

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON SMALL BUSINESS

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ROBERT E. CORNEGY, JR.
Chairperson

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CARLOS MENCHACA
ERIC A. ULRICH
INEZ E. DICKENS
KAREN KOSLOWITZ
MATHIEU EUGENE
PAUL A. VALLONE
PETER A. KOO
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A P P E A R A N C E S (CONTINUED)

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Nick Velcov
Owner
Harlem yoga studio

Melissa Chapman
Senior Vice President of Public Affairs
Brooklyn Chamber of Commerce

Jim Smith
Tenant/business owner

Ted De Barbieri
Urban Economic Development Clinic
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A P P E A R E N C E S (CONTINUED)

Erica Coleman
Legal Program Director
Start Small, Think Big

Edith Prentiss
Vice President, Legislative Affairs
Disabled in Action

[gavel]

CHAIRPERSON CORNEGY: Good afternoon.

I'm Council Member Robert Cornegy, Chair of the Committee on Small Business. Today we'll hear bills designed to address two very real challenges small business in New York City base. This year is the 25th Anniversary of the Americans with Disabilities Act, with the Leadership of Victor Calise, Commissioner of the Mayor's Office for People with Disabilities our city has celebrated this milestone in unprecedented ways including holding the first city's ever disability pride parade in July. MOPDs influence has been inparent [phonetic] in other major city programming such as this year summer streets which for the first time included adaptive sports such as soccer using power wheelchairs, hand cycling, and therapeutic arts. Today we are considering a bill that aims to strengthen MOPD's ability to support small businesses in increasing the accessibility of their premises. After all, among the ADA's core goals are assuring equality of opportunity, full participation, independent living, and economic self-sufficiency. And in New York City that

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2 requires having access to the small businesses that
3 serve our communities. All the curb cutouts in the
4 world won't help a diner, shopper, or worker who is
5 then stopped at the door of the establishment she
6 or... he or she wishes to enter. Pro... proposed
7 introduction number 537A introduced by Council
8 Member Koo would require the creation of small
9 business accessibility coordinator or coordinators
10 within MOPD. The idea is that these coordinators
11 would educate small businesses about their
12 obligations under federal, state, and local law to
13 accommodate people with disabilities, coordinate
14 with other relevant agencies including the
15 Department of Buildings and Landmarks, and allow
16 MOPD to expand its efforts to connect small
17 business owners to resources that can assist them
18 in making necessary changes to their premises to
19 avoid fines and litigation. Making sure that
20 businesses are accessible to people with
21 disabilities not only are propolactic measure
22 against costly enforcement actions is also good for
23 businesses. According to MOPD there are over
24 800,000 New Yorkers with disabilities and millions
25 of people who visit the city each year also have

1 disabilities. People with disabilities comprise an
2 ever-growing consumer market as the city's
3 population ages and is more likely to develop
4 disabilities. To put that in dollars and cents New
5 Yorkers over 50 years of age represent more than 70
6 billion dollars in consumer spending in 2011.
7 Moreover, disabled New Yorkers represent a
8 significant group of potential employees for the
9 small businesses who employ more than half of our
10 city's workforce. Increasing accessibility will
11 increase small businesses' access to this
12 employment pool and help address the opportunity
13 gap between disabled New Yorkers and others
14 contributing to the ADA's goal of increasing
15 economic self-sufficiency. In that vein let me
16 point out that next week's... next week begins
17 national disci... national disability employment
18 awareness month, another reason the timing of this
19 hearing is particularly appropriate. We look
20 forward to a hearing from the administration and
21 from advocates about this proposal. The second bill
22 we'll consider today is one I introduced. Proposed
23 introduction 851A will create a private right of
24 action for a nonresidential tenant against any
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2 landlord who commits non-residential tenant
3 harassment with intent to cause such tenant to
4 vacated a covered property or to waive any right
5 under a lease agreement for a covered property.
6 Under proposed intro number 851A such harassment
7 would include a... a landlord repeatedly interrupting
8 or discontinuing one or more essential services
9 like heat or electricity substantially interfering
10 with a tenant's business by among other things
11 preventing customers from entering the business or
12 refusing to negotiate with a tenant for renewal or
13 extension of an existing lease agreement or
14 requiring the payment of an unreasonable sum as a
15 precondition to such negotiations. A nonresidential
16 tenant who brings an action under this law would be
17 able to recover actual damages, one month's rent,
18 or a thousand dollars, whichever one is greater. In
19 addition to equitable remedies imposed at the
20 discretion of the court. Just as residential
21 tenants are protected from harassment so they can
22 stay in their homes and contribute to the diversity
23 and vibrancy of New York City small business owners
24 deserve protection so they can support their
25 families and live their dreams while providing the

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2 jobs and services New Yorkers need. I know that
3 some small business owners are in the room today
4 and among all the other witnesses I'm looking
5 forward to hearing their testimony because their
6 real life struggles are the basis for the
7 introduction of this bill. Before we... we begin I'd
8 like to recognize my colleagues on the small
9 business committee who are here Carlos Menchaca,
10 Ruben Wills, Eric Ulrich, and Council Member... oh
11 Mathew Eugene. But you... you're... you're my co on
12 this so... I appreciate your... your being present.
13 Also I'd like to thank my legislative director
14 Diana Shelgross [sp?] and the staff of the Small
15 Business Committee, finance analyst Aliya Ali,
16 Policy Analyst James..., and Committee Counsel Jeff
17 Campano. And now I'd like to recognize Council
18 Member Koo who hasn't arrived yet, so not now, but
19 we will recognize Council Member crew, Koo. And I'd
20 also like to obviously recognize my co on this Mark
21 Levine who's my partner in Intro 851 and an
22 incredible advocate for Small Businesses in his
23 community and invite him to offer a statement.

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2 COUNCIL MEMBER LEVINE: I would be happy
3 to Mr. Chair. Council Member Ulrich has to leave
4 and wanted to make a very very quick... [cross-talk]

5 CHAIRPERSON CORNEGY: Absolutely...

6 COUNCIL MEMBER LEVINE: ...statement...
7 [cross-talk]

8 COUNCIL MEMBER ULRICH: Thank you my
9 good colleague and friend Council Member Levine,
10 Mr. Chairman, thank you. I... I apologize that I... I
11 do have to leave. I know Council Member Menchaca
12 also had to leave. We have a Committee on
13 Resiliency hearing which just started across the
14 street so we obviously can't be in two places at
15 once but I want to commend the members of this
16 committee led by our chair and... and the sponsor of
17 the legislation today. And I know the Commissioner
18 Calise is now a resident of Council Member Levine's
19 district but he was born and raised in mine in
20 Ozone Park so I just want to get that on the record
21 just in case any confusion. And we... I know he's not
22 here today but please give him my... my very best
23 congratulations today. Thank you.

24 COUNCIL MEMBER LEVINE: Thank you so
25 much. And we'll...

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2 COUNCIL MEMBER MENCHACA: I'm sorry as
3 well as the other members I have to go over to a
4 Contracts Committee. We will be back. I do want to
5 commend the chairs as well as the other... Peter Koo.
6 And I wanted to make sure that our signed onto 85-
7 1... 851A as well as 537. Thank you very much.

8 COUNCIL MEMBER LEVINE: Is it really
9 funny if I said I had to go now too. But actually I
10 don't. Thank goodness. Mr. Chair it's really a
11 privilege to be working with you on this intro. You
12 gave a very thorough and informative opening
13 statement on the topic so I won't be repetitive but
14 just make the point that this council has focused
15 intently, rightly so on the challenges of
16 residential tenants in this city who are facing
17 really an epidemic of displacement. But as bad as
18 things are for residents of New York City seeking
19 to keep their apartments at least there is a fairly
20 robust system of protections. Flawed, we know.
21 Limited, we know. But there's a system in place.
22 Rent regulated... rent regulated... rent regulatory
23 structure that does allow many tenants to remain in
24 their homes long term. On the commercial side it's
25 really the wild west when a commercial tenant's

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2 lease is up. They are at the mercy of the landlord
3 who... who could decide to double or triple or
4 quintuple the rent. There's no limit there. The
5 landlord could simply decide not to give the
6 commercial tenant an extension on the lease without
7 even having to provide a reason. We hear this all
8 the time. Now luckily many commercial tenants had
9 long term leases. 10 years, 20 years, and...
10 department is a year or two. But landlords haven't
11 necessarily let that close the door on jacking up
12 rent. And the most unscrupulous among them are
13 resorting to really despicable tactics to push out
14 commercial tenants before their lease is up because
15 they know that there is higher rents on the back
16 side. And they're using tactics which are actually
17 pretty familiar to anyone who's been fighting on
18 these issues on the residential side denying
19 services to the tenant, maybe... maybe there... the
20 heat's not provided during critical seasons. That
21 can kill business. Maybe they're blocking access to
22 the business doing unnecessary construction during
23 business hours that could easy... easily be done
24 during times when they're not customers in the
25 location. Those... they're also sometimes engaging in

1 shenanigans during the lease renewal process
2 demanding under the table payments as a condition
3 for a lease renewal or even as a condition for
4 entering into negotiations on a lease renewal. And
5 frankly until now there just haven't been strong
6 enough protections and sanctions on this kind of
7 behavior. And so this bill, Intro 851 that I'm
8 pleased to be cosponsoring with the chairman seeks
9 to provide some penalties with teeth so that
10 tenants who are subjected to this kind of
11 harassment and it is harassment can resort to the
12 courts and win damages to compensate for lost
13 business, to compensate for legal fees, etcetera.
14 We think this'll be a... a game change for commercial
15 tenants in New York City and may ultimately stem
16 the flood of losses of mom and pop businesses all
17 around the five boroughs. And I'm really pleased to
18 be sponsoring it with you Mr. Chairman. Thank you.

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20 CHAIRPERSON CORNEGY: Thank you Council
21 Member. So we have our first panel up. And it's our
22 good friends from M... MOPD and also SBS. I need to
23 have you confirm some things for me so I'm going to
24 go through my affirmation and do it politically
25 correctly. So can... if I can get you to raise your

1 right hands? Do you affirm to tell the truth, the
2 whole truth, and nothing but the truth in your
3 testimony before this committee and in your answers
4 to our council member's questions? Thank you. So
5 you guys can begin I would prefer that we exercised
6 a little bit of manhood in letting us go and have
7 chivalry prevail today by... by letting our MOPD
8 representative speak.

10 KLEO KING: Thank you Chairman. Good
11 afternoon Chairman Cornegy and members of the
12 Committee on Small Business. My name is Kleo King
13 and I'm Deputy Commissioner and General Counsel of
14 the Mayor's Office for People with Disabilities and
15 first I'd like to extend the commissioner's regret
16 that he could not be here himself. With me is
17 Andrew Schwartz, Acting Commissioner of Small
18 Business Services and also we have Marshall Kaminer
19 Executive Engineer and Technical Affairs and
20 Codevelopment for Department of Buildings to assist
21 us in the Q&A process. First I want to stress that
22 the de Blasio administration and the Mayor's Office
23 for People with Disabilities share the council's
24 goal of assisting small businesses and becoming
25 more accessible to people with disabilities. MOPD

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2 is currently a resource for business owners on
3 accessibility issues. We provide information on our
4 website about federal, state, and local disability
5 laws. We field calls from the community including
6 owners of small businesses providing them with the
7 answers to their specific questions or connecting
8 them with other agencies for additional information
9 as needed. Like MOPD other city agencies also
10 provide information about accessibility on their
11 website to assist small businesses. We have
12 compiled a list of these links as an attachment to
13 this testimony. One example of MOPD's efforts
14 focusing specifically on small businesses, our
15 restaurant access program or RAP. RAP allows a
16 restaurant owner to advertise the wheelchair
17 friendly components of his or her restaurant. This
18 helps the owner tap into a broader customer base
19 while providing people with disabilities better
20 information about the accessibility of New York
21 City restaurants. Another example relates to local
22 law 47 of 2012 which involves accessibility signs
23 such as signs directing people to accessible
24 entrances. MOPD provides information to assist
25 businesses in learning and complying with the

1 requirements under this local law. MOPD also
2 collaborates with all city agencies to provide
3 accessibility information to the community
4 including small business owners. We work with the
5 Department of Buildings to ensure that businesses
6 undergoing construction or renovations comply with
7 the accessibility provisions of the New York City
8 building code. We are part of the small business
9 first program and assist businesses that need to
10 seek accessibility waivers. We are also currently
11 working with the New York City Commission on Human
12 Rights to help facilitate their outreach and
13 education efforts with respect to small businesses'
14 compliance with the New York City human rights law
15 which has broad protections for access. For
16 example, we are currently working with the
17 commission to update the fact sheet located on
18 MOPD's website concerning accommodations for people
19 with disabilities who are accompanied by service
20 animals, an accessibility issue that commonly
21 affects small business owners. I also wanted to
22 highlight some of the work that other city agencies
23 are doing to assist small businesses and complying
24 with accessibility requirements. The Department of
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2 Small Business Services through its small business
3 first initiative provides support and resources to
4 help small businesses understand and comply with
5 city regulations including accessibility
6 requirements. The Department of Buildings works
7 with Small Businesses through the permitting
8 process to ensure compliance of with accessibility
9 requirements and through its small business owner
10 nights. The small business owner nights are free
11 drop in after hour services that are available
12 every Tuesday from 4:00 to 7:00 p.m. at each of
13 DOB's borough offices. Small business owners can
14 receive one on one guidance from plan examiners and
15 other department professionals on issues relating
16 to their new or existing building applications
17 including accessibility issues. These sessions
18 support small businesses by helping them navigate
19 any regulatory and compliance hurdles that they may
20 be facing. The human rights commission through its
21 project equal access initiative educates and
22 assists small business owners to help bring their
23 businesses into compliance with accessibility
24 requirements. The commission's experienced staff
25 members visit businesses on site to identify

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2 accessibility concerns and offer cost effective
3 means of increasing accessibility. While MOPD
4 supports the intent of the bill we have some
5 concerns about the bill in its current form. Most
6 significantly the bill as drafted impairs the
7 mayor's powers related to the organization of the
8 positions and functions within his executive
9 office. In addition, while we support the idea of
10 developing training that provides an overview of
11 relevant federal, state, and local accessibility
12 requirements we would want to ensure that the bill
13 could not be construed to require city officials to
14 provide legal advice to individual small business
15 owners. We would also want to ensure that the bill
16 does not result in the duplication of efforts and
17 instead build on the many worth whiled initiatives
18 that are already being implemented by various city
19 agencies. We believe that these concerns can be
20 addressed with appropriate revisions to the bill
21 and welcome the opportunity to discuss the bill
22 further with the council. Thank you Chairman
23 Cornegy and members of the committee. We'll be
24 happy to answer your questions at this time.

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2 CHAIRPERSON CORNEGY: Be... before we move
3 further I'd just like to acknowledge the bill's
4 sponsor has arrived and allow him to make his
5 statement Council Member Koo.

6 COUNCIL MEMBER KOO: Thank you Chair
7 Cornegy and the two commissioners here. Intro 537A
8 is a bill to create a small business accessibility
9 coordinator responsible for liaison with city
10 agencies involved in accessibility projects. ...also
11 looks to educate business owners and operators
12 about their obligations under local, state, and
13 federal laws so that they can make their business
14 truly accessible to people with disabilities. As a
15 small business owner myself I know firsthand the
16 difficulties real intentioned business owners have
17 in trying to ensure compliance with their
18 multitudes of city agencies. Most business owners
19 know their... know their compliance is the boom to
20 their business. It provides recognitions within the
21 disability community and it opens them up to a
22 larger customer base. A small business
23 accessibility coordinator will offer support for
24 these businesses who wish to do right by the dis...
25 disability community by helping them coordinate

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2 with agencies like Department of Buildings, the
3 Commission of Human Rights, the Landmarks
4 Preservation Commission, and the Department of
5 Small Business Services and others. The city should
6 be working to enforce disability accessibility
7 across all city agencies and is our belief that the
8 Mayor's Office for people with disabilities has the
9 staff and is... and expertise to be the... to be in the
10 best position to do that. By designating an
11 individual as an interagency liaison this bill will
12 empower the Office of a... the Mayor's Office for
13 People with Disabilities by... by providing a one
14 stop shop for small business in search of
15 consultation. Thank you.

16 CHAIRPERSON CORNEGY: Thank you Council
17 Member. Can we just continue with the testimony
18 from our... Yes, please.

19 ANDREW SCHWARTZ: Good afternoon Chair
20 Cornegy and members of the Committee on Small
21 Business. My name is Andrew Schwartz. I'm the
22 Acting Commissioner of the Department of Small
23 Business Services. I'm joined today by my colleague
24 Kelvin Collins Assisting Commissioner of SBS's
25 Business Development Division. At SBS we seek to

1
2 foster a thriving equitable economy by connecting
3 New Yorkers to good jobs creating stronger
4 businesses and building a fairer economy. We
5 recognize that small businesses are a driving force
6 in New York City and are also an essential part of
7 the character of New York City neighborhoods. For
8 so many individuals owning a small business can be
9 the first chance to economic self-determination and
10 a path to economic stability and success. To create
11 stronger businesses and neighborhoods SBS seeks to
12 foster an environment where it's easy for them to
13 open, operate, and grow. I want to thank the Chair
14 for his commitment to small businesses and today
15 I'm pleased to testify on Intro 851 which seeks to
16 assist the more than 220,000 small businesses that
17 call New York City home. As we speak with
18 businesses on the ground every day we know the
19 challenges they face are many which is why SBS
20 offers an array of services to help them start, and
21 operate, and grow. We strongly agree with the
22 council that it's important to ensure that
23 commercial tenants are protected from abuse or
24 harassment from landlords during their tenancy.
25 After highlighting SBS's efforts to assist

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2 businesses I'll offer comments on the proposed
3 legislation and then be happy to take your
4 questions. On services SBS has established seven
5 business solution centers across the five boroughs.
6 They offer free business services to help
7 businesses. We offer financing assistant
8 incentives, business courses from business planning
9 basics to advanced social media strategies in more
10 than eight languages, selling to government
11 services, and pro-bono legal services to review
12 contracts, advise on business structure, and answer
13 questions on intellectual property issues. As there
14 is a real need for many businesses to better
15 understand and negotiate commercial leases we
16 started offering workshops in all five boroughs to
17 teach New York City entrepreneurs about the
18 components of a commercial lease and the
19 implications of signing a lease. We are also
20 offering clinics where business owners have the
21 opportunity speak one on one with a pro-bono lawyer
22 to review the lease before they sign it. Since
23 launching in July we served approximately 150
24 owners. And due to the demand we have seen in the
25 initial phase we plan to continue rolling out these

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2 services. Additionally, we know that businesses
3 struggle to understand and comply with the city's
4 many regulations. SBS's division of business
5 acceleration helps businesses navigate government
6 by coordinating license and permitting processes
7 and making the regulatory environment more
8 efficient. Client managers at SBS to act as
9 essential point of contact for owners and walk them
10 through and expedite these licensing and permitting
11 processes they may need to do to open or reopen
12 their doors. To better serve the businesses the
13 mayors launch Small Business First; a 27-million-
14 dollar initiative spanning 15 different city
15 agencies to reduce the regulatory burden on
16 businesses and increase compliance so businesses
17 incur less violations and fines. Agencies have
18 already completed several milestones of this plan
19 including launching an online tool to help them
20 avoid common violations. We've gone door to door to
21 more than 400 businesses to raise awareness of the
22 available services offering the opportunity for
23 building owners and commercial tenants to speak
24 directly with representatives from the Department
25 of Buildings every Tuesday night about questions

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2 they may have. Among other things expanded the
3 Department of Transportation's online permitting
4 system so nearly all DOT permits are available
5 online and translating more than ten guides into
6 plain language, translating eight of these guides
7 into six non English languages used through the
8 city, and we've made partner agencies have phones
9 available during inspections while there in the
10 field to do translation. SBS also goes beyond
11 serving individual businesses to strengthen entire
12 commercial corridors by supporting community based
13 economic development and organizations in order to
14 foster conditions so businesses can grow and
15 thrive. This year SBS's Avenue NYC program is
16 funding nearly 50 community based organizations
17 with approximately 1.5 million dollars to implement
18 commercial revitalization efforts in low to
19 moderate income neighborhoods across the city. 16
20 of these organizations are conducting retail
21 recruitment and retention efforts. We recognize
22 that small businesses face complex issues. And
23 while I've outlined some of SBS's ongoing efforts
24 to assist we know there's much more to do and hope
25 to continue to partner with the counsel to assist

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2 them. On Intro 851 SBS strongly agrees with the
3 intent of the proposed legislation to address
4 harassment of commercial tenants. However, we have
5 several concerns with the bill in its current form.
6 First the law department has identified sections
7 that raise preemption concerns particularly as
8 related to a commercial landlord's ability to
9 decline to renew a lease and commend summary
10 eviction proceedings under state law. Second while
11 we agree that much of the behavior that the bill
12 characterizes as harassment could be improper in
13 certain circumstances a landlord may have a
14 legitimate need to engage in the conduct prohibited
15 by the bill. For example, a landlord may need to
16 interrupt or discontinue gas or hot water services
17 to prevent or correct a hazardous conditions.
18 Affirmative defenses should therefore be available
19 as they are in the residential landlord tenant
20 context. Third, landlords currently have a right to
21 include lease terms that permit them to reenter a
22 premises when a lease is breached or terminated or
23 if a tenant stops paying rent. Certain provisions
24 of Intro 851 may conflict with that right. Finally,
25 the remedies prescribed by the bill must be

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2 consistent with state law. For example,
3 determinations of possession should be reserved to
4 a court of competent jurisdiction and be consistent
5 with state law. We support the intent of this bill
6 and look forward to working with you to strengthen
7 its provisions. We believe that with appropriate
8 revisions we could have a more effective bill that
9 the administration could support. And we'd be happy
10 to discuss the specific recommendations with the
11 committee and its counsel to address the concerns
12 that we've discussed today. Thank you for the
13 opportunity to testify as well as the council's
14 commitment to levelling the playing field for small
15 businesses in New York City and I'm happy to answer
16 any of your questions.

17 CHAIRPERSON CORNEGY: Thank you. I'm
18 going to ask my colleagues and everyone in
19 attendance to indulge me in a rather unorthodox way
20 of conducting a hearing where we have two bills
21 being presented and questioned at the same time.
22 Many of you know that we have a people
23 responsibility today and good Catholics would not
24 have us even be here today. But we, as a testament
25 to how serious both of these bills are to the

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2 council, we chose to have the hearing anyway. So it
3 is unorthodox that we would have this particular
4 question and answer on two bills that is not a
5 testament to the council's commitment to the
6 importance of those bills. We just try to make sure
7 that we... we went through even though some of my
8 colleagues have other responsibilities and there's
9 an overarching people responsibility that good
10 Catholics have today. So with that in mind I'm
11 going to go on and ask a couple of questions and
12 then have my colleagues ask some questions on both
13 bills simultaneously. Is that alright with
14 everybody? So the first question that I have is I'd
15 really like to get a solid understanding if you can
16 give it to me on what small business accessibility
17 means right. Because we know that there's ADA
18 requirements that... that most things in the city
19 hold fast and true. But as it relates to small
20 businesses can you give us an understanding of what
21 access... accessibility means for people with
22 disabilities both from a consumer perspective and
23 also from an employee perspective and for a
24 perspective employee. So there's three... at least

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2 three different components to accessibility as it
3 relates to small business.

4 KLEO KING: Well I think accessibility
5 for small business for both a customer and an
6 employee is being able to enter the business so
7 it's accessible for individuals who may use
8 wheelchairs, scooters, or other type of mobility
9 devices. Also there's access to individuals who may
10 have visual disabilities to that say for example a
11 restaurant would have menus in brail or if
12 someone's low vision large print. Also if there is
13 an individual who has a hearing disability or who
14 is deaf some way to accommodate them so they can
15 transact business or an employee for a business be
16 able to... to work and have the business owner
17 accommodate their disability. So it... it's quite a
18 broad range. And then it also depends on the actual
19 business. Are there barriers that are readily
20 achievable and can be removed so it's kind of a lot
21 of layers that we need to look at. So if business X
22 came to our office we would have to find out a lot
23 of this information, maybe even go out to the
24 businesses to see. We work closely with the Human
25 Rights Commission on businesses who reach out and

1
2 want to find out if there's ways to make themselves
3 more accessible.

4 CHAIRPERSON CORNEGY: Thank you. So we...
5 we... we wrote this bill with the understanding... or
6 crafted it with the understanding that... that it
7 would increase business meaning if there's a pool
8 or a consumer base that's not... that doesn't have
9 the opportunity to participate in whatever
10 businesses it is doesn't make good business sense.
11 So you know those are the kind of things you know
12 going forward you know I'm asked as the chair often
13 you know how do we increase business' foot traffic
14 right. Which probably is not a question that you
15 would ask the chair but I frequent businesses in my
16 own district and businesses across the city and
17 that's a valid question. And these are tools that
18 we believe ultimately not only is it good morally
19 to be able to have these buildings be accessible so
20 that you know we... we have an age friendly
21 initiative in the city. You know this is a
22 disability friendly bill we believe. But we also
23 believe that it's good business to actually tap
24 into a consumer base that's not being catered to at
25 this time and may not have the opportunity to... to...

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2 you know to participate in... in various goods and
3 services that the city and the small businesses
4 offer so...

5 KLEO KING: Yeah and... and we... we agree.
6 And that... our restaurant access program is kind of
7 a smaller model of the... where we reach out to
8 restaurants. They evaluate their accessibility.
9 It's wheelchair friendly at this time. We're hoping
10 to expand it to... to be more universally accessible.
11 And then that way one the business is letting
12 people and... people with disabilities know yes we're
13 accessible so now they know if they go to that
14 restaurant yes they can get in the door, yes
15 they'll... they're... they're welcome, they're going to
16 be able to eat dinner there. So you know getting
17 out the information I think is really key both for
18 the businesses and for the individuals who want to
19 visit the businesses.

20 CHAIRPERSON CORNEGY: So keeping with
21 that theme I'd like to ask SBS what do you... what do
22 you currently do to help smaller businesses if
23 anything become accessible? And... and what
24 methodology of outreach for businesses that are
25

1
2 already accessible in connecting them to... to a
3 consumer base do you do?

4 ANDREW SCHWARTZ: I outlined a lot of
5 the services we provide to small businesses and
6 generally if a accessibility issue comes up with a
7 business we're working with we would refer it to
8 MOPD. Often it is involving the waiver of those
9 requirements which goes through a DOB... Department
10 of Buildings process. So we would generally make
11 those referrals. We don't provide specific legal
12 guidance on accessibility because usually a
13 business will need to engage their licensed
14 professional architect in doing that. But with...
15 there is also a lot of training going on from
16 agencies such as the Human Rights Commission now on
17 ADA issues and human rights. So we refer there.

18 CHAIRPERSON CORNEGY: So sticking with
19 the idea of outreach what information does SBS
20 provide to small businesses about their rights and
21 obligations under laws aimed at creating access for
22 people with disabilities?

23 UNIDENTIFIED: Sure. Through our Small
24 Business First Initiative and... and the Department
25 of... Division of Business Acceleration there is a

1
2 comprehensive outreach effort to reach underserved
3 and under supported businesses throughout the five
4 boroughs. And part of the effort is to educate
5 businesses on the compliance requirement. So that
6 is significantly integrated into the outreach
7 effort of the small business first initiative. And
8 whenever there... there is an opportunity to educate
9 a business or to make a referral to M... Mayor's
10 Office of Personal Disability that happens through
11 our small business first initiative and the
12 outreach team that interacts with businesses on a
13 day to day basis.

14 CHAIRPERSON CORNEGY: So I'm... I'm... you
15 know I've... we... we're about 45 minutes into this and
16 I haven't mentioned chamber... Chamber on the Go
17 which is probably way past the time that I normally
18 would. I... I... I... I bit my tongue. But I think that
19 you know that service would be an excellent way to
20 disseminate some of this information. So I mean...
21 [cross-talk]

22 UNIDENTIFIED: Thank you. Thank you
23 Chair. I was waiting for your cue. Simply didn't
24 want to trump you on that. But we thank you so much
25 for your leadership and your foresight in

1
2 initiating Chamber on the Go last year and working
3 even tirelessly in this fiscal year to expand the
4 initiative to all five boroughs. And so we eager to
5 get going on that initiative to get into those
6 underserved communities and integrate information
7 about how you can better serve persons with
8 disability and just the myriad of services that's
9 available to help businesses start smart and to
10 really avoid pitfalls and to be compliant on this
11 particular bill but also on all the other
12 challenges they face and how they can overcome that
13 in this very competitive environment. So Chamber on
14 the go is going to be one of the key initiatives
15 that SBS will use in the coming months to get
16 information out there. And not in... in... in just
17 commercial corridors but in... in... in corridors that
18 are historically underserved and under supported.
19 So we look forward to working with you on that
20 initiative.

21 CHAIRPERSON CORNEGY: Oh and then lastly
22 I want to ask a very... a very literal question
23 about... about the accessibility and then I'm going
24 to allow for... for my colleagues to have their
25 questions. But so literally if a small business

1
2 owner is in a Landmark district, there are some
3 areas in my district that... that you know our
4 landmark then are great protectors of things. But
5 it wants to remove a step at the entrance of his or
6 her building or replace it with a ramp. From which
7 agencies would the small businesses... would small
8 businesses require a permit. And the reason I ask
9 that is because small businesses literally don't
10 know. Right. So residential individ... people who own
11 homes in... in landmark areas have gotten a... a wealth
12 of information on what to do, what grants are
13 available if... if... if there's a disability issue
14 with a... with a homeowner and what they should do.
15 How would you... how would you disseminate
16 information and who is the person responsible for
17 that in the small businesses... from a small business
18 perspective? Please... please do me a favor and
19 identify yourself before you begin speaking. And I...
20 and I have to go through the affirmation process
21 with you which is not the most fun thing but just
22 bear with me. Just give me your name and title
23 please.

24

25

1
2 MARSHAL: I'm Marshal Kaminer. I'm with
3 the Department of Buildings. I'm the executive
4 engineer and technical... [cross-talk]

5 CHAIRPERSON CORNEGY: First of all,
6 thank you for coming.

7 MARSHAL: You're very welcome.

8 CHAIRPERSON CORNEGY: And if I could
9 just get you to raise your right hand. Do you
10 promise... Do you affirm to tell the truth, the whole
11 truth, and nothing but the truth in your testimony
12 before this committee and in your answers to all
13 council members questions?

14 MARSHAL: Yes I do.

15 CHAIRPERSON CORNEGY: Thank you.

16 MARSHAL: Okay. So essentially when...
17 when applying for a job... any... any job actually
18 accessibility included you... you would come to the
19 Department of Buildings first. We have a thing
20 called a property profile. And on that would
21 indicate if the building is landmarked or not. So
22 we... you know we take accessibility very seriously.
23 We have a whole chapter in the building code about
24 it. And it's been in prior codes as well. It's been
25 around for a while. And once we know that the

1
2 building is landmarked we then... we request that the
3 applicant at record meaning the architect or the
4 engineer go to the Department... go to the Landmarks
5 Committee and they then have to show their design
6 to them. And again it depends on what the approval
7 at landmarks is. Sometimes if it's exterior which
8 it usually is then Landmarks would want to look at
9 it and make sure that the design matches you know
10 the... the intent of what they wanted to save.
11 Sometimes if it's interior and only the exterior is
12 landmarked then they're basically done and they can
13 just stay at the Department of Buildings.

14 CHAIRPERSON CORNEGY: So from someone
15 like me whose had some dealings with residential in
16 Landmarks one of the questions always is is this
17 something that's ultimately be debilitating to a
18 business's opportunity to operate.

19 MARSHAL: Well yeah any time you have to
20 go to another agency yeah it adds some time to the
21 process of approval. But it's debilit... I wouldn't
22 say it's debilitating it would just be... it would
23 take more time. I mean it would add to the project.
24 Obviously your tenants can benefit from
25 accessibility, similarly for a businesses.

1
2 CHAIRPERSON CORNEGY: So I... just for the
3 future I... I'd like to work with your office but to
4 try to find the way to streamline that process when
5 a business is making a commitment to be accessible
6 which benefits the entire city. It's good for
7 business. I would like not to have it be either
8 cost prohibitive or time prohibitive for someone to
9 really step up because that's what it really
10 amounts to in some... to some degree stepping up to
11 the plate and making their businesses accessible we
12 don't... we don't want you... you know we don't want to
13 be... have it seem like they're being penalized to do
14 so so... I really just want to work with you on
15 streamline... potentially streamlining...

16 MARSHAL: Right.

17 CHAIRPERSON CORNEGY: ...that process...

18 [cross-talk]

19 MARSHAL: Well it... [cross-talk]

20 CHAIRPERSON CORNEGY: ...in any way.

21 MARSHAL: That... that would be fine.

22 We're... we're all for it. We... obviously I would
23 highly recommend that landmarks is here as well
24 when we have that discussion.

25

1
2 CHAIRPERSON CORNEGY: Yeah so you know
3 there... there's a saying that no good deed goes
4 unpunished. Let's not... let's not live that creed.

5 MARSHAL: Okay.

6 CHAIRPERSON CORNEGY: Thank you.

7 MARSHAL: Thank you.

8 CHAIRPERSON CORNEGY: So now I'm going
9 to allow my colleagues who have waited patiently to
10 input... Peter Koo do you have any questions?

11 COUNCIL MEMBER KOO: Commissioners so I
12 want to ask you is... is... what percentage of New York
13 City businesses are now accessible to people with
14 disabilities right now. Do you know? Do you have...
15 idea?

16 [cross-talk]

17 MARSHAL: I'm sorry can you repeat the
18 question?

19 COUNCIL MEMBER KOO: What percentage of
20 New York City businesses are now accessible to
21 people with disabilities? Do you have an idea...

22 MARSHAL: No unfortunately I do not
23 because the applications come in and they're not
24 always clear. I would... I would have to discuss it
25 further with our IT people to see if we could

1
2 possibly pull out words like accessibility or ADA
3 or things like that from the applications to
4 possibly find it. At the moment I have... I cannot
5 tell you. The other... the other issue is there has
6 to be an application file as well.

7 COUNCIL MEMBER KOO: Hmm.

8 UNKNOWN: So we would only be doing it
9 based on that. [cross-talk] So any new building
10 would of course be accessible and we could give you
11 those numbers. But in terms of the old buildings
12 that got retrofitted that would be a little bit
13 more difficult.

14 COUNCIL MEMBER KOO: How about from the
15 Mayor's Office?

16 KLEO KING: Unfortunately, it's more
17 anecdotal information from the community letting us
18 know. We don't have a percentage of businesses.
19 That's one reason we started the RAP program for
20 restaurants is to try to figure out... we have X
21 number of restaurants in the city. These are how
22 many are in the program and we can get that
23 information out. So you know we're looking at you
24 know trying to develop more ways of finding out you
25 know what the existing city looks like.

1
2 COUNCIL MEMBER KOO: So... so what is the
3 biggest misconception small businesses have about
4 their applications to be accessible. What is the
5 miss... most misconceptions? Do... do you know?

6 KLEO KING: Again the... anecdotally I
7 know from people I've talked to... our offices talked
8 to business owners. A lot of times they don't have
9 the information or they think that they... issues
10 that they have to overcome are going to be more
11 expensive than they really are. So those are some
12 things that we're hoping to get some fact sheets
13 and things out there so that they don't have
14 misconceptions.

15 CHAIRPERSON CORNEGY: Mark. I'm sorry
16 Council Member Levine.

17 COUNCIL MEMBER LEVINE: Mark is fine.
18 Thank you Mr. Chair. Commissioner Schwartz I wanted
19 to ask you a couple of questions about 851. I was
20 actually surprised at the... what felt like the... the...
21 the strength of your objections to the bill. I just
22 wanted to ask you about some of your concerns. So
23 for starters do you... do you actually think that
24 tenant harassment of commercial tenants exist? Is
25 that... is that a concern of yours?

1
2 ANDREW SCHWARTZ: Yes it is. I think we
3 strongly agree that it... there could be cases of it
4 and I think the bill goes in the right direction on
5 categorizing a number of these types of behavior
6 that are clearly as you pointed out in your opening
7 statement they should be actionable.

8 COUNCIL MEMBER LEVINE: Can you in any
9 way characterize the... the quantity of complaints
10 that you receive from commercial tenants related to
11 landlord harassment?

12 ANDREW SCHWARTZ: I think in actual
13 complaints about harassment and I'll see if
14 Assistant Commissioner Collins has more on this but
15 it's been more anecdotal evidence at business round
16 tables and discussions and... and workshops with
17 businesses. You know allegations about the... kind of
18 the key money type of thing. And these payments are
19 sometimes hard to define as... as you point out but
20 you don't know if it's like part of some kind of
21 deposit or just some under the table payment. I
22 think finding the right language in the bill to get
23 at that makes... makes a lot of sense. Certainly a
24 lot of the other things in the bill as they say
25 are... are pretty direct about why they are... would

1
2 constitute harassment. And then we just pointed out
3 those items that we think as they say could use an
4 affirmative defense because there might be a reason
5 why a landlord has to do that or just gives them
6 the opportunity to at least explain their actions.
7 So these have been in initial discussions with the
8 law department, with the concerns as I say about
9 potential conflict with state law in some areas but
10 otherwise yes we strongly agree with the intent of
11 this... [cross-talk] give tenants at least that kind
12 of weapon and maybe put landlords on notice to
13 deter that kind of... [cross-talk]

14 COUNCIL MEMBER LEVINE: Right so you do
15 agree that then tenant should have some legal
16 remedy in... in cases of harassment... [cross-talk]

17 ANDREW SCHWARTZ: Correct.

18 COUNCIL MEMBER LEVINE: Okay. More than
19 they have today?

20 ANDREW SCHWARTZ: Correct. I'm... yeah.

21 COUNCIL MEMBER LEVINE: Got it. And you...
22 you cited a few examples of behavior... landlord
23 behavior in your comments that may or may not
24 constitute harassment. You said perhaps the
25 landlord has to cut off heat for some sort of

1
2 repair purposes... right... heat or gas. But of course
3 you could imagine cases where that's done
4 punitively or for longer time than was minimally
5 necessary as well, correct?

6 ANDREW SCHWARTZ: Yes. And again if that
7 type of deliberate behavior does sound like
8 harassment.

9 COUNCIL MEMBER LEVINE: Right. And you
10 also talked about entering premises which could
11 potentially be allowed under terms of a lease. But
12 of course you could imagine cases where landlords
13 entering outside of what it would have been
14 permitted in the lease.

15 ANDREW SCHWARTZ: Yeah again I think
16 that's an area where the law department... if we
17 could talk about appropriate revisions to address
18 so that it's not conflicting with say common law
19 rights that landlords have. This is sort of what's
20 been in the discussion so far.

21 COUNCIL MEMBER LEVINE: Sure. I mean I
22 think the reason why our idea is that this would go
23 to the court is because there's going to be some
24 judgement required. Lack of gas is not by
25 definition harassment. It could be that the gas

1
2 main blew up a block away but... we hope not but... but
3 in many cases it is frankly. And it may take a
4 court to decide but right now there's really no
5 option for remedy for commercial tenants and... and
6 this is what we're trying to fix.

7 ANDREW SCHWARTZ: Right.

8 COUNCIL MEMBER LEVINE: Yeah. So you
9 also in your remarks talked about a fear that that
10 this might be inconsistent with state law. And I
11 can get your exact words but if you could... what you
12 said... remedies prescribed... by the bill must be
13 consistent with state law. Could you explain what
14 you meant by that?

15 ANDREW SCHWARTZ: Yeah. It's... as I said
16 we've had preliminary discussions with the law
17 department. And again... and I think follow-up
18 conversations with committee and the counsel
19 probably will make sense here. But in terms of the
20 remedy section and possession that was the concern
21 that the state real... real property actions and
22 procedure law has certain provisions for landlords
23 to bring cases and also the... the real property law.
24 And just to ensure that we're not in direct
25

1
2 conflict in that and having possession granted when
3 that could be done in the right court.

4 COUNCIL MEMBER LEVINE: And that... and
5 that only applies to access to the premises, is
6 that right? Would it also apply to depriving
7 services or the under the table payments or the
8 other forms of harassment?

9 ANDREW SCHWARTZ: The remedy of
10 possession was the concern there.

11 COUNCIL MEMBER LEVINE: Okay.

12 ANDREW SCHWARTZ: Like reestablishing
13 possession. I think those other areas of harassment
14 we... again we agree with them being defined as
15 harassment and having the court impose the kind of
16 monetary penalties or other maybe equitable
17 remedies that a court would... could do.

18 COUNCIL MEMBER LEVINE: Right. So it... it
19 sounds like other than some legal technicalities
20 your main suggestion is the creation of an option
21 of affirmative defense for landlords.

22 ANDREW SCHWARTZ: For several of those
23 categories we thought. And again as you said if...
24 it... it's a matter of oh the heat is cut off you
25 know and it... it would be up to the landlord

1
2 affirmatively to say that they did it for a
3 legitimate reason in that case. And you're right
4 the court can say this is not so you know the
5 tenant is correct here.

6 COUNCIL MEMBER LEVINE: But your point
7 as the bill is currently written doesn't allow
8 landlords to make the case that there was a
9 legitimate reason.

10 ANDREW SCHWARTZ: That's right. In
11 several of those categories [cross-talk] I think.
12 There was... there is a provision there for
13 affirmative defenses in a couple of the other
14 grounds so I think that one could probably you know
15 be addressed.

16 COUNCIL MEMBER LEVINE: Any... any common
17 sense analysis would... would recognize that there
18 are legitimate cases where services are not
19 available to any building, residential or
20 commercial and that what we need is protections
21 against deprivation of services that go beyond
22 that. And if the insertion of the affirmative
23 defense languages gives the right balance I won't
24 speak for the chair but... seems... this seems
25 reasonable. And I'm... I'm holding onto the line that

1
2 you said here which is that you... you... you believe
3 that with appropriate revisions this is something
4 that the bill... a bill that the administration could
5 support right?

6 ANDREW SCHWARTZ: Correct.

7 COUNCIL MEMBER LEVINE: Okay. Well we...
8 we look forward to talking through the details with
9 you on that.

10 ANDREW SCHWARTZ: Thank you.

11 COUNCIL MEMBER LEVINE: Very good. Thank
12 you.

13 CHAIRPERSON CORNEGY: I... I would like to
14 say that myself and my colleagues have gone through
15 great painstaking detail to remove the anecdotal
16 from this. So we all met in... in... in various
17 community board meetings and got anecdotal
18 information. So I... I just want to say that I
19 encourage you if you can to stay and listen to the
20 business owners who are here who will detail some
21 of the things that are described in the bill
22 unfortunately. So the bill was actually modeled
23 after some of the... the very people that are in this
24 room today.

1
2 ANDREW SCHWARTZ: Very good. We will
3 have somebody from SBS here for that purpose. And I
4 do want to point out... Council Member Levine
5 pointing out in his opening statement about the
6 wild west that's why we are also trying to work
7 with businesses on the whole commercial lease and
8 offering these courses in one on one review because
9 a lot of businesses need to know what's in that
10 lease, how they could use their space you know,
11 zoning, all these other issues that go into what's
12 in a... in a lease. And we think that's going to be
13 helpful to have businesses start right when they're
14 locating.

15 CHAIRPERSON CORNEGY: So... so what... what
16 is your advice to small business owners and
17 nonprofits when dealing with landlords attempting
18 to execute self-help evictions?

19 ANDREW SCHWARTZ: I'm not an expert in
20 that field but self-help I think most landlords...
21 you know the... the real property actions and
22 proceedings law was referring to is kind of the
23 summary proceedings that landlords generally use.
24 And I think need to use when they're doing eviction
25 because I think the whole thing is to avoid that

1
2 kind of you know self-help situation and people
3 getting into kind of bad situations trying to put
4 people out themselves.

5 CHAIRPERSON CORNEGY: So if my
6 colleagues don't have any more questions I want to
7 take this opportunity to thank you for coming out.
8 I was going to say especially the buildings
9 department but there's no especially. But we do... we
10 really do appreciate you being present to... to field
11 questions as it relates to that. But I'm really
12 interested and excited to hear from some... some
13 small business owners. And I just encourage those
14 that can to stay and listen to these stories which
15 are although being given and articulated orally are
16 not anecdotal.

17 ANDREW SCHWARTZ: Understood. Thank you.

18 CHAIRPERSON CORNEGY: So just on this
19 panel singularly we'll have Shula Warren on behalf
20 Borough President Gale Brewer. So Ms. Warren can I
21 just get you to affirm...

22 SHULA WARREN: Sure. Absolutely.

23 CHAIRPERSON CORNEGY: Do you affirm to
24 tell the truth, the whole truth, and nothing but
25 the truth in your testimony before this committee

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2 and in your answers to all council member's
3 questions?

4 SHULA WARREN: I do.

5 CHAIRPERSON CORNEGY: Thank you.

6 SHULA WARREN: My name is Shula Warren.
7 I'm the Director of Policy and Special Projects for
8 Manhattan Borough President Gale Brewer. I'm sorry
9 she can't be here herself and I'm... it's my pleasure
10 to read her testimony into the record.

11 CHAIRPERSON CORNEGY: You will tell her
12 I said hello though right?

13 SHULA WARREN: Absolutely.

14 CHAIRPERSON CORNEGY: Okay.

15 SHULA WARREN: My name is Gale A. Brewer
16 and I'm the Manhattan Borough President. Thank you
17 Chair Cornegy and the members of the Committee on
18 Small Business for the opportunity to testify
19 today. I commend Council Members Cornegy, Koo, and
20 Levine on their respective pieces of legislation
21 being discussed today. I believe the proposals are
22 shaped to appropriately address the expectations of
23 respect that underlie all business matters. The
24 bills before the committee create new safe guards
25 against discriminatory actions, unpremeditated or

1
2 otherwise, that affect consumers and proprietors
3 alike. This year marks the 25th anniversary of
4 Americans with Disability Act, the ADA, landmark
5 legislation that protect the civil rights of people
6 with physical and cognitive disabilities. Since
7 1990 advocates have doubled their efforts to ensure
8 that Americans with disabilities have access to
9 everything our society has to offer and are not
10 excluded from it including the right to be a
11 consumer unrestricted by his or her handicap. To
12 that end the ADA and subsequent state and local
13 regulations provide specific obligations to ensure
14 that business owners do not infringe on those
15 individual rights. An unfortunate consequence of
16 these obligations however is that deciphering the
17 overlapping jurisdictions often requires expeditors
18 and expertise that is prohibitively costly.

19 Unpacking that confusion would lessen the barriers
20 to undermine businesses trying to fulfil their
21 obligation under the law. Intro 537 introduced by
22 Council Members Koo and Cornegy would benefit small
23 businesses. If and when it becomes law the result
24 will be a knowledgeable and dedicated point of
25 contact so... disability inclusive design as opposed

1
2 a layout that's an impediment to people with
3 disabilities. According to the 2005 2007 statistics
4 from the American Community Service public use
5 microdata persons with disabilities over the age of
6 five comprise 13.6 percent of Manhattan's
7 population and their value as consumers should not
8 be underestimated. Separately discriminatory
9 harassment practiced by landlords and directed at
10 their commercial tenants is another area of law
11 that needs improvement and a robust remedy. An
12 objective is... clause of action in Intro 851.
13 Recently my office published a report; Small
14 Business, Big Impact expanding opportunity for
15 Manhattan storefronters. The study then provided
16 recommendations to reverse the tide of disappearing
17 independent businesses that have stood the test of
18 time and anchored our community. We confirm what
19 many felt. The recovery from the 2008 recession
20 escalating property values contributed to large
21 scale increases in commercial rent. In a hot market
22 like the one we're experiencing fueled by the
23 proliferation of chain stores and banks the new
24 acting prices per square foot are triple and more
25 of what longstanding mom and pops have been paying

1
2 in some of the most desirable neighborhoods. Only
3 by handling aggressive landlords accountable can we
4 dissuade such illegal harassment tactics such as
5 cutting off essential... tenant's essential utilities
6 and wearing them down with frivolous court
7 proceedings. That's why I'm proud to support
8 Council Members Cornegy and Levine in the
9 advocating for Intro 851. I applaud the sponsors of
10 these bills for their commitment to preserving the
11 rights of both consumers with disabilities and
12 small business owners. I am eager to work with the
13 mayor and members of the council on these and other
14 strategies to aid small businesses. Further
15 solutions are addressed in... report taking the
16 pressure off lease renewals, modernizing policies
17 governing street vending, encouraging canonization
18 of storefront space, and creating low intensity
19 commercial districts. Thank you for your time.

20 CHAIRPERSON CORNEGY: So I actually
21 don't have any questions directly for the borough
22 president. And... but thank you for your testimony.

23 SHULA WARREN: Thank you.

24 CHAIRPERSON CORNEGY: And again tell her
25 I said hello. So at this time I'd like to call some

1
2 very value... the most valuable people in the room
3 today which is the small business owners. I'd like
4 to start with a panel of Melvin Simon, Amin Ambak,
5 Stephanie Yawp am I saying that wrong, sorry, of
6 course I am, Nick Velcov oh, and... Yes and can I
7 have another chair please? And excuse me for the
8 misprunctionation [phonetic] mispronunciation of
9 any names but you guys all sign in like doctors by
10 the way. So... So if I can all just get you to raise
11 your right hands for me. Do you affirm to tell the
12 truth, the whole truth, and nothing but the truth
13 in your testimony before this committee and in your
14 answers to city council members' questions?

15 [combined affirmations]

16 CHAIRPERSON CORNEGY: Thank you.
17 Remember gentleman chivalry today. So... I just said
18 chivalry man...

19 STEPHANIE: Hello, my name is... yes.

20 CHAIRPERSON CORNEGY: If you could start
21 by identifying yourself. And then go on to your
22 testimony please.

23 STEPHANIE: Yes. My name is Stephanie
24 Yawp. I am here along with the executive director
25 of my organization Artists Space. We are a

1
2 nonprofit arts organization located in SoHo. We are
3 about 45 years old. We've been in downtown
4 Manhattan that entire time and we've been in our
5 current location at 38 Green Street since 1994 with
6 a 25-year lease which is very fortunate for us. But
7 the building was sold in 2008 to a landlord who has
8 illustrated sort of repeated harassment isn't
9 exactly the right word without having known a lot
10 about this type of initiatives that you're... you're
11 discussing here today. When we were... we were
12 notified about this hearing it... it exemplifies a
13 lot of the treatment that we have undergone and...
14 and other people that used to be in the building.
15 We're the last holdout from his purchase in the
16 building. There were other non-profit tenants there
17 also. Ultimately some of the past experiences we've
18 had include we worked very diligently with the
19 Landmarks Commission to allow banner signage to be
20 put on the building which during a construction
21 period the landlord took down and he eventually
22 returned to us and... [cross-talk]

23 CHAIRPERSON CORNEGY: I just want to say
24 that your testimony is very valuable to us but I
25 don't think everyone can hear you.

1
2 STEPHANIE: Okay sorry. Sorry about
3 that. We... we worked with the Landmarks Commission
4 for an approved banner for signage for our... our
5 organization. The landlord removed it during
6 construction and he returned it to us in very poor
7 condition and refused to reinstall it at his
8 expense and has refused us to have it installed
9 again without going through the whole procedure
10 that we went through initially. During a similar
11 instance of construction on the building he put up
12 a shed blocking our handicap accessibility to the
13 building. We were given a key to this shed that he
14 placed over the ramp but when we did need to use it
15 in a case of a wheelchair attempting to come to our
16 nonprofit organization it was full of debris and
17 equipment that was promised to be clear. These are
18 just... you know we've had ongoing elevator and heat
19 issues throughout the years we've been there. These
20 were all smaller issues for us. More recently we
21 are facing a situation where he is wanting to build
22 two floors on top of this landmarked building in
23 SoHo. He has received approval for that. But the
24 necessity is for him to reinforce columns
25 throughout the building and he is, I feel, using a

1
2 clause in our lease that is highly redacted by his
3 counsel to claim that he can come in, stop our
4 business for four months to do this work, and offer
5 no compensation once so ever. It has been stated
6 that our art exhibitions are not important enough
7 to delay the work. We are absolutely willing to
8 give him the time that he needs. We have delayed
9 our exhibition from what was supposed to open last
10 month to January on a good faith effort that we
11 give him the proper time he needed to get permits
12 and do the work but we feel very strongly that we
13 should be compensated for this loss of business. We
14 are a non-profit organization. Our business is
15 exhibitions. We receive grant money for these. We
16 cannot raise money for an exhibition that's not
17 going to happen. And we feel very strongly that he
18 is you know using this breach of contract threat to
19 us be able to just come in and access the space
20 with no regard to... to what we as tenants do in the
21 space, our primary course of business is to do
22 these exhibitions. It will also visually alter the
23 space. He's going to turn these iconic SoHo columns
24 from round to square. I'm sure they will go back to
25 round when our lease is up and he wants to raise

1
2 the rent on the space because nobody wants square
3 columns in SoHo. But you know we're not you know
4 getting any sort of visual compensation for that
5 either.

6 CHAIRPERSON CORNEGY: So it... I don't
7 know if you know this but this administration has
8 been big on attempting to identify non-profits as
9 small businesses as well.

10 STEPHANIE: Yes, mm-hmm.

11 CHAIRPERSON CORNEGY: So it's quite
12 afrapo [phonetic] that you would be here
13 unfortunately under these circumstances but I... I... I
14 encourage you to stay in contact with us...

15 STEPHANIE: Mm-hmm.

16 CHAIRPERSON CORNEGY: ...because we do
17 believe based on some petitions that we've seen and
18 based on the amount of the city's employment that's
19 based on non-profits... [cross-talk]

20 STEPHANIE: Sure.

21 CHAIRPERSON CORNEGY: ...and... and are non-
22 profit hires that that classification should be
23 recognized so...

24 STEPHANIE: Thank you. I appreciate
25 that.

1
2 CHAIRPERSON CORNEGY: ...you're in the
3 right place.

4 STEPHANIE: Thank you. We... you know
5 other than sort of probably legally and any other
6 aspect that we operate we are considered a small
7 business by vendors, by banks, etcetera. So we feel
8 quite close to those types of colleagues. And
9 another reason we're here is to try to help support
10 those voices too because we don't want to see
11 landlords being able to do this to our other you
12 know small businesses in the area.

13 CHAIRPERSON CORNEGY: Thank you.
14 Anybody.

15 MEL SIMON: Mel Simon. I'm the owner of
16 Brooklyn Clothing Lab. We are located at 1068...
17 Street in Brooklyn. Three year three months into my
18 lease the property... there was a fire at the
19 building. I was displaced for like five months.
20 Couldn't get into my business. Couldn't do any
21 business for that period. I eventually got in after
22 that long period. And after being in for like two
23 months the electricity was taken out of the
24 building. The previous owner of the building had a...

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CHAIRPERSON CORNEGY: I'm sorry Mr.

Simon what do you mean taken out?

MEL SIMON: Taken out. The previous owner owed a bill of like 40,000 dollars to Con Edison and Con Edison came and took power out..

CHAIRPERSON CORNEGY: The meter?

MEL SIMON: ...from the..

CHAIRPERSON CORNEGY: Okay.

MEL SIMON: ...streets.

CHAIRPERSON CORNEGY: Okay.

MEL SIMON: So from that time on I've been operating with a generator. For those who don't understand what I do is... we do fashion. We create stuff. We have machinery. And we need power to do that. So for the last three and a half years I've been operating with a generator. That said the building eventually was sold to a new owner. And since that happened we never met the owner. We never received anything in the mail saying who the new owner is, identifying the... himself or what he been doing sending contractors through the building to do various things. This started by sending contractors there to take the asbestos off the roof. Well that was a ploy. What they actually did

1
2 was take the roof off. I was actually in the
3 building working, creating, and had buckets all
4 over to catch water. They did that... we had... we
5 called the authorities. The cops who came at that
6 time told us we were in the wrong, we had to go.
7 This was Thanksgiving day I got a call. I was at
8 home relaxing with my family, had to rush down to
9 the building because these people were on the roof
10 trying to take the roof off. They have... they came
11 back a second time. And my colleague here Dodd is
12 an attorney. So we got something in writing and
13 tell them if they have to do that they have to be
14 able... if they're going to take the roof off they
15 have to put it back so we can work. That stop them.
16 When we... when we give them that paper to sign to
17 say they were going to put it back in a... in a... in a
18 working condition they never came back. Last week
19 new contractors came. And they came now. They said
20 they're going to take the plumbing out, the sewer
21 system out of the building because they're getting
22 ready to demo the building and these things have to
23 come out before they do that. They claim that one
24 of the things they have to take out is in my
25 showroom window. So that means I have to close up,

1
2 I have to close my businesses because they have to
3 dig in the window... that's where he said the pipes
4 are, exactly in my show window. They use
5 contractors as a means of harassment. This is what
6 they do. We have never met the new owners...

7 CHAIRPERSON CORNEGY: Wait Mr. Simon let
8 me ask you have you ever been given notice that
9 work was going to be done on your buil... any written
10 notice every given, produced by owner developer
11 anybody saying that...

12 MEL SIMON: Once, the day before. After
13 I left my business they came and they put something
14 on my... on my door. When I came the next morning the
15 contractors were there. What I said to them I said
16 well why didn't you inform us of this before they
17 said on your door. They did it the night before.
18 Access to the commercial space, they keep using
19 contractors to get in and duping me because I would
20 give them... you know they say they're working for
21 the new landlords I would give them keys to get to
22 the basement because in the neighborhood where we
23 are if you don't protect the basement the... it would
24 be vandalized. This has been constantly going. And
25 I've replaced copper pipes three times. People

1
2 vandalize the building, taking the copper pipes,
3 and selling them. So most of the law enforcement
4 people, most of the cops really don't have an idea
5 of how to handle these issues. Once they come they
6 often side with the contractors of the owner of the
7 building. It was only the last time that they came
8 through the help of your office that the 79
9 precinct came by and told them what they're doing
10 is illegal and it's an illegal eviction that
11 they're trying.. and step off and don't even try.
12 But prior to that we had two occasions.. my
13 colleague he was there where the cops came and was
14 actually trying to apprehend us as wrongdoing when
15 it was the contractors who was you know trying to
16 do us wrong. Last week they came by again trying to
17 do some more work on the property. Luckily I was
18 there to stop them. So it's an ongoing thing and
19 right now we're dealing with phantom owners. As I
20 say we don't know who owned the property. They're
21 not showing their faces. I've asked the contractors
22 numerous times to give me a number. The last
23 contractor told me he would give me a number for
24 the owner if I let him do what he needs to do
25 first.

1
2 CHAIRPERSON CORNEGY: So currently do
3 you have electric... do you have power and water...
4 [cross-talk]

5 MEL SIMON: No.

6 CHAIRPERSON CORNEGY: ...in the building?

7 MEL SIMON: No I work with a generator
8 for the last three... [cross-talk]

9 CHAIRPERSON CORNEGY: What about water?

10 MEL SIMON: ...years.

11 CHAIRPERSON CORNEGY: What about water?

12 MEL SIMON: No water. They took the
13 water out. I fill water at my house and drive it to
14 my business.

15 CHAIRPERSON CORNEGY: Thank you. Thank
16 you Mr. Simon. Yes?

17 AMIN AMBAK: Sorry my name is Amin Ambak
18 and we're neighbors in the property. I own Juice It
19 Health Bar which is closed now because of more
20 situations to my location. I just wanted to specify
21 that Thanksgiving attempt was a different
22 structure. There are two structures. The first time
23 they did it was on the main structure which he was
24 in and I had storage inside. So a lot of my
25 electrical materials... because I had just finished..

1 well I really wasn't finished doing construction
2 yet, but I was forced to be finished after this,
3 was damaged nowhere near as much as his damage. But
4 the thanksgiving issues was the... the... where the
5 storefronts are. So luckily my father lives around
6 the corner and just happened to be walking by and
7 saw contractors on the roof. That's the only reason
8 why we caught it. But in addition to everything Mr.
9 Simon was saying I ended up having to close my
10 store because they had the fire department come and
11 shut off the water. I came one day, the locks were
12 changed, I'm looking around, there was a little red
13 tag on the lock, called the number, the fire
14 department comes a couple hours later with no
15 information, no... nothing. They... they just got a
16 call saying to shut the water off. So that still
17 doesn't explain why you broke the lock to a
18 storefront to shut the water off for the entire
19 building when that has nothing to do with the
20 storefront. The water main is not in a store front.
21 So I... after I got back in there's holes in the
22 roof... I just did the roof. Holes in the roof, the
23 place was a mess, and then I found out they turned
24 the water off. Had a plumber come, he couldn't
25

1
2 figure it out. And it took me two years to get... my
3 store was in a little better shape than his
4 storefront so I was able to eventually convince Con
5 Edison to give me a meter. And constantly when he
6 was trying to cooperate you know we didn't want to...
7 we didn't want to fight with the new owners. We
8 just wanted to know what's going on, give us some
9 information... they would leave the... the... the... the
10 basement open and you know the electrical room was
11 constantly opened, rummaged through, have to
12 constantly keep repairing the electrical because
13 they were just... the contractors would leave the
14 doors open and people will come in and like he said
15 steal copper and mess up my meter. So it was
16 constantly loss of business because some days I
17 would come in and there's... the power's not working.

18 CHAIRPERSON CORNEGY: Mr. Ambak did you
19 seek legal assistance at any time?

20 AMIN AMBAK: I did...

21 CHAIRPERSON CORNEGY: And if so what was
22 the... what was the outcome?

23 AMIN AMBAK: Well I ran out of money. So
24 I... I... my father's an attorney but he doesn't deal
25 with this type of situation so he referred me to a...

1
2 a old colleague and she was very helpful but
3 without knowing who the owner is, who the... We
4 didn't... we didn't have any information. And at that
5 point I didn't even have the money to do a order...
6 cause because I was just constantly losing. I mean
7 the... the store... the... the building when we first got
8 there was in such bad shape that it took so much
9 money to get it to you know good for inspection to
10 be able to do business. So not even a month after
11 finally getting able to open this starts happening.
12 So I'd spent... you know I was... I was...

13 CHAIRPERSON CORNEGY: Have you... have you
14 attempted a suit against the current landlord or is
15 just that you don't know who the landlord is..

16 AMIN AMBAK: Don't know who the landlord
17 is.

18 MEL SIMON: We know the previous
19 landlord. When I presented him with my damages from
20 the water, a list of the damages; machinery,
21 fabrics, people... customers' orders he said to me he
22 doesn't have any money to give me. What I can do is
23 sue. But who do I sue. He's no longer the owner.

24 CHAIRPERSON CORNEGY: Again... my office
25 is going to continue to work with you to be as

1
2 helpful as we possibly can. But thank you for
3 coming and letting everyone here... what transpired.

4 NICK VELCOV: [off mic] Hi my name is
5 Nick Velcov...

6 CHAIRPERSON CORNEGY: I just... Nick I
7 just need you to...

8 NICK VELCOV: Sure.

9 CHAIRPERSON CORNEGY: ...speak into the
10 mic so it can be registered on the record.

11 NICK VELCOV: Sure. Sure. My name is
12 Nick Velcov. My business is a small yoga studio up
13 in Harlem on 145th and Amsterdam. This building
14 that we're in has given us problems in four very
15 essential services. We have had problems with our
16 elevator, problems with our water supply, problems
17 with our boiler and heat, and problems with our
18 electricity. Our problems began with the elevator
19 in that it would not deliver passengers to our
20 floor. The elevator would go to every floor of the
21 building except ours. We told the landlord about it
22 nicely as we were new tenants and we never heard
23 anything back from our landlord. We dealt with the
24 issue until one day as we were beginning to develop
25 a kids' yoga class which we thought was going to be

1
2 a really nice addition to the neighborhood. It was
3 a really great way of bring parents and their kids
4 together to create relationships and give some kind
5 of extracurricular community building for the
6 neighborhood. Parents were coming to our space and
7 using the elevator because they needed to bring
8 their strollers up with their kids. And what they
9 would usually do is take the elevator to the floor
10 right above us, get out, and then carry their
11 stroller down one flight of stairs into our space.
12 And we worked with that system and we tolerated it
13 for several months until one day the elevator got
14 stuck in between floors. And a mother was in there
15 with her small kids. And the kids got spooked and
16 started to cry. And she went to the call box, the
17 emergency call box to get help but the call box
18 didn't work. So we had to communicate by cell phone
19 and we all started hitting buttons on different
20 floors until finally the elevator started moving
21 again and they were able to get out. But at that
22 point nobody was in the mood for the kids' yoga
23 class and the very next week all the parents
24 collectively decided to cancel the class. They
25 didn't want to come anymore. So our damages were a

1
2 loss of revenue for that class but infinitely
3 greater loss was the... the destruction of the
4 community building that was going on between
5 parents and kids in the neighborhood. So we told
6 the landlord about it and we didn't receive any
7 response from him. We checked on the Department of
8 Buildings Website and we found that there were a
9 number of violations that were still open and
10 active on this elevator going years into the past.
11 So we began more communication with the landlord.
12 And we... I mean by communication I mean we sent
13 emails and ever heard anything from him. In... by the
14 beginning of the winter time we weren't getting any
15 heat into the building. We began communicating with
16 the landlord again about what's happening with our
17 heat and he told us that he doesn't provide any
18 heat, we would have to provide our own. So we
19 bought electric space heaters and we began
20 operating them for 1,000 dollars a month of
21 electricity. In February during... during one of the
22 particularly cold days, February 21st to be exact
23 we entered our space and the water had been shut
24 off. We called the landlord and asked and he said
25 he had to turn off the water because of the

1
2 extremely low temperatures he was afraid of the
3 pipes freezing and bursting. So we went the day
4 without water but we asked him to kindly give us
5 advance warning next time he's going to do that
6 because it looks unprofessional for people to
7 arrive at the space and they turn on the faucet or
8 they try to flush the toilet and doesn't work. The
9 very following weekend, February 25th it was a
10 Satur... I believe it was February 25th don't quote
11 me, but the following Saturday of that week he did
12 it again. He turned off the water without any
13 notice. Now our business... the yoga studio... we're
14 operating on a mission to provide low cost yoga to
15 the community. Our belief is that through yoga and
16 mindfulness based stress reduction techniques,
17 meditation a community can be really strengthened
18 and well served and people can find preventative
19 health care through their yoga and meditation
20 practice. And we're offering it at a very very low
21 cost. Five dollars a class. Some classes are pay
22 what you wish. Now that can be a bit of a... a risk
23 in the sense that when some people come to our
24 class they might wonder why are the classes only
25 five dollars. Is there some kind of a catch? And

1
2 the catch is yeah, we don't have running water, we
3 don't have a working elevator. So it makes the... our
4 mission to provide low cost yoga seem like
5 something a bit invaluable in some way. So moving
6 forward we began to communicate with the landlord
7 more about our boiler and our heat and we
8 eventually learned that there were a number of
9 electrical violations also unresolved on our
10 building. We... sorry let me back up. One day as we
11 were operating one of our yoga classes all of our
12 power went out. We called Con Edison, we checked
13 our breakers, we found out there was nothing wrong
14 with our breakers, we called Con Edison and asked
15 why did the power go out, and they told us that
16 their systems tests had detected some faulty
17 equipment. So we asked the technician to come back
18 and take a look and show us what exactly their
19 systems test is finding and what they found is that
20 there was an illegal jumper placed on the breakers.
21 I don't know exactly what that means and Mr.
22 Cornegy I would urge anyone to get our reports from
23 Con Edison, we asked for our reports from Con
24 Edison but we can't even be given reports of our
25 own meter without a subpoena is what Con Edison

1
2 told us. And we need a subpoena to get a transcript
3 of our... of the service reports. But what they told
4 us over the phone is that they had found this
5 illegal breaker, a jumper excuse me, an illegal
6 jumper on the breakers and that poses a fire
7 hazard. We had to pay for a licensed electrician to
8 remove that breaker. And once it was removed then
9 they would send a technician back to restore our
10 power. So we did that. We hired a licensed
11 electrician. He came. He removed the jumper. We... we
12 kept the receipt of the 12-hundred-dollar charge
13 that we deducted from our rent, and Con Edison came
14 back. Now when they came back the second time they
15 said okay we're going to restore power, let us run
16 an equipment test. Oh we ran an equipment test. The
17 ground line is so old and corroded and faulty that
18 if we were to bring electricity back into space you
19 might have an explosion. That ground line must be
20 replaced. So we went back to the landlord and we're
21 like how could you have possibly let your equipment
22 get so old and corroded that it poses a fire
23 hazard. Don't you do any preventative maintenance?
24 And he said no this is a commercial building. I
25 don't have to do anything. So we say well we're

1
2 calling the electrician. We need that ground line
3 replaced. He said no I don't want your electrician
4 working on it, I'm going to call my electrician. We
5 said fine call your electrician because we've gone
6 a week without electricity now. Call him and
7 replace it. Fine. The guy came. Some work was done.
8 And power was restored. And sorry I did forget one
9 point. At that moment before we discovered the
10 illegal jumper between the breakers the lights in
11 the stairwell and the lights in the elevator box
12 had gone out. They had gone out for about four
13 days. The day that power to the stairwell and the
14 elevator box was restored was the day before we
15 lost power in the space. Our suspicion... now this is
16 a suspicion... our suspicion is that in order to
17 restore the power to the stairwell and the elevator
18 box they put that illegal jumper on the breakers in
19 order to fix their problem. Can't prove it but it
20 seems like a pretty logical connecting of the dots.
21 So anyway... sorry I had forgotten that point...

22 CHAIRPERSON CORNEGY: Before you move
23 forward I want to say that I intentionally allow
24 for your... for everybody to have an impassioned
25 story because I think it's important to hear.

1
2 Ordinarily we're on a clock and... and it's timed. I
3 think... I think that what I wanted to do was really...
4 you... you guys as skilled artisans and as
5 entrepreneurs have a true... the quintessential New
6 York story and I think people need to hear that.
7 And I think as a city we have a responsibility for
8 making sure that those stories can have a happy
9 ending. But ordinarily we don't allow for it to go
10 that long.

11 NICK VELCOV: Oh okay. Sorry.

12 CHAIRPERSON CORNEGY: But I really... I
13 really want it to... I really wanted to get the true
14 essence of... of what's been transpiring. Now it... it
15 can vacillate in these conversations from just
16 terrible landlords to harassment. But what we want
17 to do and what we seek to do through this bill is
18 to be able to disseminate that and really give a
19 structure by which we can stop some of these
20 practices.

21 NICK VELCOV: Mm-hmm.

22 CHAIRPERSON CORNEGY: Right. So I... I
23 just wanted to say that ordinarily we... we don't go
24 that long.

25 NICK VELCOV: Okay sorry.

1
2 CHAIRPERSON CORNEGY: And we have
3 another panel behind you. But it's not a testament
4 to the fact that we're not committed as a city to
5 remedying this and to making sure this bill goes
6 forward to protect what you've experienced and any
7 new businesses from experiencing it.

8 NICK VELCOV: Mm-hmm.

9 CHAIRPERSON CORNEGY: So I just have to
10 ask you to... to wrap up.

11 NICK VELCOV: Okay. Well that's pretty..
12 I... I'm pretty much in the end. What... really where
13 we are now is that the... the violations on the
14 elevator are still unresolved. I've checked in with
15 Byron Munoz Community Liaison at the Department of
16 Buildings. He's looking into it but in a gist he
17 told me once in person that there is no legal
18 structure in place to force a landlord to fix these
19 problems. There are still open violations on our
20 electrical wiring. A couple weeks ago there was an
21 electrical fire at 3333 Broadway, 10 blocks away
22 from where our yoga studio is. According to some
23 local news reports that electrical fire was caused
24 by an overloaded socket and there were also open
25 violations at that building. We still have Class 1

1
2 Hazardous open violations on our building for
3 unsafe wiring and unsafe electrical equipment in
4 use. And this comes on the heels of us moving into
5 the winter where we will soon be using high energy
6 space heaters just to heat our space because our
7 boiler doesn't work. And so we don't... we have
8 absolutely no idea where to go from here. We asked
9 Legal Aid Society can we withhold rent legally
10 speaking and they told us no you can't, you could
11 get taken to court if you withhold rent. And the
12 landlord could not only win but according to your
13 lease you'll have to pay for the landlord's
14 attorney's fees. And we're like how do we
15 incentivize this landlord to fix the building so
16 it's just safe. It doesn't even have to be an
17 Emerald City Building. It just needs to be safe so
18 it doesn't catch fire. How do we do that. And as it
19 stands we don't see any remedy that exists right
20 now.

21 CHAIRPERSON CORNEGY: Well thank
22 goodness that the Buildings Department has stayed
23 to listen. I... I suggest that you get...

24 NICK VELCOV: ...love to, absolutely.
25

1
2 CHAIRPERSON CORNEGY: ...the card and see
3 if there's some way that you can move forward.
4 Again I thank you so much for your testimony. And I
5 know it must be difficult to take time away from
6 your valuable businesses to come here and do this
7 but there... it is important to hear your story.
8 Thank you. ...you guys... I don't have... it's only me
9 left and I have no questions. I'm going to call
10 the... the next panel which is a panel of advocates.
11 I have Melissa Chapman, Jim Smith, Ted De Barbieri,
12 Erica Coleman, and Edith Prentiss. There's a doctor
13 somewhere in your family. Oh sorry...

14 [background conversations]

15 CHAIRPERSON CORNEGY: So can I just get
16 you guys to affirm your testimonies for me. If you
17 would just raise your right hand. Do you affirm to
18 tell the truth, the whole truth, and nothing but
19 the truth in your testimony before this committee?

20 [combined affirmations]

21 CHAIRPERSON CORNEGY: Thank you. So you
22 guys since there's a balance ratio can begin
23 however you like.

24 MELISSA CHAPMAN: Good afternoon Council
25 Member Cornegy and other members of the committee

1
2 and guests here today. Thanks again for mentioning
3 Chamber on the Go. As you know we love it. We thank
4 you for trusting us with being the pilot project
5 for Chamber on the Go. I'm Melissa Chapman and I
6 serve as a Senior Vice President for Public Affairs
7 at the Brooklyn Chamber of Commerce. I'm delivering
8 testimony on behalf of our President and CEO Carlo
9 Scissura. The Brooklyn Chamber is a membership
10 based assistance organization. It represents the
11 interests of over 21 hundred member businesses as
12 well as other businesses throughout the borough. We
13 are in support of both proposals. Under federal and
14 state law it is illegal to discriminate against any
15 person with an actual perceived disability in many
16 contexts of everyday life including public
17 accommodations such as business establishments.
18 This provision comes with the requirement on the
19 part of the business owners to construct or adjust
20 their physical space as well as their policies and
21 procedures to make sure that people with physical
22 or sensory disabilities have the same access to
23 their facilities as... and services as people without
24 disabilities. Intro 537A is a common sense approach
25 to ensuring that businesses are in compliance with

1
2 the law and also that they have the proper
3 guidelines and support from what would be a small
4 accessibility coordinator to make the required
5 transformations. With better access as we pointed
6 out earlier small businesses will also be able to
7 accommodate a wide cross section of customers
8 leading to more business and also employees as
9 well. As it relates to Intro 851A we simply cannot
10 displace our mom and pop shops and small businesses
11 in our collective commitment to maintain a robust
12 business environment in New York City. These
13 businesses play a very important role in economic
14 development and in creating an authentic New York
15 neighborhood experience. Further they provide jobs
16 and create a sense of community in the areas in
17 which they operate. As such the chamber is in
18 support of 851A which aims to address instances in
19 where small businesses are on the receiving end of
20 harassment and interruption of business... and
21 interruption of business operations by landlord
22 providing that they're operating in the space
23 legally. In our 2014 member issue survey the cost
24 of real estate and finding affordable commercial
25 space was listed as a number one obstacle to doing

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2 business in Brooklyn. This speaks volumes as a
3 majority of our chamber members are small
4 businesses so it is very important that we create a
5 conducive environment for small businesses to
6 flourish. Thank you for the opportunity to testify
7 on these issues.

8 JIM SMITH: I just want to say thank you
9 for letting me speak. I'm for 85A... 51A. And my
10 newest landlord...

11 CHAIRPERSON CORNEGY: Just do me a favor
12 and identify yourself.

13 JIM SMITH: Yeah, Jim Smith. Okay my
14 newest landlord who arrived June 2010 has been
15 harassing me for five years to move out using the
16 elevator against me. Firing the friendly elevator
17 man super we've had for 33 years and hiring nasty
18 elevator operators since June 2010. The elevator
19 men who were... who were originally nasty are
20 followed by worse ones. Since last October 24... 14
21 he actually... are blocking my visiting legal
22 clients' friends and family from coming to my fifth
23 floor live work IMD in... in the buil... in the... in the
24 elevator, using the elevator. The stairs are not
25 ventilated and usually filthy with fibers and small

1
2 dirty particles. The landlord offered some very bad
3 buyouts numbers which I refused. We made so little
4 this year we will not even have to pay income tax.
5 The landlord planned a court case with the lawyer
6 based upon the fact I would have no money to fight
7 him in court. When he attempted to evict based on
8 misinformation that I sublet since provision false.
9 The building is not up to code so the New York City
10 law port cannot directly simply predict the
11 elevator or reach out to help our situation. But
12 now we must be in court pleading for the elevator
13 back. The security is now so poor a man rang our
14 kitchen... doorbell today by bypassing two locked
15 front doors and the elevator man. The intruder
16 claimed he was at the wrong address when we
17 answered the door. He did not buzz the intercom but
18 it does not work properly anyway so we never know
19 who's coming. We have a lease saying we have the
20 elevator 8:00 a.m. to 6:00 p.m. and until 2010 we...
21 we had proper security during those hours. The
22 elevator man not only has people sign in when
23 coming to the fifth floor they are told roughly not
24 to use the elevator and to sign and walk up the
25 dirty filthy stairs. I took a photograph of the

1
2 Billy bat the elevator man kept in the elevator
3 beside him to harass me and my family to have the
4 police remove it. He... he lied to the police while
5 hi... was hi... and was hiding it when they came to
6 look for it at other times. I was reading an
7 article from Council Member Robert Cornegy I hope I
8 said that right made... making a new law to stop all
9 harassment of tenants' businesses. The law sounds
10 important and we should... we would want it to cover
11 IMD... IMD tenants in buildings not up to code as
12 well as other buildings. And we have felt constant
13 physical mental threats to us for over the five
14 years after living there for 40 years to us and all
15 the visitors in our daily life everyday over... over
16 the past five years living and not being able to
17 work here has become a terrible financial burden
18 and we feel a physically dangerous situation. I
19 have a beautiful... I had a beautiful legal
20 photographic studio for 33 years which started in
21 1977 and has taken five years from... and it has
22 taken five years of constantly harassing landlord
23 to destroy it. We had a robust healthy lifestyle
24 here and now no visiting friends or friends face
25 this horrible elevator entering our home

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2 complaining how can we let him treat me like this.
3 Our teenage daughter now cannot bring friends home
4 while the elevator man is in the lobby. My 64-year-
5 old wife cannot bring PTA people here. I'm turning
6 62 in four... in four months and I'm spending a great
7 deal of time dealing with court matter on frivolous
8 made up claims by the landlord. Without my family
9 inheritance my family would be indignant on the
10 street.

11 CHAIRPERSON CORNEGY: Thank you for your
12 testimony Mr. Smith. I... I'd like for you to make
13 sure that a conversation with my staff before you
14 leave.

15 JIM SMITH: Okay.

16 TED DE BARBIERI: Thank you Chair for
17 the opportunity to speak today. My name's Ted De
18 Barbieri and I run an urban economic development
19 clinic at Brooklyn Law School. Very much in support
20 of this legislation. The last panel of tenants made
21 our case for us. We're lawyers who would love to
22 serve clients like those who were on the last
23 panel. I think the... this is a critical piece of
24 legislation. Just a couple issues. We're... we're
25 very well positioned to provide these types of

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2 legal services. It's not just workshops and clinics
3 even though we work with SBS and we... we... we would
4 love to continue to do that it's also full
5 representation which I think the bill points out
6 especially by providing attorney's fees which is
7 very critical to this... to this bill. I think what...
8 one... one particular issue is there is not a pool of
9 lawyers who are ready to do this already. There's
10 no... because in that there's no existing legal
11 services for this type of work. So considering
12 funding civil legal services to do this type of... to
13 enforce these types of actions I think would be
14 something that's important as well. We work very
15 closely with the chamber and SBS as well as other
16 advocates up here to let tenants know about their
17 rights with respect to releases. And we would like
18 to continue to do that. And we'd like to work with
19 your office and the other... and the council and the
20 administration to continue to do that. Our... our
21 friends at legal aid also had comments about the
22 bill. Unfortunately, they weren't able to be here
23 today and they'll submit them in writing.

24 CHAIRPERSON CORNEGY: Thank you.
25

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2 ERICA COLEMAN: Good afternoon. My name
3 is Erica Coleman. I am the Legal Program Director
4 at Start Small Think Big. We are a non-profit based
5 in the South Bronx. And we similarly provide pro-
6 bono legal services to low and moderate income
7 small business owners in New York City. And we do
8 that primarily by leveraging a network of over 30
9 premiere Manhattan law firms to volunteer their
10 time and resources to... to serve our clients in... in
11 a variety of legal areas including among others
12 commercial leasing. And you know in that role and
13 in my two years working for Start Small Think Big I
14 have witnesses a number of commercial tenants in
15 New York City who have experienced many of the same
16 issues as... as we heard about on the prior panel
17 including lack of provision of critical utilities
18 such as heat and electricity, refusal to... to
19 negotiate a renewal lease, intimidation, you know
20 physical threats or intimidation of tenants, as
21 well as so... so many... many of the same issues. And
22 I... you know for... for that reason I'm very much in
23 support of... of Introduction 851 and you know would
24 like to echo some of Mr. De Barbieri's comments
25 that Start Small Think Big in partnership with SBS

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2 including... including others is engaged in a
3 provision of... of information about rights and
4 leases through... through legal workshops and... and...
5 and legal clinics. We're very glad for the
6 opportunity to leverage our... our pro bono networks
7 that we have for... for that purpose. But that is
8 very different from having a lawyer negotiate a
9 lease or... or represent a commercial tenant in
10 connection with a dispute with their landlord. And...
11 and similar to Mr. De Barbieri I... I know of no
12 public interest legal organization that currently
13 has the capacity to engage in full representation
14 in connection with... with disputes of commercial
15 landlords on a consistent basis. And so... and so
16 very much in support of the provision of the bill
17 that would provide attorney's fees.

18 CHAIRPERSON CORNEGY: So you should know
19 that we believe that good solid robust lease
20 negotiations would lead to less of these problems
21 at the other end. So you know we don't want to set
22 up something where we're fighting at the end when
23 really we can also be very helpful. I don't know if
24 your brand of services is distributed through
25 Chamber on the Go but I certainly suggest that... Not

1 yet? I certainly... that... that is a great suggestion.
2 They, they're going into every corner of the city
3 and dealing with a... a plethora of issues as it
4 relates to small businesses. But them having that
5 information available would be incredibly helpful.
6 So if you guys can link up?
7

8 TED DE BARBIERI: Yeah... absolutely.

9 CHAIRPERSON CORNEGY: Thank you.

10 ERICA COLEMAN: Thank you.

11 [background comments]

12 EDITH PRENTISS: Okay fine. Thank you.

13 My name is Edith Prentiss and I am representing
14 Disabled in Action... New York of which I'm the Vice
15 President of Legislative Affairs. I'm the President
16 of... yada-yada-yada. I think that first and foremost
17 I want to say that we support the concept of ADA
18 coordinators. But we do not support the concept of
19 ADA coordinators in the ghetto if you want to think
20 of it of MOPD. We want ADA coordinators out there
21 in every department. I can say that the ADA
22 coordinator who has been a DOT for the past year
23 has been incredible, has been fantastic. And bottom
24 line is he's in a manual chair. So he knows what
25 we're complaining about unlike many other agency

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2 representatives who are like oh Edith you're
3 whining, you're always complaining. Well yeah but
4 you know if you resolve the problem we wouldn't
5 need to complain to you. For example, a week ago
6 DOT held a meeting in my community in an
7 inaccessible location, a building that is in
8 violation of the city law passed approximately two
9 years ago which we supported and were brought to
10 the council which required that buildings with main
11 entries that are inaccessible that have a secondary
12 entry that is accessible are required to have a
13 sign of that fact. I wheel up to this building.. no
14 sign, no information, no nothing. How am I supposed
15 to get in? How am I supposed to let the person know
16 I'm outside trying to get in? So that... this is the
17 sort of thing that the ADA coordinator gets that
18 many people don't. There are many issues of
19 accessibility and accessible problems that are
20 particularly problematic with small businesses. I
21 have spoken numerous times to the business solution
22 guy on 181st Street and Washington Heights... I say
23 you know you tell these workers and owners to be...
24 what the temperature of the water has to be... what...
25 you know all of these things... No one ever tells

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2 them anything about city, state, or federal laws
3 and requirements of civil rights and accessibility
4 regulation. They never hear it. Recently a bar in
5 my neighborhood in renovating made itself
6 inaccessible. I of course you know went to the
7 MOPD. I went to CCHR etcetera. And it was like but...
8 the... we get to do this, it's like no you don't. So
9 many businesses don't know the basic thing. Bottom
10 line is any empty room is accessible but by the
11 time you put in the tables, the high tables with
12 the stools... you want my business give me a table
13 that's 36 inches tall. Many businesses which have
14 one step which the ADA says is readily ameliorable...
15 just chop the sucker off and put a mountain of
16 cement... totally illegal, totally illegal but that's
17 what we do. And they say well we don't have a step
18 anymore but yeah it's illegal. There are so many
19 issues that are problematic. You know your average
20 bodega, your 99 cent store, and I would love to
21 see... you asked earlier what is it like for people
22 with a disability. It's ironic. Two stores from
23 BCID on Smith Street the Brooklyn Center for the
24 Independents and the Disabled has a one step. It's
25 inaccessible. Probably if you got inside you

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2 couldn't move around anyway but that is such an
3 insult. And it's an insult that no one gives a
4 damn. And that's wrong. And we very strongly
5 believe that we need to have ADA coordinators in
6 agencies for the water culture... for the water
7 cooler culture. You know it's... you talk to people
8 and they go oh there aren't disabled people in New
9 York. They're all over the place. They're in the
10 subway, they're in the streets, and they're not
11 getting into businesses. And if you want my
12 business you're going to make it accessible. That's
13 the baseline. We try to tell businesses. I'm on... I
14 was on my community board's licensing committee and
15 the number of building venues that are coming in
16 new are better than what they were. But every hole
17 in the wall wants to get a liquor license if only
18 for beer and wine. You go in, it's got the counter...
19 the... the stools at the counter and no space to go
20 through. Everyone says they have an accessible
21 bathroom but if you can't get to it past the tables
22 or the stool how is it accessible. There are lot of
23 problems like this that have not been resolved or
24 even looked at. MOPD's program that... of
25 accessibility is very good and very interesting but

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2 it's monolingual and English last I looked again.
3 Very few people... you know MOPD has a very small
4 staff. I think that this would be a burden on them
5 if you would but we also want to see it in the
6 individual agencies. Because the agencies need to
7 take ownership. The agencies need to work with
8 people with disabilities and these... people in
9 wheelchairs which have... which are greatly... needed.

10 CHAIRPERSON CORNEGY: So what I want to
11 let you know is that this is not the end all and be
12 all as a bill but it is a step we believe in the
13 right direction. And those... I'd love... and I'm sure
14 that my... the... the sponsor would love to be able to
15 work with your organization in... in vetting some of
16 the serious issues that are present as it relates
17 to accessibility. So I... I... I clearly want to thank
18 you for coming to testify because I know it... you
19 know we don't make it as easy as it should be for
20 you to be able to... to... to voice your opinion. But I
21 do appreciate you... you staying as long as you have
22 and actually coming out so that we could hear.

23 EDITH PRENTISS: I'd just like to say
24 I'd forgotten to say tremendous... tremendous
25 percentage of the new eateries in Brooklyn are

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2 absolutely inaccessible, absolutely. Numerous
3 steps, inaccessible inside, etcetera. This is a
4 tremendous problem. You asked... rather Council
5 Member Koo asked earlier it is embarrassing... It was
6 rather ironic. We had as part of the ADA event
7 there was a street event in Chinatown. Now I'm
8 sorry I don't think there's a single area of the
9 city that is less accessible than Chinatown. And
10 you know I mean it was... it was very sweet, it was
11 well intentioned but nothing was accessible. And
12 you know it is a problem. And would gladly arrange
13 for anyone who... who wants to see their community
14 from a disability eye to arrange for the ILs or our
15 community members in those communities to give you
16 the tour. Thank you very much.

17 CHAIRPERSON CORNEGY: Thank you. I would
18 like that. Yes, we are adjourned.

19 [gavel]

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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date October 1, 2015