and renovation costs. These are areas subject to negotiation between the landlord and tenant. In every case, it is always advisable for a business owner to have an attorney review these legal documents to ensure that the owner fully understands all terms and provisions prior to signing the lease.

CHAIRPERSON YASSKY: I'm sorry to interrupt, Mr. Schwartz, but I do want to stick to the precedent here for today because otherwise we're not going to get through this hearing. We do have your full statement.

ANDREW SCHWARTZ: Chair Yassky, if I could go one more minute because the audience doesn’t have my statement and I would appreciate if they have an opportunity to hear it. I'll be quick.

CHAIRPERSON YASSKY: Please sum up in 30 seconds. The proposed legislation would
represent a substantial departure from the current marketing for leasing space and involving city government in the process. As the Council is likely aware, the bill raises legal issues that will require further analysis. It is also worth noting that the bill apparently intends to place the decisions of special arbitrators beyond judicial review. We are concerned with the amount of personnel and administrative resources that would be needed to implement the bill with thousands of properties subject to its provisions. A last, but not least concern is cost. Mediation and arbitration, which are at the heart of this bill, while generally less expensive than litigation, can still be lengthy and costly. It's our hope that with the multi-pronged approach of services offered through SBS and EDC we can continue to grow our commercial areas. Thank you.

CHAIRPERSON YASSKY: Thank you.

ANDREW SCHWARTZ: That was abbreviated.

CHAIRPERSON YASSKY: It was. Thank you.

MICHAEL N. MEOLA: Thank you.
Thanks, Andrew. In the interest of time, I will abbreviate my testimony. Thank you, Chairman Yassky and members of the committee, for allowing the NYCEDC to speak on Intro 847-A. My name is Michael Meola and I'm a senior vice president at the NYCEDC. I'd like to structure my testimony, even abbreviated, in two parts; first talk very quickly about some of the exciting initiatives that EDC is doing to address the needs of small businesses. And then secondly, discuss the current trends in commercial real estate and some of the concerns we have about the bill. As you all know, our primary mission is to create jobs and grow businesses throughout the five boroughs. In the last several months we have launched a many initiatives with this purpose including JumpStartNYC, which is a five-day boot camp followed by an internship program to help laid-off workers transition into new industries. We've also launched a series of incubator programs, once again, to help startups and entrepreneurial businesses gain the services and networking and coaching that the need. We have launched the FRESH program with the Department of Mental Health
and Hygiene and the Department of City Planning to facility the development of supermarkets, particularly in the boroughs. We've launched the Capital Access program, which is a $5 million fund of EDC funds matched through the private lenders which will inject $14 million of new lending into the community. There are several other initiatives also. I just want to take a few minutes to comment on trends in the real estate market. While I share the concerns of the committee for economic hardships faced by small businesses, I believe that, at least for the moment, the pressures that Intro 847-A is intended to address have greatly dissipated. A couple of years ago rents seemed to be on an ever-increasing trajectory, and vacancy rates were at historic lows, giving, in some cases at least, landlords an advantage in the leasing process. However, over the last year, rents have declined substantially across all the major property types, and vacancy rates have increased. A walk down any commercial street will verify that, actually as Council Member Jackson mention, that there are many retail and upper floor office spaces for rent. The flip
side of this, however, is that existing businesses and startups have much greater opportunity to negotiate with landlords and have the ability to choose among several landlords in many spaces. Quickly, Class A rents for office space have declined by 18% from the peak and Class B offices, which are relevant to small businesses, have declined by 15% from the peak. Retail rents have declined by 11% from the peak and we've seen an increase in vacancy in all those property classes. What these statistics indicate is a broad correction in the pricing of commercial real estate, which ultimately translates into a readjustment in the balance of power among landlords and tenants. In conclusion I would like to echo the concerns of my colleagues at SBS about the proposed legislation. Intervention of this type in the commercial real estate market would be a dramatic departure from current and past practice in New York City. Such an intervention in the vast commercial real estate market could have the unintended consequence of reducing the supply of new capital investments in commercial and retail space. This could, over the long term,
lead to increased rents to tenants, especially to
ew and innovative tenants. What we do not want
to see is a reduction in the ability of developers
and small investors to build new commercial
property. And we do not want to reduce the
ability of landlords to invest in the maintenance
and upgrade of their properties. NYCEDC and SBS
have developed many programs and initiatives to
address the needs of small businesses and we
believe that these will continue to create new
jobs. What the data tells us is that the trends
in the real estate market, at least for the time
being, have reduced the pressure, on average, on
small businesses and small retailers. Thank you
and I'm happy to answer questions.

CHAIRPERSON YASSKY: Thank you very
much. I appreciate both witnesses condensing
their testimony. I'm going to first go to my
colleagues for questions because I believe that
there will be a lot of them and then I'll go.
Colleagues, I'm going to use a timer for our
questions, mine and yours as well. I'll set it to
five minutes. We can do second and third rounds
if necessary, but my hope is that if we limit each
of our individual rounds to five minutes, then
overall we'll shorten the amount of time we're
taking. I just want to point out that we have
more than 20 people from the audience who have
signed up to testify. If we're going to get to
the public we're going to have to make sure we
leave time for that. Council Member Jackson, this
is your bill, please begin the questioning.

COUNCIL MEMBER JACKSON: Thank you,
Chair Yassky, I appreciate that. I guess my
question is more for the SBS at this point in
time. Commissioner Schwartz, you mentioned other
programs that the city is doing. As I said
earlier, I just can't separate that out. The
mayor and the administration talks about what
they're doing to help small businesses and
especially startup businesses, but I haven’t heard
anything as far as to help businesses whose leases
are expiring to help them to renew their lease on
fair terms and not being ripped off by landlords.
So I want to know what, if anything, is the
administration doing for small businesses to help
them to renegotiate their leases with the
landlords, stop abuses of some landlords or agents
asking for cash before they can renegotiate the least and then doubling or tripling their lease renewals. I do understand the economic situation within the past year. Everything is down. The business that these businesses are receiving is down, just like the leases are down. We're not only talking about this year, we're talking about a long-term impact; what's happening next year, the year after that and the year after that. Business owners cannot just go from day-to-day; they have to plan in advance. What is the administration doing to help small businesses stay in business when leases are up for renewal?

ANDREW SCHWARTZ: Council Member, I appreciate what businesses are going through. As I laid out briefly in my testimony, we do offer a wide array of services that assist businesses. That does include on leasing issues getting them pro bono counsel to review leases and assistance in understanding what they have to negotiate. We can't personally act as a representative for a business owner. I want to make clear also that our Business Solution Centers are always available. They're walk-in centers in each of the
boroughs. We have a tremendous amount of
information available online. We encourage people
to look for space in areas where they get tax
credits such as the 11 Empire Zones throughout the
city and other areas using the city's ICAPP
program, our energy cost savings program to reduce
costs while understanding that they have to
negotiate with a landlord ultimately what their
rent is. But with all of that assistance that we
provide, we are not hearing a lot of the
complaints of the types that leases aren't being
renewed as being the cause of impacting a
business. Certainly with the type of extortion
payments that you're lying out, we would welcome
business owners bringing that information to our
attention. It's outrageous. We don't condone it.
I'm not a criminal law expert. I know that your
bill doesn't provide any new penalties in that
area, but we would certainly work with any
business owner to bring it to the attention of the
criminal justice coordinator or the district
attorney's office in whichever county this is
occurring because if it's illegal it shouldn't be
happening. That's my response.
COUNCIL MEMBER JACKSON: With respect to that, have you heard that this is in some areas a common practice to ask for cash payments in advance before lease renewal negotiations begin? Is this the first time you're hearing of that?

ANDREW SCHWARTZ: I hear some discussion here. I've heard allegations of it. We've coordinated recently with a number of the northern Manhattan businesses and I think the mayor announced some of the initiatives that SBS is doing, including the Business Solutions Center in Washington Heights where this issue has come up. We've asked people to present details to us. As I was getting at in my testimony, negotiating a commercial lease obviously deals with a lot of different variables. I don't know what a landlord might be proposing. I don't know what a tenant might agree to enter into. As I said, if a business owner feels they are victimized by some type of illegal extortion, we have encouraged them and I continue to encourage them here to bring that information to us.

COUNCIL MEMBER JACKSON: In your
testimony I believe you said you're opening up an office in Washington Heights to help small businesses. Is that office open now?

ANDREW SCHWARTZ: No, that’s going to be in the fall. We're working on that now. We have our Business Solutions Center at 120 5th Street now. This plan is for a satellite center to extend the reach of those services.

COUNCIL MEMBER JACKSON: Does the mayor support this bill in its current form? If not, what specifically does he disagree with? That's the bottom line. Does he support the bill or not? If he disagrees with it, what specifically?

ANDREW SCHWARTZ: As I said, in the limited time I went into some of these items here which include both legal concerns with the bill that Corp Counsel is reviewing. The regulatory impact, which we really haven’t talked about, would bring thousands of properties under a new type of regulation essentially. We don’t have an agency currently that has the staff or resources to track that. certainly it would be a tremendous diversion from all the current services we're
providing to start doing that. Landlords would have to be legally required to send out a 180-day notice. Now I know you'll immediately encounter concerns when a tenant hasn’t received that notice. It's 100 days, what happens then? So there are a lot of practical considerations there. I also laid out the cost. The way I read the proposed bill, a tenant can go through mediation, can go through arbitration and an arbitrator is basically looking to set a fair market rent at the end of that process. The tenant can still walk away from that arbitrator's proposal and say I can't afford that or whatever. They're still going to have to pay an arbitration fee at the end of that process. So those are some of the concerns that we've laid out here.

COUNCIL MEMBER JACKSON: Mr. Schwartz, have you read the proposed bill?

ANDREW SCHWARTZ: Yes, I have.

COUNCIL MEMBER JACKSON: Because it says that the parties pay for mediation and arbitration. This would be no cost factor to the city. Are you aware of that?

ANDREW SCHWARTZ: That's what I'm
saying; that the cost will be on the tenant and they can be substantial.

COUNCIL MEMBER JACKSON: No, not the tenant, on the parties involved.

ANDREW SCHWARTZ: Well the tenant and the landlord I assume.

COUNCIL MEMBER JACKSON: That’s right. That’s the difference. Tenant is only one part. Parties involved are totally different. There is no cost factor to the City of New York. That's why I asked whether or not you had read the bill.

ANDREW SCHWARTZ: Yes, I read the bill. I don’t think I disagreed with what you just said. I said those costs are on the tenant and the landlord. The cost for the city would be in administering this program.

CHAIRPERSON YASSKY: Council Member, we'll have a second round. I in my round am going to press for a little more detail on that because I think what you've raised is important. I'd like to move to the next Council Member and then we'll come back in a second round.

COUNCIL MEMBER JACKSON: Very good,
Mr. Chair.

CHAIRPERSON YASSKY: Council Member Liu.

COUNCIL MEMBER LIU: Thank you, Mr. Chairman for holding this hearing. In case you're not aware, I am in support of this legislation put forth by Council Member Jackson. Commissioner Schwartz, you know what key money is right? You've talked about it before. That is the upfront cash payment.

ANDREW SCHWARTZ: I've heard the term, yes.

COUNCIL MEMBER LIU: The only response that I've heard you say so far is that you're not sure that key money actually happens or that the problem exists. You're waiting for someone to give you information as to whether in fact it exists. Do you think that small business owners are being forced to pay some cash upfront? I'm not saying every small business owner, but do you believe that there are some small business owners out there who have to pay cash upfront either to get a new lease or to renew their lease?

ANDREW SCHWARTZ: That may be the
case, Council Member, and that's why we're asking for specifics on that.

COUNCIL MEMBER LIU: So you don't know that this happens. You're saying it may be the case. You're asking for proof that it happens.

ANDREW SCHWARTZ: I'm saying I'm asking for specifics. If we're going to attempt to prosecute a particular case, I think we're going to need specifics on it. I have not personally observed it.

COUNCIL MEMBER LIU: How long have you been an assistant commissioner at SBS?

ANDREW SCHWARTZ: I'm a deputy commissioner now. I've been with the agency for about 12 years and with the City of New York as an attorney for 25 years.

COUNCIL MEMBER LIU: Right. In the 12 years at SBS, have you heard of any cases that the Department of Small Business Services has pursued with regard to investigating key money?

ANDREW SCHWARTZ: I'm not aware of any. But I don't know if other agencies have done this too. It's not something that necessarily
falls in SBS.

COUNCIL MEMBER LIU: Well it stands to reason the Department of Small Business Services would be involved. This problem is affecting small businesses the most. I'm not going to belabor the point. The point I'm making here and it's essentially being confirmed by your testimony is that the Department of Small Business Services actually does not recognize the issue of key money as a problem in this city. You don't recognize this as a problem. Everybody here I bet you are going to testify that that is a big problem right now in New York City. And it's not even just right now; it's been this way for a very, very long time. Listen, do me a favor, don't clap for me and don't boo me either. Look, there is nothing personal here. These commissioners are doing as they're told. They are in some ways the messenger, not the problem itself. The issue here is that the Department of Small Business Services certainly under this administration just has not recognized that key money is an issue.

ANDREW SCHWARTZ: Council Member,
we would recognize that. As I say, we are open to discussing it.

COUNCIL MEMBER LIU: You want these guys to go out there and find the proof. Meanwhile, the City of New York is unable to recognize that this is a problem and go out there and find the information?

ANDREW SCHWARTZ: Council Member, I'm not sure how the bill gets at that particular problem.

COUNCIL MEMBER LIU: It does get at that problem because the fact of the matter is that the administration just doesn’t understand that this is a problem, it's a longstanding problem. Don’t take it personally. I don’t mean you personally, I mean the administration.

ANDREW SCHWARTZ: Council Member, we've worked together on a lot of things, so I don’t take it personally.

COUNCIL MEMBER LIU: The administration has worked to reduce the tax burden, the reform of the UBIT, right?

ANDREW SCHWARTZ: Yes.

COUNCIL MEMBER LIU: How has that
been reformed?

MICHAEL N. MEOLA: I can pick that up. Let me get my testimony in front of me. In 2007, Local Law 35 was passed that increased the credit for owners of small businesses that are subject to both the personal income tax and the Uniform Business Tax, the UBT. The bill that is now going through the state legislature, which was passed by the Assembly and I believe is waiting for the Senate to pass it, would increase that credit so that sole proprietors and freelancers who make under $100,000 would not pay the UBT.

COUNCIL MEMBER LIU: So how many small business owners have actually benefited from the so-called reform of the UBIT? Is it 11,000?

MICHAEL N. MEOLA: It is 11,000.

COUNCIL MEMBER LIU: I'm not saying under the bill. Your testimony says if enacted and it's been two years. If enacted, this legislation will effectively exempt 11,000 of the firms paying the UBT. What I'm asking you is how many of the firms actually have benefited from the efforts of the administration? It's certainly not 11,000.
MICHAEL N. MEOLA: Council Member, I don’t have the numbers in front of me for the 2007 reform, which did increase the credit and therefore reduce taxes payable for the number of businesses. I can get you that number, but it's certainly several thousand. This additional reform would reduce that number by a further 11,000.

COUNCIL MEMBER LIU: I'll wait until round two, Mr. Chairman.

CHAIRPERSON YASSKY: Thank you, Council Member. We definitely will have round two. We'll continue with round one with Council Members Martinez and then Avella and then I will ask questions and then we'll go to round two.

COUNCIL MEMBER MARTINEZ: Thank you, Mr. Chair. I also want to thank you for holding this meeting. Just answer with a yes or no. I didn’t read in the testimony whether the administration supports the bill. I didn’t see it anywhere.

ANDREW SCHWARTZ: No, we don’t support this bill.

COUNCIL MEMBER MARTINEZ: The
administration does not support the bill?

ANDREW SCHWARTZ: No.

COUNCIL MEMBER MARTINEZ: It doesn’t say that in the testimony.

ANDREW SCHWARTZ: We figured this was the first hearing on the bill and we're presenting the concerns that we have with it.

COUNCIL MEMBER MARTINEZ: Do you have any suggestions for the bill? I say that because both of your testimonies speak of programs. These small business owners are smart people. They know how to do business. I think we could enhance, but they know how to do business. I think that the issue we're asking here is how we protect them when it comes to lease renewal. In many of the first hearings on bills that we've had, as you know, there is always the opposition or suggestion to improve the bill so that we could make it into law in the City of New York. Does the agency or the administration have any suggestion or recommended amendments that we could add to the bill to help small business owners when it comes to lease renewal?

ANDREW SCHWARTZ: Council Member,
as I said, we are working with businesses precisely on that issue of commercial leasing. We understand it's a complicated thing for a business to go into a commercial lease. That's why we're working in coordination with the Legal Aid Society on those types of workshops with business owners so they can negotiate a proper commercial lease with an option to renew or whatever it is they need.

COUNCIL MEMBER MARTINEZ: I understand that. I think it would be more productive for the hearing if we go straight to the point. The pink elephant in the room is the fact that small business owners in the City of New York have to pay cash. We do nothing in the City of New York for small business owners. We do nothing for small business owners if we do these workshops with Legal Aid Society if they can't keep their business, if they can't renew their lease. So why have these programs? The issue is what do we do as a city if we want to maintain the small business community in the City of New York? I know you've seen the report in New York One. They did 125th, then they did Washington Heights
and Inwood, and we saw the vacancy rates and we saw how many people are just leaving. One of the number one reasons was high rents. We had the chambers of commerce here who have done their own surveys. The number one issue is high rent or couldn’t renew. The question is what we do as a city to address that issue. I'm familiar with many of the programs that both EDC and Small Business provide. That’s not the issue. The issue is what we do to deal with the issue of the lease renewal and the money in the brown bag that has to be given.

ANDREW SCHWARTZ: Certainly, money in a brown bag, again, we've talked a little bit about that and the concerns with it. We completely agree with you and we would look for perhaps some type of penal provisions to be done that can address that specifically. On the other hand, we know as tenants, rents are a difficult cost of business in New York. You want long leases at low rents. Landlords want high rents and good tenants. As my colleague from EDC mentioned, there is a commercial marketplace for determining that. Right now, vacancies are up and
we're seeing declines in rental prices around the city. Now, certainly in a lot of neighborhoods, new businesses come in, sometimes they're going to go to a less desirable location. There are some areas with second story locations that might be better for a new startup business to get at a lower rent before they establish themselves and want to move into a higher rent area. I also know that the Manhattan Borough President's office did a report on saving mom and pop stores which had a panel from a wide range of industries. I think Chairman Yassky was on that panel as well. It came up with a list of ten recommendations which we're looking over as well. Certainly a program like this was not on those recommendations. So there are things that can be done in terms of assistance to businesses, incentives to businesses, the tax type of relief that we've been talking about, but a step into regulating thousands of property owners in a new way may, at the end of the day, have some of the adverse impacts that Mr. Meola laid out.

COUNCIL MEMBER MARTINEZ: When you speak of the tax relief, is the tax relief going
to the small business or to the property owner?

MICHAEL N. MEOLA: The reform of the Unincorporated Business Tax is a credit that goes directly to the business owner. It's a credit on their income tax.

COUNCIL MEMBER MARTINEZ: There were some talks, and I don’t want to dilute from the bill, but there were some talks of a tax break to property owners on property tax not to pass on the cost of property tax to business owners. Have you heard of that?

MICHAEL N. MEOLA: That's not something that I'm familiar with at the moment.

COUNCIL MEMBER MARTINEZ: Thank you, Mr. Chair. I'll come back in the second round.

CHAIRPERSON YASSKY: Thank you very much. Council Member Avella?

COUNCIL MEMBER AVELLA: Thank you, Mr. Chair. Do you believe that escalating rents are the major problem facing mom and pop small businesses? A simple yes or a no, is that the number one issue facing small businesses today in the City of New York?
ANDREW SCHWARTZ: I can't say if it's a yes or a no. There are certainly a lot of concerns expressed about the high cost of doing business in a lot of different ways. Decreased commercial customers, during the economy downturn, is certainly a big impact on a lot of businesses and deescalating rents is something that's going on too, as we pointed out in the data.

COUNCIL MEMBER AVELLA: I've got to say from your very presence here, and this is not personal, why isn't the commissioner of Small Business Services here? Why isn't the president of EDC here giving testimony? All you have to do is go out and talk to any one of the small business owners here. What is the number one issue? You just have to go to your deli on your corner or the dry cleaner on your corner, what is the number one issue. For you not even to acknowledge that is amazing to me. It is absolutely amazing. I don't expect an answer because I don't think the administration really understands at all what the problem is. Your testimony here is BS. I can't say it in any other way. Instead of addressing the number one issue,
and shrug your shoulders, go ahead, but the number one issues is escalating rents. You come up with a loan program. The mayor is out there doing advertisements for his mayoral campaign about loans. Council Member Martinez said it the best. What good is a loan if they don’t have a business? When is this administration going to step up to the plate and recognize the fact that something has to be done about the rents? You can talk about all the other stuff you want, but if they don’t have a business, they have nothing. I’m saying to you, the commissioner who is not here, the president of EDC who is not here and the mayor, are you going to do something about the rents or not?

CHAIRPERSON YASSKY: I do want to ask audience members, it is our policy on Council to ask the audience members not to disrupt either by applause or by negative comments. So I’ll ask you to please observe that. Thank you. Now, please answer the question Mr. Schwartz.

ANDREW SCHWARTZ: What was the question exactly? I heard a number of questions there. We received a survey. The only support we
really received for this bill was a survey done of businesses by I think it's the USA Latin Chamber of Commerce and we would really appreciate getting the backup on it because we just have like kind of the final tallies. One of the categories is increased operating costs comes in at 67%. Higher rents, is at 74%, but it is higher rents and unreasonable lease terms. Again, that's the point I'm getting at. Many people have concerns about lease terms that may involve many other things besides the amount of the rent or the term of it and how they can operate their business. There are other things on this list too that are of concern to small businesses. So I didn't mean to not answer you question when you asked me is that the primary concern of small business. I said to you there are a lot of concerns that small businesses face and our agency recognizes that and tries to address the full panoply of problems that businesses face doing business in this city. We work very hard at providing those services.

COUNCIL MEMBER AVELLA: I think the people here in this room, who are small business owners, would disagree with you. Until you start
doing something about the number one issue, the rest is all a joke.

CHAIRPERSON YASSKY: Thank you, Council Member Avella. Both Council Member Jackson and Martinez essentially asked if there were specific changes that you would like to see in this bill that would enable the administration to support it, or are you opposed to the concept of any program that would regulate commercial rents. I think that's a fair question.

ANDREW SCHWARTZ: I think we answered that we opposed this bill. We laid out a number of the concerns and that we're really just beginning to evaluate all of those aspects of it.

CHAIRPERSON YASSKY: Bear with me, and I would say this goes for everybody here. Please don’t take it as impolite if people interrupt only because we have our time constraints here. You said there are legal issues but you did not kind of detail those. If you would like to, that would be welcome. As far as policy issues go, and I don’t want to put words in your mouth, but I read the testimony to say this is such a big change in policy, the government
intervention in the retail rent market that we are not comfortable with that and there are no tweaks or changes to the proposal here that would make us comfortable with that. Again, I don’t want to put words in your mouth. That's why I ask you if you're opposed to any version of this, or are there edits or amendments that you would propose that would make this supportable?

ANDREW SCHWARTZ: I understand your question. I cannot suggest specifics on changes to this bill. Obviously, if the Council comes back with another version, we will look at that as well.

CHAIRPERSON YASSKY: I'm just thinking out loud here; we haven’t talked about this within the Council or to the administration. Would you support meet required mediation as opposed to arbitration? How would you think about that? There plainly is an issue that the little guy, little person, mom and pops, do feel at a disadvantage vis-à-vis the landlords. Is there something the government can do to give people at least a fair shot? If it's not binding arbitration, maybe having a requirement that they
talk to a neutral third party mediator helps to even the playing field some.

ANDREW SCHWARTZ: I would say, again, if there's another version we bring it back. I can't tell you sitting here right now where it would go. I know in the past there have also been efforts at voluntary mediation during some times of escalating rents where groups had provided voluntary mediation for parties. The landlord tenant court process does that as well.

CHAIRPERSON YASSKY: By the time you're in landlord tenant then you're pretty far gone. Have you at SBS every considered offering that as a service?

ANDREW SCHWARTZ: Dave, you may want to jump in, but we certainly are providing more and more.

CHAIRPERSON YASSKY: Have you considered providing this particular service?

ANDREW SCHWARTZ: No, not specifically. But it’s something we can look at. In terms of where I was going with the pro bono legal services and trying to get more of that because we recognize it's a need for businesses.
CHAIRPERSON YASSKY: I understand that. On the key money thing, I heard you say it's appalling. If somebody came to you with an example, I'm curious what you would do. Is it legal for a landlord to say your rent has been $1,000 a month, I'm going to increase it to $1,500 a month and I want you to give me $10,000 right now as condition of renewal? Is that legal or illegal?

ANDREW SCHWARTZ: This is not my field of expertise.

CHAIRPERSON YASSKY: See, I'm not sure that you would do with that because I'm not sure that there's anything that makes that illegal now. Part of what makes it illegal is if it's under the table and landlords don't report that money.

ANDREW SCHWARTZ: Agreed.

CHAIRPERSON YASSKY: If it's cash, then it becomes a tax evasion problem. But maybe we need to get at that and not wait for the IRS to come after people. Would you support a prohibition on key money?

ANDREW SCHWARTZ: I absolutely
CHAIRPERSON YASSKY: Would you support that?

ANDREW SCHWARTZ: I said there was nothing in this bill that seemed to address it. Certainly if that could be drafted, we would look at that as well. I think if there was something that made that type of activity and you could define--

CHAIRPERSON YASSKY: [interposing] Your answer is you can't say now whether you would support that or not? You would look at it.

ANDREW SCHWARTZ: If it could be defined appropriately, yes.

CHAIRPERSON YASSKY: We'll have another round. Council Member Jackson.

COUNCIL MEMBER JACKSON: Thank you, Mr. Chair. This question is for any one of the panelists. Is it a common practice for tenants and landlords to resort to mediation and/or binding in any fashion, manner or form that you're dealing with in any capacity? Or, is this a brand new concept to either the New York City Economy Development Corp or SBS?
ANDREW SCHWARTZ: As I was saying, it's not a problem that we encounter every day in our Solution Centers and we get many, many issues coming in. Certainly mediation services and arbitration have been a growth area as alternatives to litigation when parties can't resolve something. New York does have a lot of good services in that area.

COUNCIL MEMBER JACKSON: What about the New York City Economic Develop Corp?

MICHAEL N. MEOLA: I do not have data on the percentage or prevalence of mediation or arbitration for commercial leases. We can look into that for you.

COUNCIL MEMBER JACKSON: The reason why I raise that is because obviously in New York City negotiations with labor unions there is binding arbitration. We know the history of that. Sometimes you win and sometimes you lose, but that's part of the process. But also, I know you must have heard recently that Mayor Bloomberg suggested arbitration with the State Senate so the concept clearly is out there and has been espoused by Mayor Bloomberg with regards to the State
Senate. I say that knowing that as you indicated earlier, Mr. Schwartz, that binding arbitration is less expensive and speedier than going through a judicial process. That's why I asked whether or not is there anything that you deal with that takes into effect mediation and binding arbitration. I want to know with respects to overall, even though Mr. Schwartz you indicated that you would be interested in looking at another version of the bill, I'm interested in knowing what Corp Counsel's office has had to say and any opinions given on this. This is not a new bill. This bill has been out there for a little while already, so it's not new. Do you have an opinion from Corp Counsel's office on this particular bill as of now?

ANDREW SCHWARTZ: Briefly, when it got scheduled for a hearing I believe Corp Counsel has looked at it and gave us limited opinion. That's in my testimony right now that there are concerns that go to constitutional law, regulating private property rights, the contract clause and changing provisions of contracts between private parties essentially. I think it needs further
analysis.

COUNCIL MEMBER JACKSON: Does SBS have any statistics or are you aware of how long some of these commercial spaces stay un-rented? For example, the bakery on 181st Street between Fort Washington and Bennett Avenue has been vacant for over three years. It's an eyesore to the community. Besides that it was a bakery. Obviously if an owner is asking a bakery for the type of increases they were asking at that time, I mean how much can you sell a dozen cookies for? For example, it was in our local Manhattan Times newspaper, I think it was Sonny's Card Shop had been in business for almost 20 years. It was a mom and pop shop and they could not afford the lease renewal. How much can you sell Mother's Day cards, Easter cards and holiday cards for? You can't sell it for $10 a card. Now, that shop is vacant. There are many shops on 181st Street, which is my immediate area, that are vacant. There are many shops on Broadway in the Hamilton Heights area that have been vacant. In fact, we held a press conference about six or eight months ago and within two blocks there were five vacant
stores. There were three on one side, two on the other within two blocks. Do landlords get any reduction in taxes by having spaces that are not rented? Do they get a reduction in their taxes or anything else in order to keep these stores vacant? That's a question to anyone.

ANDREW SCHWARTZ: I'm not aware that there is any type of incentive. I happen to watch this weekend and you were questioning the Department of Finance on that issue as well. I don't think Commissioner Hyman was aware of anything. I think that you advocated that you'd get rid of it if there was. That would make sense. I'm not sure how this bill would deal with the vacancy issue because I'm not aware that landlords would not want to lease out their space. I imagine there are times that properties get caught up in some type of development deal or in some type of probate procedure where an owner has passed away. But that's another way we look to our Business Improvement Districts in the communities to take those vacancies on and try to find a willing renter and work with the owner of it. But I'm not aware of any incentive that they
have to keep something vacant.

COUNCIL MEMBER JACKSON: Mr. Schwartz, as you know, all of the strips and avenues are not covered by a Business Improvement District. You know that, right?

ANDREW SCHWARTZ: Yes, I do.

COUNCIL MEMBER JACKSON: So what happens then when there is no BID?

ANDREW SCHWARTZ: We also do have numerous local development corporations around the city. We do run a program, Avenue NYC, which provides funding to these groups to do a lot of the same type of activities that BIDs do, including helping to form a BID and that's been successful in a number of areas. That's something also the Council has funded a number of organizations to provide those services and we appreciate that and we work with those groups as well.

COUNCIL MEMBER JACKSON: Mr. Chair, before you go to the next question, let me just comment. When I grew up, I worked in a grocery store. Rob's Barbecue, on St. Nicholas Avenue between 148th and 149th Street, and St. Nicholas
and he would open up at 7:00 in the morning and closed at 11:00 at night. So he was there for like 16 hours a day. Most of these small businesses that I know are working 12, 14, and 16 hours a day, seven days a week. Quite frankly, they don’t have time to be going to a workshop or other things because they just don’t have the time. They're just trying to run their businesses. I think SBS and New York City Economic Development Corp needs to be aware of that. These small businesses need relief now. As I said earlier in my opening statement, they need action. They don’t need to talk and talk about workshops. They need immediate action in order to help them stay in business. Mr. Chair, thank you.

CHAIRPERSON YASSKY: Thank you, Council Member Jackson for your questions.

Council Member Liu is next.

COUNCIL MEMBER LIU: Thank you very much, Mr. Chairman. Commissioners, the reason I was asking you about key money before was just to highlight a clear example of a problem that does exist and yet, the administration does not have any kind of handle on it. The reason I say that
is because every time we have a hearing with EDC or with Small Business Services, there is always talk about all these great programs that are out there to help small businesses. I've had many conversations with the folks at Small Business Services and at EDC, not necessarily with the two of you but many of your colleagues, and I've always said not to tell me to go back to my constituents with these programs because they don’t really think very much of these programs. They don’t. I think we'll hear testimony to that effect. So as much as your two departments and agencies can say that you have all these great programs to assist small businesses, the small businesses aren't buying it. They're not buying it because they're not being asked what they need help with. There are all sorts of different marketing programs and programs to help small businesses with paperwork, but when the city doesn’t have a good idea how prevalent the problem of key money is out there, that really suggests that the administration is very, very far out of touch with small business owners. So I would ask you to really consider this legislation and think
of it as a real way to help small businesses. Now nobody is suggesting that the city start regulating the rents. That's not what the bill says. In fact, many of the advocates here today will say from that from the outset because they predicted what the administration's response would be. They will say that this is not commercial rent control. This is simply assisting them so they have a little bit more leverage because right now they're totally dependent upon the landlord of the building that they have spent years building up their small business. The ironic thing is that the more successful these entrepreneurs are in building up their small business, the more valuable the landlord's property becomes and then the landlord can demand even higher rent. These small business owners just have no leverage whatsoever. So what they're asking for is not for the city to institute rent control; they're asking for the city to stand on their side for a change and to help them with the negotiations that take place whenever their leases come up for renewal. I'm not trying to give you guys a hard time here, but you really have to understand that this is a
huge problem. It's a huge problem. You don't have to take their survey for granted or just accept it on face value. I would suggest you conduct your own surveys. I don’t think that your results will be any different. So don’t discount the survey just because they haven’t given you the statistical backup. Do your own survey because this is a huge problem out there. I would ask you; does the administration really consider this to be a bill that would implement some kind of commercial rent control? Is that the way this bill is regarded?

MICHAEL N. MEOLA: Thank you, Council Member for the question. I don’t think this is commercial rent control. But I do think, as my testimony mentioned, that at a global level, this would be an intervention in the commercial real estate market that really is a dramatic departure. There would be a very significant infrastructure that would have to be built up to monitor and potentially to enforce the provisions of the bill. It's very broad. It appears to apply to all commercial space for tenants with 100 employees or less. I think the mediation
provisions, in some ways they're fine, but there would have to be some oversight. What happens when the parties can't agree, can't mediate? I think inevitably there would have to be rules promulgated by an agency, whether it's SBS or another agency. I do think there are a couple of levels of concern. One is the administrative cost on the city side which really would be significant. The second one is there really is a potential for the dampening of the attractiveness of investing in commercial space in New York City. That was the gist of my point.

COUNCIL MEMBER LIU: I have to say, you know the EDC uses that line all the time. Any time the EDC doesn't want to get involved in something, it starts talking about the unintended consequences of reducing supply of new capital investments in commercial and retail space. That phrase has been said over and over again by EDC any time the EDC doesn't want to take action. You can say such an intervention. Well of course, any time government takes action you would regard that as some kind of intervention. That's exactly what it is. What we are asking is that city government
intervenes. Intervene in a process that is severely lopsided against small business owners here that we demand a lot from in this city. We are asking for some kind of intervention. What is the estimated cost of the infrastructure that you talked about?

MICHAEL N. MEOLA: Council Member, as I indicated before and I think Andrew Schwartz also indicated that we've only started to consider this piece of legislation. We do not at this time have estimates.

COUNCIL MEMBER LIU: Then you don't know that it's going to be substantial. If you have no idea what the costs are going to be. You can't tell it's substantial. One last quick question if I can, Mr. Chairman. I want to emphasize that point again. You don’t have any idea how much it'll cost to administer this thing, so don’t use the administrative costs as a reason to oppose the bill. How much would the reform of the UBIT be if it would exempt 11,000 of the firms? What is the fiscal impact of that bill?

MICHAEL N. MEOLA: I don’t have the dollar number for the current, but I was able to
get the number for the 2007 reform which was $44 million annually in reduced tax burden to unincorporated business owners. Once again, I'd have to get back to you on the dollar number for the current bill.

COUNCIL MEMBER LIU: That was $44 million in the one that did pass.

MICHAEL N. MEOLA: It would apply to several thousand business owners in New York City and it was a net reduction of $44 million in tax burden because of the increase of the credit. Under the bill that's in Albany now, it would reduce the tax burden on 11,000 further business owners. I can get you the tax estimate.

COUNCIL MEMBER LIU: Thank you, Mr. Chairman.

CHAIRPERSON YASSKY: Council Member Martinez is next.

COUNCIL MEMBER MARTINEZ: Thank you, Mr. Chair. You speak about the burden and the economic impact but you don’t have specific numbers on it. That's disappointing. I want to ask you about the loan program in your testimony that mentions 48 loans already being issued and
injecting a million dollars in several communities already with a maximum of $250,000. What's the flexibility on that money? I want to focus not on startup business because in your testimony you both mentioned and continued to use startup business. We're not talking about businesses that are starting, we're talking about businesses that are established and are looking to renew their leases. Can a small business owner apply for this loan with the intention to pay to renew his lease?

MICHAEL N. MEOLA: I'm sorry; I didn’t catch the last phrase.

COUNCIL MEMBER MARTINEZ: You have the new funds, the $14 million. This is EDC, not Small Business, correct?

MICHAEL N. MEOLA: Yes.

COUNCIL MEMBER MARTINEZ: What flexibility do I have to use that money?

MICHAEL N. MEOLA: The Capital Access program was launched this spring. We've taken $5 million of EDC funds to use it as a loan guarantee fund. Basically we are working with several banks, including Citibank, Accion NY, Seedco and the Brooklyn Coop Federal Credit union.
COUNCIL MEMBER MARTINEZ: By the way, they have high rates and they're not lending.

MICHAEL N. MEOLA: What this is doing is it's facilitating and encouraging those banks to lend. The EDC guarantees a portion of the loan that they make. The loan proceeds can be used for any business purpose, for buying stock, for buying equipment, for working capital. I have a very small smattering of the loans that have been made. There was a $250,000 loan to an asbestos removal company for working capital in Staten Island. There was a $10,280 loan to a shoe store in Inwood on Nagle Avenue. There was a $6,240 loan to a unisex salon on 27th Avenue in Queens.

COUNCIL MEMBER MARTINEZ: For expansion capital, operating or what?

MICHAEL N. MEOLA: For working capital and stock I think in most of these cases.

COUNCIL MEMBER MARTINEZ: I know this is not popular and I know I'm going to get some calls but I'm going to put it out there. When you spoke about commercial rent control as sort of like mind-boggling and unheard of, but we
had commercial rent control in New York City in the 1940s. Am I right?

MICHAEL N. MEOLA: I'm not familiar with that.

COUNCIL MEMBER MARTINEZ: I think you've taken a position of not supporting this bill with the actual facts of how do we come up with a mechanism. The issue is not programs. I think every five minutes when we turn on the TV we hear the mayor talk about supporting small businesses through programs. We all are aware of that. There are programs, there are loans and I give a lot of credit to EDC because a couple of years ago when I introduced the concept in our budget process I was told it would never happen because the city is not in the business of lending money. We took on this issue and both EDC and Small Business had their ears shut to the concept and the idea. However, now the city is promoting it. You come with the idea that this cannot happen and yet you're not giving us options on the issue of lease renewal, not on the issue of programs that the mayor and the agencies are putting forward, but rather on dealing with the
issue of lease renewals. There was a time in this city a long time ago where there was commercial rent control. Does this mean that we have to have a conversation with our colleagues in the state? Let's talk about it. Does this mean that we need the mayor to come and send a home room message and the Council needs to do that? Let's talk about it. But basically just to sit here and just listen to you talk about programs, I know these people know how to do business. That's why they're businessmen and they've survived. Because when the big companies left our city in the 70s and 80s, they stayed. Now the big ones want to come back and they come back with a lot of subsidies, tax breaks and they're able to open up their stores. They're able to open bigger stores. The issue at hand is what we do as a city to address the issue. I was expecting to hear from the agency, especially Small Business, what do we do? Do we need to have a home room message? Do we need to sit down with Albany and talk about rent control again? Do we need to sit down with the Real Estate Board? Do we need to sit down with the group of landlords and come up with
something that will guarantee? There are some owners who believe in the concept of mom and pop stores. Do you know why? It's because mom and pop stores also give value to their property. They're looking out for their property. There is that mixture, but we need to work together on this and not just say we have programs. What good is it for you to have small loans available if I can't keep my store open? That's the issue. The issue is not loans, the issue is not programs, and the issue is what we do about lease renewal and avoiding the issue that these small business owners are going through now. Thank you, Mr. Chair.

CHAIRPERSON YASSKY: Colleagues, I'm going to ask two follow up questions and then it's my intention to move to the public testimony. If you have remaining questions that are top tier that need to be asked now, we'll accommodate that. Obviously it's important the committee be able to ask its questions. But we now have over 30 people that have signed up to testify, so I would like to move to the public if that's okay and if there are no other urgent questions. I think Council Member
Liu asked exactly the right question. You referred to administrative costs. I really do think we need an answer to what you expect this to cost the city government if that's one of the prime objections to it. I don’t see a lot of government responsibility on the city government as an entity in this bill. This bill has been out for quite some time. I understand the administration doesn’t look at things maybe until they're noticed for a hearing, but I would ask you to supply the committee with an estimate of the cost. Okay?

ANDREW SCHWARTZ: We can work on that. I'll go to OMB. The bill obviously doesn’t name a specific agency. Chairman, yes, we will attempt to come up with something that addresses the administrative concerns.

CHAIRPERSON YASSKY: I think it's fair to say it's a bill with more than half the Council as co-sponsors. We've had a hearing on it. I understand you say there are 1,000 bills introduced and we can't do a cost estimate. I'm not saying do one on everything, but I'm saying this is a serious bill that has a serious chance
of moving forward. I think we need a cost estimate to know if your objection is well rounded. Can you agree that you'll provide one?

ANDREW SCHWARTZ: Yes.

CHAIRPERSON YASSKY: Thank you.

Mr. Schwartz, you referred in your testimony to the fact that Borough President Stringer put together a bunch of recommendations, many of which were designed to address the rent issue. You said this was not one of them, but there were others. Does the administration support any of the proposals that came from the Stringer task force?

ANDREW SCHWARTZ: I cannot at this point. Actually I looked at that report today after it was referred to in a New York Times story on Saturday. It's about Upper Lexington Avenue on the Upper East Side where it's a high rent area where mom and pop stores and independent stores seem to be thriving and continuing. What that article discusses is the enormous number of variables that seem to exist in neighborhood commercial markets. I think that story is worth looking at and it led me to the Stringer report, so I can't go any further than that today.
CHAIRPERSON YASSKY: As you said, I sat on that task force. I believe the report was issued in February or March. I know it was covered at the time. I'm going to return to what I said at the outset. I think it is imperative that the city do something to assist mom and pops with the problems they face in securing reasonable rent. If the administration's position is that this bill is not the right answer, then we need to know what the right answer is from your perspective. The Council may well choose to proceed with this bill regardless. But we certainly want to know what the right answer is from your perspective. Borough President Stringer's report gave other options and maybe you think those are preferable. But not doing anything is not an option at this point. I urge you to be part of this conversation rather than absent from it. I thank you very much for your testimony and your participation. I'd like to call the first panel of witnesses. It's not my place to impose on your time, but I would ask you to stay to hear the next group of witnesses because these are the folks who really put the
most time and effort into fleshing out this proposal. I think they have a lot to add. So I'd ask if you could hear them out. Thank you very much for your time this afternoon.

ANDREW SCHWARTZ: Thank you.

MICHAEL N. MEOLA: Thank you.

CHAIRPERSON YASSKY: The first panel of witnesses is Sherri Donovan, an attorney who I know has participated in the drafting and preparation of this proposal; Stephen Null, representing the Coalition for Fair Rents; Miguel Parabons, representing the USA Latin Chamber of Commerce and Alfred Placeres, representing the New York State Federation of Hispanic Chambers of Commerce. You can proceed in whatever order you prefer. You can go in the order I read your names, but if you prefer a different order, then go ahead and do that. Before you begin, please identify yourself for the record.

STEPHEN NULL: Good afternoon Council Members. My name is Stephen Null. In 1984 I founded the Coalition for Fair Business Rents and was the former owner of 3 small businesses in New York City. The bill before this
committee today is an updated revision of a bill written in 1986 and introduced into the City Council by then Councilwoman Ruth Messinger. The bill was later revised and introduced by Councilman Stanley Michaels and finally by Councilman Guillermo Linares. The original bill took had every type of business and profession represented. It was fair to all parties involved and would have accomplished the goal of creating a commercial lease renewal process where both parties would "negotiate in good faith" to arrive at reasonable lease terms. The business community of New York City hoped the passage of this bill would again establish "bargaining in good faith between the landlords and the tenants" when a commercial lease expired. For 40 years in New York City, whether under a strict commercial rent control law, like the law from 1945-1963 or unregulated, the practice and policy when a commercial lease expired, was for the landlord and commercial tenant to meet, face to face, and negotiate the new lease terms. The outcome of this process for 40 years was beneficial to both parties, to the economy, to society, to the
workers, to the government, and to the community. It worked, whether under control or voluntary. Beginning in the mid 1980's, the practice of negotiating in good faith for lease renewals began to gradually stop. While most landlords continued to negotiate in good faith, the influence on the rental marketplace by the newer real estate speculators was growing. These speculators were buying property for the sole intent of "flipping or selling" and making a quick profit. Record real estate sales of commercial property occurred in New York City between 1986 and 1989. By the late 1980's, very few landlords were now continuing the practice of negotiating in good faith lease renewal, with the result being widespread business closings. What we're talking about today is nothing new, the loss of businesses. The anti-small business environment created during the lease renewal process has only gotten worse through the years, until today where very few landlords negotiate with their commercial tenants face to face. The language used in the 1945 Commercial Rent Law to describe the commercial lease renewal process would apply today
and anytime during the past 45 years. This is the language used to enact commercial rent control. "Unjust, unreasonable, and oppressive leases and agreements for the payment of rent for commercial space in certain cities having been and being now exacted by landlords from tenants under stress of prevailing conditions, whereby a breakdown has taken place in normal processes of bargaining and freedom of contract has become an illusory concept".

CHAIRPERSON YASSKY: Mr. Null, as I said at the outset, we going to have to hold everybody to a pretty strict time limit. You're about halfway through your testimony, so if you could sum up in the next 15, 20 seconds.

STEPHEN NULL: I'm more than halfway. What we're dealing right here is the outcome of a lease renewal process. What I have made over here and I would ask anyone to refer to it is that the outcomes of the unregulated commercial lease process in New York City. These are some of the outcomes. For the real estate industry, the administration and the people who are opposed to regulating, what are the outcomes
of the system for the past 20 years? It is empty stores, loss of jobs, and corruption. All of these things are outcomes. Why not change it? That's all this bill is. It's saying that the outcomes that we've had since this speculation aren't working. These are unacceptable. What I'm saying is we know for a fact in 40 years of experience that the outcomes when the landlord and the tenant negotiate in good faith aren't these. If there are any questions, I'll take it.

CHAIRPERSON YASSKY: Thank you, Mr. Null. I appreciate it.

SHERRI DONOVAN: Good afternoon, Council. My name is Sherri Donovan. I am the original drafter of the bill over 20 years ago. I worked with Ruth Messinger at the time. I came up with the concepts, along with Steve and others about the legalities of the bill. I'm an attorney. I've had my own practice, a small business, for 20 years. I'm a former district leader of New York City from the Greenwich Village 61st area. I'm also an attorney for the National Organization for Women. I've followed this bill for over 20 years. I've heard all the legal
arguments from the city about trying to stop this bill. This is not new. I've heard them mention home rule. I've heard them mention constitutionality. I've heard them mention interference with property rights. I've researched the cases. I've done the briefs 20 years ago on this issue and updated it as of today. This bill is completely constitutional. This bill is completely reasonable. There is not a legal challenge that would be upheld in the courts on this bill. You do not need to be afraid of the real estate developers and their lawyers to pass this bill. That's why so many of you have backed it. This is not a control. I'm a constituent of David's, and when I first looked at this bill over 20 years ago, we considered percentages because percentages were being used with tenants. Arbitration was new then too. But we tried to come up with a process that wasn’t just pro-tenant; this actually helps the landlords too, although the mayor may not tell you that. It actually helps the landlords too because arbitration and mediation is about communication. It's about when there's a dispute and they cannot
resolve it that there is a problem-solving mechanism. Twenty years ago arbitration was a new word. Today, it's as common as this cell phone. It's as common to do business with an arbitration clause in a contract as it is to pick up a cell phone and do business. There is no legal problem here. What will happen though is that if this bill for arbitration is not passed, you will continue to have many illegalities occur. That's what is happening now. You're having rampant illegalities with the money under the table. People are not going to say no to their landlords after investing their life savings and their family savings to build their businesses as all these people have, including my own family in New York City. They're not going to say no to key money if they don’t at least that there some process that they can go and have someone hear them, an arbitrator. I've heard that you want alternative solutions.

CHAIRPERSON YASSKY: I apologize, but I guess when I pressed the button it didn’t start, so I'm just going to ask you to sum up even though we weren’t running the timer.
SHERRI DONOVAN: Sure, that's fine. I just want to state one thing. The alternative solutions or creative options, loans, et cetera, but that doesn't get up into a dispute resolving process with arbitration. Administrative costs, the city mentioned it and I just want to address that briefly. There are so many arbitration processes already in place. There are arbitration associations, mediation associations. It's already in place. It's not that there is such a huge administrative cost for that. This is what's done in business all the time. Thank you.

CHAIRPERSON YASSKY: Thank you.

ALFRED PLACERES: Good afternoon and thank you for this opportunity to speak in support of the bill. My name is Alfred Placeres and I'm president of the New York State Federation of Hispanic Chambers of Commerce. We represent 20 chambers throughout the city. I'd like to take my two minutes to talk about two Hispanic businesses that were back in the day when we tried to do this the last time. Since we never came up with a bill, they're no longer in business. One was Michael's Hardware Store near 103rd Street and
Broadway and the other one was Off the Square Beauty Salon, which was run by my mother who is here in the audience today supporting us. Even though she lost her business a long time ago, she wants to help the hairdressers and beauty salons that are out there today. Thanks for coming, Ma. She's over there in the front row. Michael's store stayed vacant for three years. Three years wasn’t uncommon back then. Has anybody estimated how much the city lost by having the store empty for three years? I think you did Steve. What was it?

STEPHEN NULL: $370,000.

ALFRED PLACERES: I think the bean counters better be listening today. Under the system that we have now it's unfair. It's a discriminatory practice. The new tenant gets all the benefits of the free enterprise system. He negotiates whatever he wants or he walks away to another space. What option does the existing tenant have? It's a take it or get out offer. That's it. We're talking about everything under the sun here. I know you guys are addressing it, but the city doesn’t seem to be addressing the
issue. The new tenant gets all the benefits, otherwise he walks away. He can negotiate. The existing tenant not only has to accept what the landlord says in terms of the rent, but how about all of things that are passed along? They're always complaining about the increases, such as water and real estate taxes, but they don't pay the increases, they pass them along. They could pass along their kid's school tuition and the existing tenant would have to accept those terms because where does he go to complain about that? You can call it something else if that's too blatant, but if they're asking for money under the table and no one is doing anything about that, then why not pay the tuition as well? That's the issue. Why are we treating prospective tenants better than existing tenants?

MIGUEL PARABONS: My name is Miguel Parabons and I'm the president of the USA Latin Chamber of Commerce. I would like to say that the Coalition of Small Business have met with the Small Business office in the city. Ramon Murphy, Sylvia Smith and others from different associations were at the meeting. We spoke to
them about the problem with the leases and
Commissioner Schwartz from the Small Business
Office told us that they were very sorry but they
couldn’t help us. They only thing they could
discuss were creating businesses, loans,
operations. They told us sorry; we cannot talk to
you about this. If you have a problem with leases
this is not the right office, we can only talk to
you about operating. I was wondering how Small
Business says they didn’t know anything about it
when we met with them twice. A lot of people here
were in that room when they told us that this is
not the right place to talk about lease renewal.
This is the place to talk about loans for small
businesses, et cetera. In November 2008, we had a
meeting with business owners. Chairman David
Yassky and Council Member Robert Jackson were with
me. Many of the business owners were startled at
the renewal lease. At that time we decided to
make a survey. With 40 people, we did a survey of
937. It was very difficult. It was wintertime.
We did it from the middle of November to the
middle of January. Of those businesses, 53% told
us they were planning to close their business in
the next few years. Most of them were closing because of high rents. When it came to talk about extortion, 31% of them told us they had been asked for money under the table as a condition to start the negotiation of the lease. More than 20% were afraid to give us information because they didn’t know the confidentiality of our survey. There are 50,000 small businesses thinking about closing today. There are 100,000 businesses owned by Latinos and 500,000 jobs depend on them. We are the first employer in the city. To finalize, if you want the half a million jobs to be lost, do not pass the bill. If you want the crime to continue and around 60,000 businesses to be extorted, then do not pass the bill. That’s all I have to say. Thank you.

CHAIRPERSON YASSKY: Thank you.

Council Member Jackson and then Council Member Martinez both have questions.

COUNCIL MEMBER JACKSON: Thank you. I guess this question is for Steve Null or any other panelists. Do you have any opinion as to what caused the landlords to stop bargaining in good faith with their tenants? You testified that
for 40 years the landlords and tenants bargained in good faith successfully. What happened? Why is it not happening now? Is it because of just greed in order to get as much money as possible with no regard for the tenants or small business? What is the answer in your opinion?

STEPHEN NULL: Three things happened in New York City. The first was that they allowed speculators to flip buildings and they allowed this to go on too long. They didn’t stop it. What happens when somebody goes to buy a building to flip it, they don’t want to negotiate with the tenant. They would prefer to have the tenant out. That’s the first thing that happened.

The second thing was the franchises. Again, the landlord didn’t want to negotiate with the little mom and pop buy because he's going to negotiate a fair rent. He cannot compete against banks and franchises, even though they're going to go out of business. That was the second thing. The last factor was the overall real estate speculation that's encompassed everything, Wall Street, every block, everybody. Nobody wants an average profit. Everybody wants a fortune. So the poor little
tenant who's negotiating and trying to get a reasonable lease, he's caught up with all this speculation and greed. So obviously, the negotiations have stopped.

COUNCIL MEMBER JACKSON: With respect to this particular bill, you've heard SBS and EDC talk about what they're doing for small businesses. Have you heard anyone talk about helping small businesses to renegotiate their leases so they can come to terms? I ask this question of Sherri or Alfred Placeres.

SHERRI DONOVAN: I heard the city mention about offering pro bono lawyers. But that doesn't solve the problem at all because when you go to court, and I've helped many small businesses go to court when they were facing evictions, including a shoe shiner who had been in the Trinity Church for 30 years and the church was evicting him and he basically became homeless after that. The only thing the judge will do is possibly give you two to three months. So having a lawyer in place when there's not even a proper law to protect you doesn't do anything. So aside from that, I haven't heard anything from the city
in terms of a legal process when the lease expires to help the landlord and tenant negotiate a fair rent. I have not heard anything at all like that.

ALFRED PLACERES: The other problem is if you go to court and you're past your lease, that’s called use in occupancy so it's not the rent anymore. Your rent could have been $5,000 and those extra months that you stayed over they could say that's after your lease so that's $15,000 a month. So now you owe $30,000. You thought you owed $10,000 but now you actually owe $30,000. That’s another issue.

SHERRI DONOVAN: Arbitration is nothing to be afraid of. If the landlord is acting reasonable, then why are they afraid to have that type of process?

COUNCIL MEMBER JACKSON: My final question is for Miguel, the president of the US Latin Chamber of Commerce. Critics may question the validity of your survey and saying that it's not really truly reflective of small businesses. What would you say to critics that question the legitimacy of the findings in your survey?

MIGUEL PARABONS: We had 40 people
on the street for two months. We finished with 937 surveys. It was very hard. I can provide any information that they may need in reference to that.

COUNCIL MEMBER JACKSON: The SBS said that they would want to see your backup documents in order to support your survey's findings.

MIGUEL PARABONS: I gave it to them. I gave it to them. I asked if they need any more information and they told me that they are not interested. They are interested in creating bridges between the small Latino business communities. They are not legislatures and this is a problem that we have to face with the small business community. They don’t want to be involved in that. That's what they told us. They were not interested. We invite them to our forums and rally and they never show up.

COUNCIL MEMBER JACKSON: So you've invited them to your forums and they didn’t show up. You've supplied them with the documentation in order to support your survey's findings.

ALFRED PLACERES: Correct. In
front of the coalition and we didn’t have any reaction.

COUNCIL MEMBER JACKSON: Thank you.

CHAIRPERSON YASSKY: Council Member Martinez is next.

COUNCIL MEMBER MARTINEZ: Thank you, Mr. Chair. I skipped this question because I really didn’t appreciate both the agency and the administration first of all not saying clearly whether they support the bill or not and then just talking about various programs that we already know about. However, you brought up something very important which is that you questioned them on whether it is constitutional or not for the city to do that. Can you offer some information to that?

SHERRI DONOVAN: Absolutely. Yes, this is a capitalist market but we have government to balance interests. Whenever there is a public interest, the government has the right to step in with reasonable regulation. This is so minimal. This is just sending them to an arbitrator process to negotiate. This is not established rent. This is not a percentage. This is not even a tax.
Look at the regulation that the city does and no one says boo or challenges it in court, right? We have real estate taxes. Now, some people could say you're interfering with my property rights because you're charging my property. We've had property taxes for quite a while in New York City and quite hefty ones, by the way. So no one challenges the taxes or they have and they lost. We have various regulations about environmental concerns and that has been upheld. So this is not even a definite control. This is simply a process and you still have the right to go to court if you do not like an arbitrator's decision. If you think it was arbitrary or there was bias, you still have another process. This is the most democratic process that America was built on. It is checks and balances. Using mediation, using negotiations and then the court process and government balance. This is not even a legal issue. It's not a definite control of a piece of property.

STEPHEN NULL: I just want to add one quick thing. Of all the bills, Councilman Jackson's bill is the simplest form that we've
ever had. No government involvement, no
speculator involvement. There are no government
procedures. By the way, the costs are split
between the landlord and tenant. There are no
costs to government.

SHERRI DONOVAN: Can I just say one
more thing briefly? It's not even like the tenant
situation where you have a rent control board that
sets rents. That might be an administrative cost
and it still might be worth it because of how
these businesses are suffering, but we're not even
going there. This is a very simple business-like
arbitration process, minimal cost and minimal
intervention.

COUNCIL MEMBER MARTINEZ: Thank
you. Mr. Chair, I bring that up because we have
precedence in the Council with legislation that we
approved when we enacted legislation and the mayor
signed it that required businesses in the City of
New York, particularly supermarkets. I remember
the debate clearly. The original bill required
independent supermarket owners to provide health
insurance to their employees. The bill was worked
down to be 10,000 or 7,000 square feet supermarket
would be exempt. The issue was brought up whether it was constitutional of not for government to intervene in telling a small business owner to provide health insurance just based on the size of their business. So I'm also wondering, Mr. Chair, and the main sponsor, Council Member Jackson, as we continue to work on this bill if we need to look at the definition of small business just as we did with the supermarkets. The issue of whether it's constitutional or not, I would be interested to compare it to what the council did with the health insurance act for supermarket owners in the City of New York. Thank you, Mr. Chair.

CHAIRPERSON YASSKY: Thank you for that point. The committee will ask the administration witnesses for follow up explaining their claim in their testimony that there is a legal problem here. I don’t think you can say that and leave it at that. If there is a legal problem let's hear and understand what it is because I didn’t hear any specifics about it, as you rightly point out. We will do that follow up. Thank you, Council Member Martinez. I have two
questions and then we'll hear from the next panel.
On the key money issue, I'm curious whether you
can educate us because it's unethical and just
unsavory, but is it illegal for a landlord to
demand an upfront payment prior to lease renewal?

SHERRI DONOVAN: I thought that was
a great question when you asked the city.
Basically now they can put in the contract
whatever they want. Now you could make the
argument that that money is not in the contract
and therefore it's not legal. But even if there
is a criminal regulation on the book prohibiting
it, which would be hard to enforce.

CHAIRPERSON YASSKY: I'm just
saying but is it now illegal?

SHERRI DONOVAN: Now? No.

CHAIRPERSON YASSKY: I don't think
it is, right?

SHERRI DONOVAN: No, there is
nothing illegal now because basically there is no
regulation concerning what a landlord can ask a
tenant for.

CHAIRPERSON YASSKY: Just to think
out loud. If you prohibit an upfront payment, is
that really doable? You certainly can require a security deposit upfront. Can you require the first year of the lease to be paid in advance? I'm not sure how you would go about prohibiting key money.

SHERRI DONOVAN: How you would enforce it, yeah.

CHAIRPERSON YASSKY: In essence, if somebody says, "I want you to pay $2,000 a month plus $10,000 up front key money", if you prohibit that they could just say, "I'm making it $3,000 a month and you have to pay the first four months up front."

SHERRI DONOVAN: My thinking, Council Member is that without an arbitration bill, there are two problems. One, creative lawyers can basically put in any term they want and get the payments in any way they want. Two, it's not even in the contract and they know that they have to power to evict and you'll lose all your family money to build up. Don’t forget, the fixture is the inventory you put in. People say well just move across the street. Is that so easy? I don’t think so.
CHAIRPERSON YASSKY: And then let me ask you this last question.

SHERRI DONOVAN: I just have to mention one thing, David. I'm sorry. There was a hearing about the legality of the arbitration bill. This is not new. Nothing stopped it. There has been a hearing before right in this room.

CHAIRPERSON YASSKY: One concern I have about the bill is whether it would backfire. If you're a landlord and you know that a tenant is going to have the right to go to arbitration before renewal, you would not take a risk on a smaller tenant that you don't know if they're going to stay in business. Maybe then whenever you have an empty store, you'll insist that it be Chase Bank or Rite Aid Drugs.

SHERRI DONOVAN: They do it now anyhow. Look at Henry Street where we live. The whole row is empty. All of those stores are empty. It's already happening so I don't know how much worse it could get. At least with arbitration they have to deal with some type of tenant and go through some type of process. I
don't think they would think that far ahead.
Well, I mean they're doing it now anyway. They're keeping it empty or they're just dealing with Banana Republic in the East Village instead of those great Polish restaurants. Look on Atlantic Avenue the Jamaican woman who owned that place for 30 years. She kept paying the rent increases and then finally she couldn't do it anymore. She's going back to Jamaica.

CHAIRPERSON YASSKY: Thank you.
Thank you very much to this panel. The next panel of witnesses is Pat Purcell from Local 1500 of the UCFW; Chejin Park from the Korean American Small Business Task Force; Brad Lander, and I don't know if he's speaking on behalf of any organization at this moment; and Margaret Chin representing Chinese businesses. Please proceed. Again, you can go in the order that I called you want a different order, you can decide among yourselves.

YOOSUN NA: Good Afternoon. My name is Yoosun Na. I'm an intern representing the Korean American Voters' Council, which is a nonprofit, nonpartisan, grassroots community organization dedicated to registering, educating,
and advocating Korean American voters in New York City. Since its establishment in 1996, the Korean American Voters' Council assisted more than 13,000 Korean Americans to register to vote. And this number is growing every day. As you may already know, more than 80% of Korean American registered voters are working for small businesses. On behalf of the 18,000 Korean American voters in New York City, the Korean American Voters' Council would like to highly commend and appreciate Councilman Robert Jackson and 28 co-sponsoring council members for spearheading with the Small Business Survival Act. As you already know, small businesses are the engine of the New York City economy. Small business owners have been investing their whole lives into the small businesses, working hard from early morning to late night, seven days a week. Small businesses have been developing and keeping our community viable and sustainable by providing jobs, services, and tax revenue. However, for a very long time, under the shade of large corporations, small businesses were left without any protections from landlords' unreasonable lease renewal terms.
and conditions. There are numerous former small
business owners who hopelessly and helplessly lost
their small businesses simply not having an
opportunity to negotiate with landlords in good
faith. Now, amid economic recession, it is the
right time to help New York City small businesses
to survive by giving a legally guaranteed
opportunity to negotiate in good faith with
landlords to renew the lease. With the Small
Business Survival Act, landlords have nothing to
lose but malicious intent to take advantage of
their tenants.

CHAIRPERSON YASSKY: Pardon me, I'm
sorry to interrupt again. This is my fault. I
didn’t start the clock, I just set it. I'm going
to ask if you can just sum right now.

YOOSUN NA: Okay.

CHAIRPERSON YASSKY: Thank you.

YOOSUN NA: We believe the Small
Business Survival Act would make a fair commercial
lease market by correcting the market distortions
by overwhelmingly strong bargaining power of
landlords. On behalf of the 18,000 Korean
American voters and small business owners, the
Korean American Voters' Council strongly supports the Small Business Survival Act. We urge Chairman David Yassky and Small Business Committee members to move quickly to pass the bill and also strongly request Speaker Christine Quinn to take a floor action for this bill as soon as possible. Thank you for your time and consideration.

PATRICK PURCELL: They're going to try not to electrocute me. Hold on a second.

Good afternoon, Mr. Chairman and members of the committee.

CHAIRPERSON YASSKY: You have only friends here, not enemies.

PATRICK PURCELL: My name is Patrick Purcell and I am Assistant to the President for United Food and Commercial Workers Union Local 1500, New York State's largest Local Union representing grocery store workers. UFCW Local 1500 represents over 22,000 workers employed by Pathmark, Stop and Shop, King Kullen, Gristedes, Key Food, D'agastinos and Fairway Supermarkets. Over 10,000 of our members reside here in the city. United Food and Commercial Workers Local 1500 supports passage of the Small
Business Survival Act. We support this bill because it will preserve union jobs in smaller supermarkets like Key Food and D'Agastinos that ensure basic necessities to New York City residents. The Act will guarantee that tenants have the right to bargain in good faith with landlords to arrive at fair lease terms. By passing the Act now New York City can take an important step to ensure that small businesses and good jobs are preserved. In particular, supermarkets, with small profit margins, suffer from the same lease renewal issue as many small businesses. During the last few years supermarkets have shut their doors in neighborhoods all over the city because they could not afford rent increases. Supermarkets all over the City have been replaced with pharmacies that have lower overhead costs but that don't provide healthy food and job quality is poor. Without a fair lease-renewal process, union workers have lost their living-wage jobs, and communities have been left with nowhere to turn to for healthy, affordable food. Last year, for example, we fought a battle in the Bronx with the help of
Council Member Palma and Council Member Mark-Viverito and a number of folks that are here to preserve a Supermarket that does over $2 million dollars a year in food stamps and has over 100 union employees. In this case, the developer was trying to raise the rent to $50 dollars a square foot. This is an amount that no grocery store could afford. Leaving the store with the option to either pay workers less and charge consumers more or close the doors on one of the only supermarkets in the area. After months of community outrage and organizing and with the support of so many of you, we were able to put enough pressure on the developer to negotiate a fair lease renewal and rent. At a time when New York City's unemployment rate is 9%, the city council needs to pass legislation that will preserve existing jobs. It's just that simple. Thank you.

BRAD LANDER: Chairman Yassky, Council Member Jackson, Council Member Mark-Viverito and other Council Members here, it's wonderful to have this opportunity to testify. I'm Brad Lander. I'm a Senior Fellow at the Pratt
Center for Community Development. I believe you'll be hearing later from Adam Friedman, the new Pratt Center director as well and a candidate for City Council. The Pratt Center has done fairly extensive research on the topic of small business preservation. I know the research has been presented before and that Adam will talk about it a bit. They've done a comprehensive survey around the country of policies that have been used to try to address small business issues. I believe that one being proposed here today of a fair lease renewal process comes out high up at the top and I strongly support it. As you know, the challenges facing small business have grown from a problem to a real crisis in the city. During the boom we saw one half of that crisis as more and more people were pushed out and now in the economic downturn we're seeing the other half. But you're still seeing a stunning number of places where when a lease renewal comes up, what people are being forced to do is absurd. Just in my neighborhood, Sound Tracks, a great local music store was just forced out last month. Then you hear the grocery stores as well. I think we're
losing those businesses that both feed our bodies
and feed our souls. If we don’t do something
about it soon we’re going to lose them more and
more and more. The City's Department of Small
Business Services, as we've heard, have many fine
programs, but the evidence is before our eyes,
they just aren't working to save mom and pop
businesses in our neighborhoods. So something new
and serious is needed. This is a meaningful
departure from practice as we now have it. I mean
I don’t think we should minimize that. It is not
all the way to residential rent regulation or
commercial rent control, which perhaps is needed,
but it is a significant step. I just think the
evidence is there before us if we let the free
market reign, we know without any additional
regulation what it's going to continue to give us.
In two years, three years, five years, we'll be
back here with fewer of the small businesses that
make our neighborhood great, with fewer of the
jobs that we have here today. So let's put in
place this one very reasonable additional
regulation. I can just imagine what we'd be
saying if we were trying to put for residential
rent regulation. We'd be hearing the diversity of
our city isn't worth this additional regulation
that we have. We've got a much more modest one
here. We ought to get started with it. Thank you
very much.

MARGARET CHIN: Good afternoon.

Thank you for the opportunity to testify before
you. My name is Margaret Chin. I'm also a
candidate for City Council. I've been a longtime
community activist and I'm also a founding member
of the Chinatown Partnership Local Development
Corporation that was formed after 9/11 to help
revitalize the businesses in Chinatown. I just
wanted to add my voice to support the Small
Business Survival Act. Everybody is talking about
the small businesses being the backbone of the
communities and that they helped create jobs.
What's happening in Chinatown is that we're losing
a lot of our long term businesses. I mean
recently we had a very well known hardware store
on East Broadway. All of the sudden it closed
down and a lot of long term jobs were lost. In
its place is this micro mall. A little space
that's carved up into little cubicles that
landlords charge exorbitant rents for. Imagine the little space and you have to pay $3,000. If you have a front space, you have to pay $5,000. A lot of these stores are not surviving. We also had an Asian supermarket that just closed down a couple of weeks ago. In its place will be another one of these little micro malls. How many little odds and ends can they sell and survive? We also are losing the authenticity of Chinatown. We're getting Starbucks. We're getting Subways. A lot of the coffee shops that we have are closing. So we are really in a crisis situation. This bill is only a small first step. We're not even talking about regulation; just have an open process where a business owner has a right to negotiate. Right now what's happening is every time the lease renewals come up, landlords are asking more than double. The hardware store that I mentioned had $8,000 rent a month and it went up to $20,000. They couldn't survive. That's why this bill is necessary and is only a small step and we've got to get it passed. Thank you.

CHAIRPERSON YASSKY: Council Member Mark-Viverito has a question.
COUNCIL MEMBER MARK-VIVERITO:

Thank you, Mr. Chair. I want to thank all of those that have testified. I'm very proud of the fact that we're having a hearing on this legislation. I'm very proud of the fact that Robert Jackson has introduced this. I've signed on as a sponsor, as many of us here have. I'm not on this committee but I felt compelled to come because I really this it is an important proposal. I wanted to ask one question to Brad Lander. I know that Pratt is going to discuss this a little bit later. Obviously you were there for many years and I know that we engaged when I was doing a land use item in my district to where we were looking to carve out in a major development carving out space specifically to preserve small businesses in our community. We asked you to come in and give us a presentation as to what was happening in other cities throughout this country, what other initiatives and proposals were happening that were looking to help preserve our existing small businesses. We obviously have intent on passing this. We're going to be very firm and very strong. As a Council we have a
responsibility to represent all sectors in this city and not just a select few, which I believe is what has happened with this administration. We are here to also represent the tenants, to represent the small business owners and to do what we can to preserve this vital backbone in this city. We are interested obviously in this, but what other things could we do, based on research that has been done, to take this a step further? I think that obviously is important and we're very much committed to that.

BRAD LANDER: It's a great question. Earlier there was a panel mentioned that Borough President Scott Stringer convened with a bunch of good recommendations. Quite a lot of them go very well with this legislation today. There are a number of different cities that use some form of tax benefit so that either a tax landlord that is providing a fair rent and helping somebody stay is able to get some kind of tax benefit, and they may be charging a slightly below market rent. Maybe you give them a little bit of the difference between what they're charging and what they could be charging off their property
taxes. That would go great here. If they reached a deal and somebody was even willing to come a little bit below what the arbitrator said, maybe you'd be willing to give them a little tax benefit. So you could combine those two things, so tax benefits are one. When the city is doing its own development, there obviously could be an opportunity to create real spaces for small businesses. That was one of the things we highlighted in a report we did. There is a great development in Minneapolis where the city did a significant development and created a whole kind of plaza for small business operators of many different ethnicities and many different products. It really kind of revitalized that neighborhood. There are a number of different ways you can do things. On the supermarket side, there's the preservation of existing supermarkets and then there are so many places where we have to create new supermarkets and you're going to need different tools to do that. The one thing I'll say, especially about this legislation is compared to the others, it really doesn't cost any more. Giving tax breaks is going to cost additional
revenue. If you use something in the city's development process you're talking about a relatively small number of new small businesses and in concentrated places and this is taking place throughout the city. So giving a more level playing field to small businesses everywhere in the city without significant additional cost I think is part of what recommends this. But I do think, as Margaret said, it needs to be more. This has got to be a first step of doing a real range of things.

COUNCIL MEMBER MARK-VIVERITO:

Thank you.

CHAIRPERSON YASSKY: Council Member Martinez and then Council Member Palma have questions.

COUNCIL MEMBER MARTINEZ: Council Member Mark-Viverito sort of alluded to my question. You work closely with my office having to do with affordable housing and zoning issues. During your time there, has the institute made any recommendations or studies? I know you mentioned some of the issues we brought up in terms of the commercial rent control and so forth, but as an
option alternative to deal with the immediate problen. I know you're no longer there and you're looking for higher and better things. Are there any recommendations that have come out of the institute? Just tell me if you could answer the question or not.

BRAD LANDER: We'll send it to you in a follow up. I am still there. I'm still a Senior Fellow at the Pratt Center. I know Adam Friedman was here earlier, the new director, and I think he's going to give testimony.

COUNCIL MEMBER MARTINEZ: Okay, so I'll wait.

BRAD LANDER: We catalogued the policies being used all around the country to do this and we'll send everyone a copy of it as a follow up. This is one of them and we think a great one, but we did catalog the others and we'll be glad to provide you all the information.

COUNCIL MEMBER MARTINEZ: Thank you.

COUNCIL MEMBER PALMA: Thank you, Mr. Chair. I represent the 18th Council District in the Bronx and the majority is small business.
I have one Pathmark, Macy's and Kmart, but other than that it's the local businesses that have been there for years and years and years. Landlords will not do this to a Target or a Kmart. Have any of the small businesses reported this to the IRS? There has to be some sort of backlash in terms of the IRS. I'm pretty sure if the IRS got wind of this, the government would definitely be all over it. Do we know if they've tried to do that?

MARGARET CHIN: I think among a lot of them, especially the immigrant small businesses; they're trying to continue the business. A lot of times because they want to stay there, they pay the money under the table. They're not going to report it because they're concerned that they're going to lose everything if they can't stay in that place. It's easy to say they should report it, but it's not happening. The same thing with landlord tenant issue, it's the same issue. But if government can step in and have an open process and then educate people that you have a right to negotiate for fair rent openly, I think that will help the process and it will help open up the illegal practices that are
going on in our communities. Government needs to step and say let's open up the process, let's make it transparent. So not everything under the table, but open up, the negotiation, the arbitration, it's public. This way I think it will help solve the problem in the long run.

BRAD LANDER: I might just add one thing that was very clear from the testimony and the conversation earlier is the need for some enhanced investigation. When the state attorney general stepped in to look at wage issues in some small businesses, some real changes started to get made. I don’t know who it is here that needs to step in and investigate, whether it's the IRS, whether it's the state attorney general, whether it's a city investigative agency. There are clearly things going on that no one has got information on enough to answer the question. The survey that was done is obviously one great step, but having a government agency in is critical. I don’t think we know.

CHAIRPERSON YASSKY: What standard would we expect an arbitrator to use? I mean if I'm the small business owner, and I've been paying
$2,000 a month and the landlord wants it to go to $4,000. The landlord comes in and says Duane Reade will pay $4,000 a month for this space. Do we expect the arbitrator to then say $4,000 is the rent? Do we expect the arbitrator settle on a rent that is what the market will bear in that area or below what the market will bear?

BRAD LANDER: When the legislation speaks to fair market, to looking at a range of factors, including costs and operating costs, but it definitely includes fair market rent as part of that.

CHAIRPERSON YASSKY: Is a range of factors intended to say that the arbitrator would settle on a rent that's below market or do we expect the arbitrator to settle on a rent that is market rent?

BRAD LANDER: As I read the legislation, it speaks to fair market rent which I think is one of the challenges here. That's why I think it's not actually anywhere near as onerous as it might be. This does not, at least as I read the legislation, push anyone or require anyone or set up a process where they would be expected to
take less than fair market rent. There will be a lot of cases where that won't end up leading to the preservation of the business to be honest. If the arbitrator finds that fair market rent is indeed 50-100% higher, then the arbitrator is going to say you can renew at that or I'm not going to sign off on a renewal. It's why I think we need more. If we're going to ask an owner to take something less than fair market rent, then I think the burden is on us to figure out what else we're going to do to incentivize that. As I read the legislation, it does not require that.

CHAIRPERSON YASSKY: So why do we think then that this would save small businesses rent? As long as the landlord can go to the arbitrator and say somebody will pay me $4,000 a month for this space. If these guys won't, somebody else will. Then why do we think this will save them anything on rent?

MARGARET CHIN: I think what's going on right now is that some of the small businesses don't even have the opportunity to negotiate. They have a lease and there is no option to renew.
CHAIRPERSON YASSKY: If the rent is $2,000 a month and the landlord says I want $4,000, when you say they don’t have the opportunity to negotiate, what do you mean by that?

MARGARET CHIN: With the example you're giving, maybe it's reasonable. But what we're looking at in our community is much more than that.

CHAIRPERSON YASSKY: Give me an example.

MARGARET CHIN: The one example that I gave it was $8,000 and now they want $20,000. That’s more than double. Sometimes the landlords are not basing it even on fair market, it's based on what they think they can get. Some of the landlords are willing to leave the storefront empty until they get somebody else that can come in and pay that rent. We have on storefront right now on Mott street that after 9/11 the restaurant that was here couldn’t make it and then another one couldn’t make it. Well the landlord just left it vacant because he was asking like $30,000 a month rent.
CHAIRPERSON YASSKY: Why do they do that?

MARGARET CHIN: They figure, if I can't get it, they save money on their taxes or whatever. They left it empty. They're waiting for somebody. Right now what they did was instead one space, they carved it into three spaces now. So now they're going to rent it out as three different things. Maybe that's what they intended to do all along, but meanwhile, the business that was there disappeared. At least with this, with the arbitration, at least you have some negotiation and some discussion to get some reasonable amount of rent. Right now they ask for whatever they want to ask for.

CHAIRPERSON YASSKY: Thank you.

BRAD LANDER: Pat could speak to one instance where the process of negotiation preserved a business and I think you'll see that in a meaningful number of places where going through this process encourages people to come to a deal rather than evict and take their chances in the marketplace.
CHAIRPERSON YASSKY: Thank you. I'm sorry; Council Member Mealy has a question.

COUNCIL MEMBER MEALY: I want to thank the chair for having this hearing. We've come a long way, we have 28 signatures now. I salute you. Congratulations. Is there anything in place right now that some committees here are checking into that instead of letting the store owners just leave the stores vacant that will prevent them from splitting up those stores and still make money and let it be a fair market rate? Is there anything in place that will prevent them from splitting it into and now collecting rent from three different tenants? Is there anything in place to make sure that does not happen? We have to put them in a particular situation as well. If they don’t want to keep the rents at a market rate, we should not be letting them split up their store and rent it out to others. They should be doing it legally. Do you have an organization in place for checking that? If you don’t, we should start. Thank you so much.

CHAIRPERSON YASSKY: Thank you, and thank you to the panel. For the next panel, we
will hear from Ramon Murphy from the Bodega Association of the U.S.; Alfredo Rodriguez from USA Hispanic Chamber of Commerce; Sung Soo Kim from the SBC; and Luis Parra from Latin Association of Tax Preparers.

RAMON MURPHY: Thank you, Mr. Chairman David Yassky, and the members of the Committee on Small Business, for asking me to testify on the "Small Business Preservation Act."

Thank you, Mr. Chairman Yassky. My name is Ramon Murphy. I am the President of the Bodega Association of the United States, and currently own a bodega store in Hamilton Heights, 134 Hamilton Place. I've been working 25 years in bodegas. We, the members of the Bodega Association, represent about 11,000 bodega owners and, all together, about 50,000 workers living and working in the City of New York.

Directly or indirectly, about 200,000 people depend on us, and on the success of our businesses to live or survive in this great city of New York. As the numbers show, our industry is big. It is an important part of New York. Therefore, if New York City is having
problems, we are having program. For example, Jetro Cash & Carry, the wholesaler of our industry in New York City, reports that weekly 20 bodegas are closing. Only this year, 9% of all the bodega will be closing. This is a crisis for the city, for the sector I represent, and for the health of all New Yorkers. The members of the Bodega Association of the United States are not against the commercial landlords. Landlords have given us the opportunity to flourish our business. They are our partners, and we want them to flourish as well. A process that is fair to both, the landlord and the tenant, and a process that helps the city and its residents retain the great service that only small business, like bodegas, could offer them. It is important to keep bodegas open because we do not want them to become in "bodega deserts". Try to imagine Fulton St in Brooklyn Heights, Williamsbridge Road and Grand Concourse Avenue in the Bronx, Roosevelt Avenue in Jackson Heights, Broadway in Washington Heights and other important roads without bodegas. That's going to be a real desert. Now, allow me to go to the heart of the matter. This bill will create an
essential toll for bodega owners to survive and weather this economic crisis by regulating a process of lease renewal. Currently, this process is unjust. What is happening in most cases is a process of, first, extortion, and second, if the lease gets renewed, the result is a rent so high that suffocates to extinction our businesses. You have to remember that bodega owners do not have money for expensive lawyers to negotiate for them a fair lease, like other corporations that can have an expensive lawyer. Our business does not resist such change. We have to stay and pay the out-of-the-market new rent, or to leave our savings, equity and equipment inside the premises, walking away with nothing, laying off people, and forgetting our New York dream. I would like to close my statement with a challenge to all Council Members. The Council Members have to go personally into in your district and ask them to tell you, in private, and with honesty, how they got the new renewed lease. Do your own research, and you will find extortion and rents impossible to pay in this market. Mr. Chairman and all the members of this committee, this bill represents a
good public policy for the City of New York. It is a very smart way to provide more justice and a smart solution to the economic and health crisis that the city is suffering.

COUNCIL MEMBER MEALY: Thank you, Mr. Murphy. We have to give the others an opportunity also. Thank you for your testimony.

ALFREDO RODRIGUEZ: I am Alfredo Rodriguez of National Supermarket Association, Board of Director of United States Hispanic Chamber of Commerce. We have about 400 supermarkets in the City of New York. Some would say 400 supermarkets in the City of New York, which is Seed Town and Fine Fair and all of those pioneers. We have to go back and look at history and see that we took all those stores that were abandoned by the Red Apple. They felt that it wasn’t good for them and they weren’t making a profit. They just abandoned them and left. I had a bodega in 1985 and the sacrifice we go through is amazing. I remember getting held up twice in less than 30 seconds in Jamaica. They talk about 15 and 16 hours. That’s not even the hours because we have to go to the market and buy some
of the products or we have to go and get things
before we open the store. What I'm trying to say
is that we talk about fair market value, what is
fair market value. Fair market value is the rent
that the neighborhood is paying, not what the
landlord is asking for. For example, I'm probably
on both sides of the fence because I own property
too and I've done leases. When I do a lease it
will say based on fair market value. How do I
look at fair market value? It's looking it on the
totality of what rent is being paid in the area,
not what the landlord wants. I could tell you
that when all these drug stores like Rite Aid came
in and I was paying $6,000. They go in there and
tell the landlord they would give $30,000 to let
my lease die off, that's not a fair market value.
That's almost six times the amount of the real
number. I'm just saying that I support this. I
believe in it. The small business is the backbone
of the community. When everybody else leaves,
we're still there. In this bad economy, we're not
letting any of the workers go like corporate
America is doing.

COUNCIL MEMBER MEALY: Thank you.
SUNG SOO KIM: Council Member

Mealy, Council Member Mark-Viverito, and Council Member Martinez, but where is the chairman?

COUNCIL MEMBER MEALY: He stepped out for a second.

SUNG SOO KIM: Thank you. My name is Sung Soo Kim. I'm the president of Korean American Small Business Service Center of New York, Inc. At this hearing, I represent the 9,500 Korean American mom and pop stores in the city. Let me just give you, because of the time limit, the predicament of new immigrants businesses. We have 80% of mom and pop stores in the City of New York. They don't speak English as the mother tongue. Contributions made by new immigrants were recognized here and there, even Mayor Bloomberg and the Council Member. We are fainted, we just feel dizzy because there are so many. You people are doing good things. Fine, but what's the reality? Before we came to the United States, in Korea we learned American spirit and the way we could be treated in the United States. They said if you work hard you will be rewarded. This is the basic spirit of American. But think about the
rent situation. All the legislators and leaders are talking about loans. We don’t need loans, we need protectional rent. We came here with good spirit and showing the latest of revitalizing the fading American business ethics. We work hard. We created all the market values in Flushing, Jackson Heights; you name it, in Brighton Beach. We revitalized this market. These days, when the lease renewal starts, we are ending up, with the skyrocketing rent increases, we cannot afford to pay. We worked hard. There is something wrong. We are dumped by the increase. If not, they ask us to give money under the table. Mr. Lee asked for $50,000, $30,000, and he doesn’t want to testify because they're afraid of their landlord. But this is a true story. There are three things we really want. They are very simple things. Council Member Jackson bill guarantees these three things. We need protection from extortion. We need some room for both landlord and tenant to sit down and negotiate. This is the American way. If you ask the landlord why he increases the rent, he says, "Because I say so." He's a king. This is not American. We need to increase the right for
renewal of the leases. For example, we have a
Laundromat in the Bronx, a Korean guy created a
$300,000 value laundromat. The greedy landlord
let the lease expire, kicked the Korean Laundromat
owner out and this guy sold for $300,000. There
is something wrong in the city. We need the
protection. We fully support the Small Business
Survival Act. It's got to be done. It's a very
simple thing.

COUNCIL MEMBER MEALY: Thank you so
much.

LUIS PARRA: Good afternoon, my
name is Luis Parra. I'm the president of the
Latino Association of Tax Preparers. We are
nonprofit professional organization representing
the Latino tax professional in New York City. I
am here today to express our support to this
important bill. It is critical for the
preservation of the small businesses in our city.
Today, most people are speaking of small
businesses like bodegas, Laundromats and other
businesses. You have to take away this
information. We have around 96,000 small
businesses in the service sector like lawyers,
accountants, tax professionals, doctors, dentists, engineers, real estate, day care providers, cleaning services, beauty salons, and others. This bill is going to protect these kinds of businesses along with the businesses we've heard of today. According to the New York State Department of Labor, this section of the professional businesses has 583,000 employees by April 30, 2009. That represents 30% of the total of the sector. That means our sector is very important. Our professionals face the same thing as bodega owner and other small business owners. We have a very high cost of operation in the city with rent, property taxes, state and local taxes. In the past five years, 74% of the businesses that have closed are due to high cost of rent. If you add to this factor the amount of money that some business owners have to pay for the landlord to maintain the lease, the result is out of proportion. This bill brings an opportunity to the business owners to negotiate in good faith with the landlord. We strongly support this bill.

COUNCIL MEMBER MEALY: Thank you.

Do any of my colleagues have a question? We want
to thank you so much for coming out and letting us understand exactly what we need. Thank you. Can we have the next panel?

CHAIRPERSON YASSKY: The next panel is Michelle Burkhart from the Arts Community; Quenia Abreu from New York Women's Chamber of Commerce; Loebe Julie, from Julie Research Labs; and Richard Hu.

LOEBE JULIE: My name is Loebe Julie, president of Julie Research Laboratories.

COUNCIL MEMBER MEALY: Could you introduce yourself? I heard something, but could you push the mike closer to you?

LOEBE JULIE: We all know about the wonders of small business.

COUNCIL MEMBER MEALY: Your name.

LOEBE JULIE: There is one other wondrous small business that I want to talk about now. I'm Loebe Julie. The other wondrous small business is that small business is where most of our inventions and new ideas come from. People like Thomas Edison who invented the electric light, Alexander Graham Bell who invented the telephone, Orville and Wilbur Wright who invented
the airplane; they all started out as small businesses. I started in Washington to campaign for what I called tier two, which was the high technology small business which creates all of these inventions. When you start out a small invention business, as I did, you have all of the same problems with lease renewal that we've been hearing about today. Let me tell my story. I graduated from City College in New York. Through hard work I was awarded 40 patents for my inventions.

CHAIRPERSON YASSKY: Sir, your whole testimony is on record, if you could please summarize.

LOEBE JULIE: I went from being a small business inventor to starting to manufacture my inventions. So when you start out a small business invention company, you become a manufacturing company. Most of my language in this paper is about our experience when we were manufacturing our products. Our products were advertised all over the world and produced and sold all over the world. I was invited to lecture in England, France, Germany and Russia about these
new inventions. Our New York City small business was also listed in Who's Who in the world. When I started Julie Research Laboratories, I chose New York City for my company location because I believed New York to be ideal. It is full of colleges and universities and a whole series of technical schools.

CHAIRPERSON YASSKY: Mr. Julie, your whole written statement is here. It is included in the record, so I'm going to ask you to stop reading at this point and we'll hear from the rest of the witnesses and then we can have questions and answers.

LOEBE JULIE: I couldn’t hear that.

QUENIA ABREU: He said that they have your statement and he needs to give time to the rest of us and then he's going to ask questions and perhaps they could ask questions to you then. They already have your testimony.

LOEBE JULIE: You have the testimony.

CHAIRPERSON YASSKY: Thank you. We'll hear from the next witness. Thank you.

LOEBE JULIE: Thank you.
QUENIA ABREU: Good afternoon. My name is Quenia Abreu. I'm the president of the New York Women's Chamber of Commerce. I would like to thank the City Council for giving me the opportunity to present my testimony in favor of the Small Business Survival Act. I would like to give special thanks to Council Member Robert Jackson for introducing the bill and to the Small Business Committee for this hearing. We often here the phrase "Small Businesses are the backbone of our economy", yet the city is doing nothing to protect them from going under. It is like going around saying "the children are the future, but yet we don't protect them and let them die one by one every day. Every day, our small businesses are dying because the city has failed to protect them. And every time a business dies, parents lose their ability to feed their children and pay for their college education. Our small businesses cannot continue to pay the exorbitant rents, the excessive amount of commercial real estate taxes that are passed on to them, nor can they cope with the unreasonable demands that a lot of the landlords are making to renew their lease.
Furthermore, when they get the landlords to renew their lease it is usually a three to five year lease, not much time for a business to recoup its investment and make a profit. Plus keep in mind that no financing institution will give a loan to a business that has less than five years remaining on their lease. Business loans have a five year term usually. Everyday we get calls and visits from women in business desperately looking for help to deal with the lease and rent situation. One of those women is Albania from the Albania Beauty Center in Washington Heights. Albania pays over $3,000 in rent a month and 19,000 in real estate taxes a year. Rudy Saldana, who owns a beauty salon in the Bronx, pays $24,000 a year in real state taxes alone. Daija, had to close her restaurant "It's a Dominican Thing" in Chelsea last year because she could not pay the high real state taxes, Awilda, the owner of Angel Eyes, an optical lens store, was forced to move her business after her lease expired because the landlord wanted her gone, and Ingrid, who is here with us today as well, lost her business because the landlord failed to give her a lease after
taking $14,000 from her. We hear these stories all day long, women having to close their business and others at risk of doing so. These situations could have been prevented if the landlords and the tenants had negotiated a lease that was favorable to both parties. Unfortunately, at this moment only the landlords are the ones doing the negotiations and are not doing it in good faith.

In a recent survey conducted by the New York Women's Chamber of Commerce, we found that 500 businesses in Washington Heights and Inwood have gone out of business, and that is only counting those businesses that were located on the first floor. We have not yet completed the survey. Harlem has already reported that more than 800 small businesses have gone out of business. As you can see those are huge numbers and if you consider that those businesses provided employment to an average of three to four individuals with families, the damage and lost is quite considerable. Our small business owners are losing hope and faith in our city.

CHAIRPERSON YASSKY: I'm going to ask you to sum up as well.
QUENIA ABREU: While I visited with some of them this past week, they professed their frustration and their lack of trust in our city government. Nonetheless, I assured them that things are going to change for the better because we have a pro small business City Council that cares about saving our small businesses and it is going to do the right thing by passing the Small Business Survival Act. Thank you very much.

MICHELLE BURKHART: My name is Michelle Burkhart. I'm the director of Dance NYC and I'm here today representing arts organizations in New York City. I am here today on behalf of our city's arts organizations; represented in our city by actors, musicians, dancers, visual artists, stage technicians, costume designers and graphic artists, as well as other small business and nonprofit organizations that are suffering from the abuses and unfair excesses of unregulated commercial lease renewal process. The Small Business Survival Act would give protection and rights to those that have been marginalized and taken advantage of when looking to renew their commercial leases. As the director of a service
organization that supports over 5000 dance artists and over 500 dance companies, I can tell you that this is a problem in our community that has been occurring for several years and continues to perpetuate at an increased rate, especially during these challenging economic times. Our organization, as well as many others, has been directly impacted by the abusive behaviors of landlords and real estate companies that are prioritizing their profit margins over maintaining the rich and vibrant cultural ecology of our city. In 2002, our organization entered into a 5 year lease in an office space in Soho. We conducted our business but also provided affordable subsidized office space for 5 smaller companies, as well as conference room for other members of our dance community. In 2007, we were offered a renewed lease at double the amount of the original rate. We were notified less than 60 days in advance, even though we had made requests up to six months in 6 months in advance. This left little time for us to relocate not only ourselves but find alternative space for those organizations we were housing. We appealed to our landlord
explaining that we were a nonprofit arts organization struggling to make ends meet. We also reminded the landlord that we happily occupied the space when they were challenged to find tenants post 9/11. We were still declined. Our example is just one of many similar situations that have significantly impacted the arts and the nonprofit community. In April of this year, Paul Taylor Dance Company lost its Soho facility and home for 20 years due to an expanding Banana Republic store. When artists are refused renewals on their leases, it is not only a loss to the artist but to the community, because well established studies show that local business community economies thrive with the presence of arts organizations sharing their neighborhood space. The passage of this bill would create a fair commercial lease renewal process which would save existing jobs as well as create healthier business environments to encourage business expansion and create more new jobs. It would restore order in the commercial marketplace and bring back a reasonable means for businesses to successfully operate and compete, thus preserve
the much-needed employment opportunities for small businesses, nonprofits and the arts sector in New York City. Thank you.

CHAIRPERSON YASSKY: Thank you to this panel.

RICHARD HU: My name is Richard Hu. I own a fabric store on 40th and between 7th and 8th Avenue. I've been in the garment sector for the last 20 years and worked really hard. 40th and 39th street of the same block has been known as Fabric Street all over the world. They built the New York Times building on 40th and 8th Avenue. They have a high expectation from landlords and they keep raising the rents. 40th Street used to have about 20 fabric stores and right now they have only 4 left. Most of them went out of business because they couldn’t afford the higher rents. When the store owners wanted to renew their leases, landlords asked for four to five times more money in many cases. The fabric stores were replaced by the deli, coffee shops, restaurants, pawn shops and other general businesses. Even two of the new restaurants were closed because they don’t have enough business.
Four former fabric stores across the street from ours have been vacant for almost five years, even with their big for rent signs. Those fabric stores support a lot of business, like move and theater custom makers, garment manufacturers, interior designers, fashion schools and others. They depend on us for their fabric sources.

Fabric stores are like art collects, with a variety of fabrics with different ideas from all over the world. If we go out of business, they will have few major sources of fabrics and ideas. Our customers are not only from New York City, but also they're from other states like Washington, D.C., Texas and California. They are also from other countries, such as South America. No other city in the entire world has as many fabric stores as New York City. They come to New York City to buy fabric. But they also stay at hotels, watch the Broadway shows and do other things. They're surprised by the changes. They're very much disappointed that they couldn't find as many fabric stores as before. They've been saying they have fewer and fewer reasons to come to New York City because so many specialty stores, not just
fabric stores are disappearing. New York City is losing its uniqueness. Like have the garment center, diamond district, flower district and so forth, it's changing itself into a so and so city. In our area, fabric stores are not the only ones affected. Many wholesalers are moving to New Jersey because of higher rents. It makes it harder for the business and harder for us to get the fabrics to our customers on time. Thank you very much.

CHAIRPERSON YASSKY: Thank you, that's a very powerful and effective testimony. Thank you for that. We're going to hear from our next panel now. Adam Friedman from the Pratt Center; Christine Colligan from New York Korean American Parent Association; Steven Barrison from the Small Business Congress of New York City; Shibani Patel from ROC New York; and Eduardo Giraldo from Queens Hispanic Chamber of Commerce. Let me say that we are scheduled to be here in this room until 4 p.m. I want to try and accommodate everyone that has signed up to testify. But I'm going to alert people that if it looks like we're going to go way over time, we may
have to cut this short before we hear from everyone who has signed up. Why don’t we start in the order that you’re sitting. We'll go from right to left the way that you're sitting.

SANG HUN RI: Good afternoon, Chairperson and committee members of the Small Business of New York City Council. My name is Sang Hun Ri [phonetic]. I thank you for this opportunity to speak in front of your committee. I used to be an owner of a small liquor store in Manhattan. I owned and operated this small liquor store for 26 years. Including a previous partnership with my friend, it was 35 years. I was forced to close my little store because of high rent. I used to pay $2,400 per month until August 2007. My previous landlord notified me they were going to raise it to $2,500 every month, with $75 incremental for the five years. But they sold the building and I didn’t have a chance to renew those lease contracts. New landlord asked me for $10,000 rent. It's outrageous. I negotiate through the lawyer to cut the rent almost a year. Meanwhile, I found asbestos in the basement of my liquor store. This asbestos was in
insulation of the steam pipe from the boiler. It was there over 30 years. I didn’t know that until I tried to insulate and protect my wine stock in the basement from the heating. The plumber said he couldn’t touch it. I asked why and he told me it was asbestos. So I immediately called New York City Environmental Protection Department. This made the landlord angry. They served me a 30-day termination notice, after that, get out or you'll pay $6,000. I was forced to sign. That stipulation contained a gag order not to talk to the media because my neighborhood demonstrated against this greedy landlord. I was interviewed by local news media several times. I think this upset the landlord. After 30 days, can you move out, no, so I was stuck because this is government controlled merchandise. So I was forced to sign, which contained a gag order not to talk to the media about the building or the landlord. I was paying $6,000. My sales volume was less than half a million dollars. My rent was $72,000 a year, and with my worker's pay included that was $100,000. Where is my profit? In the United States 100 years ago, there was a slavery system.
Abraham Lincoln repealed the system. Now I'm a slave of the greedy landlord. I cannot buy even the bread and butter.

CHAIRPERSON YASSKY: Thank you.

SAN HUN RI: Is that right? No.

Thank you, Mr. Chair.

CHRISTINE COLLIGAN: Thank you very much. I thank God for the opportunity and I thank Mr. Chairman Yassky and also Robert Jackson. This is great. I support you 100%. I'm president of the Korean American Parent Association. I'm representing all the parents of greater New York City area. I'm not talking rent here; I'm talking about breaking the family. All of these store owners have families, they have children. They have to work so many hours. Sometimes a lot of divorce is caused from the financial difficulty. I know one man and his son from Junior High School 189. He was an excellent businessman with 10 employees. He couldn't renew the rent. It went from $5,000 to $10,000. He had to give up the business. I saw him come to church to pray to look for a new place. I want to share my experience. My husband used to have a store on
Avenue B between 6th and 7th. All of the sudden, the landlord wanted to sell the building and we had to get out. He raised the rent from $2,000 to $5,000. I was very happy to come to the United States in 1983. I'm a very proud Korean American. We have to have some law. This is not free market. If you ask whatever price you want, take it or leave, that's not the way to go. As a citizen, as a taxpayer, all of the small businesses generate a great amount of the tax. We have to do something. I 100% support you. I pray every day to pass this law. Thank you very much.

CHAIRPERSON YASSKY: Thank you very much.

STEVE BARRISON: My name is Steve Barrison. I am the executive vice president to the Small Business Congress. We're a small organization of about 185,000 retail stores. Some people think of us as small. We've been shrinking over the years and it's been over 20 years of fighting. You have my testimony from the organization, so I thought I'd help you out a little bit here. You can see from the figures on our one-page statement the bottom line. New York
is 45 out of 50 according to Washington, D.C. in small business entrepreneurship as far as helping the small business survival index. We've evicted 142,738 people in the court where you can document it and look it up for the past 20 years, and almost equal the same amount for those that are not documented and evicted. That’s over a million jobs lost already. The City of New York has great campaigns and great things for small business to keep new people coming in and all kinds of incentives. As you heard today by the representatives of our city, they may have well intended plans; they didn’t say a single solitary thing about keeping business in place. It made me boil sitting there. All they talked about was relocation, which is usually people thrown out by eminent domain and things like that. That helps nothing. 97% of the small businesses we have found in all five boroughs, and we employ still over a million people, are the ones struggling to hang in there. Just to add to the figures, if you look at what’s been submitted to you, if you look a few pages down, since it doesn’t include 2008, we hand wrote in another 6,714 businesses were
thrown out just with bankruptcy eviction. We suspect the numbers that have left that aren't documented because of the recent downturn exceeds that by many times. As a commercial real estate attorney and also residential, let me give you some eye-opening things. The key money that you hear about, that's been going on a long time. It's just gotten worse lately. With the greed and the excitement of how the city was rolling along and doing well for a number of years, landlords realized they could get almost anybody before the downturn. The numbers you heard of 10,000 or 20,000 are peanuts. I'm going to give you some examples real quick because you need to know this. Sheepshead Bay a small business went out, another business was coming in. There was a battle between two businesses. I was trying to help them out as a community leader, all for free. I wasn’t doing it as an attorney. They had to pay $250,000 to keep their business there and they had invested 20 years. There are instances, everyone who has been in New York has heard of them. They're not there anymore but for 20 years they were at Sullivan and Houston. Why did they go out? It
was such a great restaurant. The landlord increased the rent seven times. I can go on and on and on. I can give examples for hours. Who ever heard of Dunkin Donuts. We're not even here talking about the chain stores going out of business. Sheepshead Bay right now, one of the original Dunkin' Donuts in the United States, has been there over 40 years. A new guy took over. It took his family 19 years to save up his money to open up a Dunkin' Donuts. They invested over $1 million in renovating that old Dunkin' Donuts. The landlord said don't worry, we're going to renew your lease. You've been here forever; you're part of the neighborhood. He was fearful, maybe not getting good legal advice. I wasn't there. He signed the lease on anyway for five years. What happened? The landlord came in and took the rent, which he started out at $3,200 just five years ago in a small neighborhood place and now he wants over $20,000. That's why the Dunkin' Donuts there is out of business. Not that they didn't have business. The story goes on and on. You asked the question about certificate of occupancies and all of that. If someone has a
certificate of occupancy that says they can be commercial, well then they're commercial. Unless there is a specific restriction within the zoning, generally they can chop it up. There are certain zones that restrict square footage. This is not the kind of hearing but to answer that question. The other thing you asked which also wasn’t answered, because there was only one attorney here all day apparently, was how you level the playing field. This whole bill is just to get people to the table. We as attorneys are now required even with our clients to have arbitration for us for fees, just as many contracts are required to have arbitration in all kinds of businesses across America. This is not forcing anybody to do anything. To hear the gentleman here who said over 20 years with the Small Business with the City of New York and he wasn’t aware that there was commercial rent control for 18 years; I don’t know what planet he’s living on. If I can help you answer questions while I'm sitting here, and I've been sitting here since noon waiting to speak, and I've got to get back, but I'll wait a few minutes.
CHAIRPERSON YASSKY: Thank you. I want to thank everybody for their patience in waiting. I know it's been a very long day.

STEVE BARRISON: You must pass this by the way. Dave, keep it up, man. I've got to tell you guys, just get the rest of the Council Members on board. Don’t worry about the mayor, get everybody on board. You'll do it. Thank you.

EDUARDO GIRALDO: My name is Eduardo Giraldo. I represent the Queens Hispanic Chamber of Commerce. I want to congratulate you and the great work you're doing for the community. I think a lot has been said today. We all want this to be passed. It's important for the community. It's important to small business owners. I think the lease is the most important instrument that a small business owner signs when they go into business. I think we have to consider all the legalities involved and a lot of times small business owners they don’t realize when they're signing these leases. I think this bill has to be a little bit broader. It has to be from the beginning, from the start of the leases. For instance, some businesses you sign as it is.
It could have violations, or as it is you can't have that type of business in there. The landlords just take your money. So we really have to look to protect the small business owners. For the Commissioner of Small Business Services, I think they're running a good operation, but they should have a brochure with everything you have to know about commercial leases and I don't think they have it. We have asked for it and they never supplied it. If they really want to do it, instead of having all these seminars and loans, show us how we can protect the small business owners with the leases. Thank you so much.

STEVE BARRISON: Can I add one thing? The people from the city that sat here almost an hour, I remember distinctly that they brought up all kinds of excuses that there are all these other factors when negotiating commercial leases that are taken into account. Of course there is. I do this every day in my practice. But when you are renewing a lease, all those factors for a business that's been there established 10 or 20 years, everybody knows who's paying the taxes, who's cleaning the sidewalk and
who's responsible for what. The bottom line is
unless there is something outrageous going on, the
bottom line is Mr. Landlord, how much rent do you
want and this is how much I can afford. All this
bill does is put people to the table and get them
to negotiate fairly. Thank you.

SANG HUN RI: Mr. Chairman, give me
one minute please. The backbone of the United
States economy is small business.

CHAIRPERSON YASSKY: Yes, we agree.

SANG HUN RI: The college kid
knows, high school kid knows this. Is there any
commercial real estate law to protect the small
business? There is nothing. Is there a New York
State law? There is nothing. Is there a federal
law? There is nothing. We need this kind of bill
to protect small businesses. Please. God bless
you and America.

CHAIRPERSON YASSKY: Thank you.
The next panel is Sylvia Smith from the Inwood
Marble Hill Chamber of Commerce; Yoosun Na from
the Korean American Voters Council. I feel like
we heard from her already. We have Frank Garcia
from the BHCC; Ingrid Soto from the New York
Women's Chamber of Commerce. Let's go through this panel. We have Ydanis Rodriguez.

LUIS ACONDO: Good afternoon, Chairman Yassky and the panel. I've been listening quite long already to the position of everyone. I'm going to address another issue which may be of more interest. We can take all the technicalities on how and when to do this in order to protect small businesses. What came to my mind is that I look up to your ceiling where it reads, "A government of the people, by the people, for the people." This is an issue that addresses that. When I go into small businesses to do my job as an architect and designer, I'm the one that first encounters what the investment they may have to make. I commonly find that the lease was poorly negotiated and the have already invested $100,000-$200,000 by the time that they open their business. Seven years later they're being asked again for cash under the table. I think that this is not a true and clear situation for a government who says that it works for the people. I don’t understand the issue of the City Council. We have 29 members. I see that we don’t have the full
Council. We don’t have the mayor. I question what is it we're doing? What are we doing with our people in our communities? Why is it that we can see that we have a government for the people and this is an issue for the people? The other day I was walking on the street and I was drinking a coffee and I find Mr. Miller walking on the street. It was a pleasure for me to stand and shake his hand. I hope that by the time of this cycle I can feel proud to do the same thing of all of you by passing the bill and feel that you are a human being defending the right of the people in our communities. Thank you.

INGRID SOTO: I was a business owner and I had invested $14,000 in a business. I bought into a lease that had one year left. There was a court order stipulation where they asked me to pay $14,000.

CHAIRPERSON YASSKY: I'm sorry; can you just state your name for the record?

INGRID SOTO: Ingrid Soto.

CHAIRPERSON YASSKY: Thank you.

Please proceed.
INGRID SOTO: I used to be a small business owner and I bought into a lease. That lease had a year left. We got a court order stipulation and I thought I was protected because it was settled in court. That lease had a year left. As soon as I complied and paid the $14,000, the building was sold. I just happened to find out from the tenants that live in the building that they had a new landlord. While the building was sold, they never gave me a lease and I was left to deal with the new landlords. In good faith, I gave an additional $5,000 to the new landlords and still they never gave a lease. They didn’t comply and I’m in the process of suing them. But again, there is no protection to stop this. There should be no money under the table at all. There should be a certain percent that they increase the rent. It shouldn’t be double or triple or seven or ten times the amount. There is no law. Whether it’s the city, the state, federal, the governor, something has to be done. Thank you.

CHAIRPERSON YASSKY: Where was your business?
INGRID SOTO: This business was in Harlem, right across the street from the Abyssinian Church.

CHAIRPERSON YASSKY: 126th or something like that?

INGRID SOTO: 2363 7th Avenue and I did everything I could.

CHAIRPERSON YASSKY: Thank you.

FRANK GARCIA: My name is Frank Garcia. I'm chairman of the Bronx Hispanic Chamber of Commerce. I'm also the owner of Millennium Recycled Toner. I just got elected to be chairman of the New York State Coalition of Chambers. I want to thank you, Chairman, for working on this law. There haven't been a lot of people here from the Bronx. We have a huge problem that Palma knows, with businesses closing very rapidly. The Grand Concourse has been my fight. If we had this law then 150 businesses wouldn’t have closed from the Grand Concourse. Right now I own a business that my landlord wants to increase the rent 60-70%. I went to court and because the judge knew who I was from the chamber I was able to beat it and because I had a very
good lawyer. A lot of our members can't afford a lawyer. Hearing the representative of Commissioner Walsh speaking, Mr. Chairman, I'm very disappointed not to hear more City Council people really challenge the Commissioner Walsh's representative. I've asked from the City Council to have him fired because of all the stuff he's done. I was lobbying for this law and one of his people tried to hit me in front of Jose Rivera and Peter Rivera. I spoke to you about that, Chairman. The SBS is not helping our community. You heard from our community and from our business leaders. So to hear that they're not supporting this law, why are they getting funding from the City Council to help with certification when they can't even help small business with advising them on how to pay the rent or our laws? Right now we have a problem with people asking for money on the side. It's unacceptable and we need your help on that. In the Bronx we're hoping that this passes because if it doesn’t pass, those City Council people, and I know you're supporting it. I know my chamber voted, our board members all voted, including Joel Rivera's uncle who is our
president, that those City Council people that
don’t support it, including Speaker Quinn,
including the mayor, we're going to put posters
explaining how Mayor Bloomberg has hurt small
business by not supporting this law. Having the
deputy commissioner here not supporting this law
really broke my heart. Hopefully you, Mr.
Chairman, will challenge him on what exactly SBS
is doing. I've said it for a long time, this is
not about SBS but in a way it is. Thank you.

CHAIRPERSON YASSKY: Thank you.

YDANIS RODRIGUEZ: Good afternoon.

My name is Ydanis Rodriguez. I'm a candidate for
City Council. Today is a nice day because we are
here in this open hearing. At the same time, it's
a sad day because we heard that the Bloomberg
administration doesn’t support this. It means
that regardless if the committee votes for it, I
hope that Christine Quinn will take it to the
floor and approve it. Then the mayor will veto
it. I think it's like 75%, so that means we have
to do a great job in order to convince the rest of
the City Council so that we can get the number to
go over the mayor's veto on this bill. First of
all, we have to thank David for keeping his word. He went said there would be a hearing in the Washington Heights area. The hearing is taking place. I think that we have to take Robert Jackson for taking the lead. At the same time, we have to think about it. I think this is a right bill. I think this is a bill that we have to push all the way. I think that this is the bill that we have to use our relationship with the mayor and say we need your support. Regardless that you represent the state, we need you. You've been saying that you're the voice and you're supporting the small business. If you are really going to be a mayor of the small business you have to be with us in this bill. There are people with two faces. There are people saying they are for small business and for tenants, but they're taking a lot of money from launderers. The people that you hear that are taking money under the table, they're giving money to elected officials. They can say that they're there for small businesses, but they're also getting money from those people. I think that we have to support the leadership of Robert Jackson and David. I'm working to be
elected to the City Council and I would not do what the representative in my district did which was to let the bill die. I will come here and I will maintain this bill if by any chance it's not approved in this term.

CHAIRPERSON YASSKY: Council Member Martinez.

COUNCIL MEMBER MARTINEZ: I have no questions.

CHAIRPERSON YASSKY: I'm sorry. Thank you very much to the panel. We have a final panel of witnesses. We have Robert Bieder from the Bronx Merchants Coalition. Luis Acondo [phonetic] and he testified in the earlier panel. We have Rosa Nobrega [phonetic] and Nick Perry [phonetic] from Tea and Sympathy. That will be our final panel. Sure, why don’t you go ahead and translate. That would be very nice. Is there anyone else here who filed a witness request? So this will be the final witness. Thank you.

ROSA NOBREGA: My name is Rosa Nobrega. I want to try to speak English. I had a problem for a long time. We paid landlord for the small business and I had the business for nine
years. Then the landlord told me when I rented the store that I didn’t need to pay a lot of property tax. Then in 2005 I need to pay $14,000 and $19,000 a year plus rent. I can't stay in the store because a lot of property tax and I need help. I need to pay on July 15, $15,000 for property tax. If I don’t pay, I need to move.

CHAIRPERSON YASSKY: What kind of business do you run?

ROSA NOBREGA: It's a small beauty salon. That's a lot of money for that.

CHAIRPERSON YASSKY: It is. The property tax bills have gone up dramatically. For a lot of businesses it's the last straw. I'm sorry, why don’t you finish your testimony.

ROSA NOBREGA: Now I'm scared because I don’t know how much I need to pay in 2009, it's now a new tax. It's a new charge for the business.

FEMALE VOICE: If you don’t mind, I just want to add something. We have been working with her to help her. We got her a lawyer and everything. One of things that we found with the leases is that the landlords would put in a
percentage like 19% or 20%, but they never know what that translates to in reality. It's another thing that's a problem. It's not clear in the lease how much they're charging. So it says 20%, 24%, 25%, or 30% but in reality the tenant doesn't really know what that amount translates to, which is her case.

CHAIRPERSON YASSKY: Thank you. I want to thank you for coming here. I know you've got a lot on your mind. You're facing a real challenge here. I know you're coming here on behalf of all of your fellow business people trying to help get some laws passed that will help everybody. You're performing a public service by coming here and testifying. I thank you for doing that. I know most people just choose not to participate. I think it's commendable that you do that. Thank you for that. I want to thank everyone who has come to participate in the hearing today. I know most folks who were here have had to leave because they have their lives to run. I want to say to the people remaining her, on behalf of the committee, I really thank you for bringing forward all the stories that you brought
forward today and for making this issue real and personal and direct. I can assure you that the evidence that you've brought forward will be taken very seriously by this committee and I think by every member of the Council. I thank you very much for the work.

COUNCIL MEMBER JACKSON: Mr. Chair, may I just have a moment?

CHAIRPERSON YASSKY: I'm sorry. I did not mean to end the hearing prematurely.

COUNCIL MEMBER JACKSON: Let me just thank you for moving forward with this hearing today. On behalf of all the people that testified, you've heard them and I've said in my statement that you afforded me the opportunity to make at the beginning of the hearing, these small business owners are looking forward for the legislation to be passed this year. So they hope and pray that everything that can happen to move this forward as quickly as possible even though we know that we're going into summer mode and the Council only meets when absolutely necessary. We're looking forward for September and October to move this forward and to vote it out. I ask you
as the Chair to do whatever and the counsel and
staff of the committee to do whatever has to be
done in order to move forward in the fall on
passing this bill by the City Council and
hopefully with the mayor signing it into law prior
to the November election. It's imperative. Their
feeling is that if it's not done now this year
then everyone is going to back off and it's not
going to go anywhere. So the pressure is on for
now. We're hoping that this bill will be passed
this coming fall. Thank you, Mr. Chair.

CHAIRPERSON YASSKY: Thank you,
Council Member Jackson for your quite
extraordinary leadership on this issue. I say
very sincerely, I think all of your colleagues owe
you gratitude for making sure this issue is pushed
forward. Thank you. With that, the hearing is
adjourned.
CERTIFICATE

I, Donna Hintze certify that the foregoing transcript is a true and accurate record of the proceedings. 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.

Signature_

Date July 30, 2009