

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON SMALL BUSINESS

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

HELD AT: Council Chambers  
City Hall

B E F O R E:  
DAVID YASSKY  
Chairperson

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Letitia James  
Annabel Palma  
Darlene Mealy  
Robert Jackson  
John C. Liu  
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## A P P E A R A N C E S

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

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Margaret Chin  
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Ramon Murphy  
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Bodega Association of the United States

Alfredo Rodriguez  
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Luis Parra  
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Latino Association of Tax Preparers

Michelle N. Burkhart  
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Dance NYC

Quenia Abreu  
President  
New York Women's Chamber of Commerce

Loebe Julie  
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Julie Research Laboratories

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

Richard Hu  
Fabric store owner

Christine Colligan  
President  
Korean American Parent Association

Steven Barrison  
Executive VP  
Small Business Congress

Eduardo Giraldo  
Queens Hispanic Chamber of Commerce

Sang Hun Ri  
Former business owner

Frank Garcia  
Chairman  
Bronx Hispanic Chamber of Commerce

Ingrid Soto  
NY Women's Chamber of Commerce

Ydanis Rodriguez  
City Council candidate

Luis Acondo  
Architect

Rosa Nobrega  
Beauty Salon owner

CHAIRPERSON YASSKY: Good

afternoon. I would like to get started promptly since we have a number of people who are here seeking to testify and we have a limited amount of time in this room. We're going to try and get started very quickly. I will say simply as an opening statement that I believe that we absolutely have to do something, period. We have to do something to help small businesses, and in particular, storefronts and bodegas get through this unbelievably difficult time that they are facing. We have on the table today a very creative proposal from Robert Jackson. I know we will hear from him in a moment. He's asked to make an opening statement as the sponsor of this bill, and has pushed it with just extraordinary vigor and dedication. I want him to have the opportunity to speak here. I think it's a very promising idea. It's a bill that we're going to hear testimony about today but I will tell you right away, my inclination is to support this bill. I know that the administration has raised issues and raised concerns about it with the Council. It's not an option to do nothing. If

1  
2 it's not going to be this bill, then I want to  
3 hear what the alternative is for how we're going  
4 to help small businesses in this difficult time.  
5 You can walk into any store and ask how they did  
6 this June compared to last June or how they did  
7 this May compared to last May and you will hear  
8 numbers that are at best 10%-15% down and at worst  
9 you will hear 50%, 60% or 70% down. The mom and  
10 pop stores on the commercial strips in our  
11 neighborhoods are the heart of the neighborhood.  
12 We cannot allow them to be pushed to the point of  
13 disappearance, which is what is happening now.  
14 The one thing I just want to put right up front  
15 with the administration witnesses here is we have  
16 to have some solutions to offer. With that, I  
17 want to give Councilman Jackson to make an opening  
18 statement. I will say also, we're going to be  
19 having a very strict time limit on witnesses  
20 today. I know it's generally the courtesy to  
21 permit unlimited testimony from the  
22 administration. I'm going to ask you to keep it  
23 to four minutes, not three minutes which is the  
24 ordinary. I'll put it to four minutes. I'm going  
25 to ask you to stick to that. Your written

1 statement here will be entered into the record.

2 I'm sure there will be questions and answers and I  
3 don't want it to be three hours before we hear  
4 from the public. Then when the public testifies,  
5 I'm just telling you now at the beginning that  
6 each witness will be limited to two minutes  
7 because without that, we're not going to be able  
8 to hear from most of the people here who want to  
9 testify. Council Member Jackson, do you wish to  
10 make a statement?  
11

12 COUNCIL MEMBER JACKSON: Thank you,  
13 Mr. Chair. I appreciate the opportunity to make  
14 this opening statement. Let me just say, I  
15 appreciate your cooperation as the chair of the  
16 Small Business Committee in moving this hearing to  
17 today. In front of you are small business owners,  
18 associations, and many people that are involved in  
19 ensuring that small businesses survive in New York  
20 City. We're talking about shop owners, beauty  
21 salons, travel agencies, bodegas, small law  
22 offices, basically mom and pop stores that you see  
23 lined up along avenues and streets and what have  
24 you. Mayor Bloomberg has said that small business  
25 is the backbone of our great city. In fact, in

1  
2 listening to some of his campaign ads for  
3 reelection, they talk about what they're doing for  
4 small business. Let me applaud that. I think the  
5 more we do for small businesses, the better off  
6 this city will be. Quite frankly, I think we need  
7 to go a step further, and that is to help small  
8 businesses when their leases are expiring to give  
9 them the opportunity to stay in business in order  
10 to keep them employed, the employees that they  
11 have employed and also to help the economy.

12 Clearly, I have seen as a member of the City  
13 Council in my own neighborhood in northern  
14 Manhattan storefronts where small business owners  
15 have been forced out of business because they  
16 could not afford the exorbitant prices that  
17 landlords were charging for lease renewals. Also,  
18 I've read in newspapers where small business  
19 owners have been asked either by the real estate  
20 agents or by the landlords themselves for anywhere  
21 from \$10,000 to \$20,000 or more in cash before  
22 they begin their negotiations for a lease renewal.  
23 What this bill will do for small business owners  
24 is level the playing field, give them the  
25 opportunity to renegotiate a lease with the



1  
2 landlord so they can stay in business and the  
3 employees that they have can stay employed. The  
4 landlord will be able to earn some money also and  
5 that storefront will not stay vacant for months if  
6 not year. So this, in my opinion, is a win/win  
7 situation. I thank all of the groups and  
8 organizations and individuals that have been  
9 involved in this process which brought it here  
10 today. I look forward to hearing the testimony,  
11 knowing that small business is the backbone of our  
12 great city and that without small business, we  
13 would be in trouble. I look forward to moving  
14 forward this bill, Mr. Chair. This bill was  
15 initially introduced about 24 years ago by then  
16 City Council Member Ruth Messinger and it did not  
17 pass out of the committee by one vote. Today,  
18 four out of five members of this committee have  
19 signed onto the bill. As of today, 29 out of 51  
20 members of the City Council have signed onto the  
21 bill. Mr. Chair, I've said this to you many times  
22 before. We can't wait. Every day or every month  
23 that we wait, small businesses are going out of  
24 business. We are losing the infrastructure of our  
25 great city. We can't wait because the time is

1  
2 now. Let me talk politically for a second. This  
3 is an election year. Every member of the City  
4 Council is either up for election or reelection or  
5 running for higher office. Every position in our  
6 city government from mayor, to comptroller, to  
7 public advocate to borough presidents, everyone is  
8 running. There are many candidates. The  
9 commitment has been made by so many people, but  
10 the time is now. Talk is cheap. We want action.  
11 Thank you.

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

16 ANDREW SCHWARTZ: Both of us.

17 CHAIRPERSON YASSKY: Please proceed  
18 then.

19 ANDREW SCHWARTZ: Good afternoon,  
20 Chairman Yassky and members of the Small Business  
21 Committee. My name is Andrew Schwartz and I am  
22 First Deputy Commissioner for the Department of  
23 Small Business Services. I am joined today by SBS  
24 Deputy Commissioner David Margalit on my left and  
25 representatives from the New York City Economic

1  
2 Development Corporation. Thank you for the  
3 opportunity to testify regarding Intro 847-A. The  
4 mission of SBS is to make it easier for companies  
5 in New York City to start, operate and expand by  
6 providing direct assistance to business owners,  
7 fostering neighborhood development in commercial  
8 districts, promoting financial and economic  
9 opportunity among minority and women-owned  
10 businesses, preparing New Yorkers for jobs and  
11 linking employers with a skilled and qualified  
12 workforce. We certainly share concerns faced by  
13 businesses regarding adequate space, relocation  
14 costs, rents and other difficulties faced during  
15 the current economic downturn. Accordingly, SBS  
16 and EDC offer many programs that support the over  
17 200,000 small businesses in the City. On a  
18 community level our Business Improvement District  
19 program and Avenue NYC provide support for local  
20 businesses and commercial districts throughout the  
21 City. The network of 64 BIDs and numerous Local  
22 Development Corporations that receive grants  
23 through Avenue NYC, know the property owners in  
24 their districts and the needs of their  
25 communities. When they encounter an increase in

1 commercial vacancies, they can assist in marketing  
2 available properties, help attract businesses to  
3 those spaces and aid in linking businesses to  
4 services they need. The Department of Small  
5 Business Services also provides direct assistance  
6 to small business owners through NYC Business  
7 Solutions. This is a suite of services to help  
8 businesses start, operate and expand in New York  
9 City. The services are provided at no cost and  
10 address the needs of entrepreneurs and businesses  
11 of any size and at any stage. Services include  
12 business courses, financing assistance, incentives  
13 assistance, legal review of contracts and leases,  
14 navigating government and regulations, selling to  
15 the government Minority & Women-owned Business  
16 Enterprise certification, hiring assistance, and  
17 training employees. NYC Business Solutions is  
18 launching several initiatives to meet the needs of  
19 more small business customers such as developing a  
20 legal seminar on commercial leasing and  
21 establishing a satellite NYC Business Solutions  
22 Center in Washington Heights. Last year, NYC  
23 Business Solutions helped 170 clients secure over  
24 \$11.8 million in financing and 400 businesses hire  
25

1  
2 over 5,000 employees. SBS also oversees NYC  
3 Business Express, a city-wide initiative that will  
4 revolutionize the way businesses do business with  
5 the City of New York by making starting,  
6 operating, and expanding a business clearer,  
7 faster, and simpler. By the end of this year, the  
8 one-stop online tool will have all the license,  
9 permit and tax information and applications needed  
10 to do business online and allow businesses to  
11 access consolidated information about their  
12 interactions with the city. One area of  
13 assistance directly related to rental space, is  
14 guidance to business owners in the negotiation of  
15 commercial leases. Leasing appropriate and  
16 adequate space is a key concern for a retail  
17 business. It is essential that an owner  
18 strategically plan the location of their business,  
19 provide for growth and consider what the market  
20 may be like when the lease is due for expiration.  
21 There is also the fundamental question of whether  
22 to purchase or rent space initially, enter into a  
23 long term lease and negotiate for an option to  
24 renew. Aside from the length of a renewal and the  
25 amount of rent, there are numerous other issues

1  
2 involved in negotiating a commercial lease,  
3 including whether the landlord or the tenant will  
4 bear the costs of various items, including  
5 utilities, taxes and building maintenance. There  
6 are often questions regarding the allowable use of  
7 the space, hours of operation and renovation  
8 costs. These are areas subject to negotiation  
9 between the landlord and tenant. In every case,  
10 it is always advisable for a business owner to  
11 have an attorney review these legal documents to  
12 ensure that the owner fully understands all terms  
13 and provisions prior to signing the lease.

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

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

24 CHAIRPERSON YASSKY: Please sum up  
25 in 30 seconds. The proposed legislation would

1  
2 represent a substantial departure from the current  
3 marketing for leasing space and involving city  
4 government in the process. As the Council is  
5 likely aware, the bill raises legal issues that  
6 will require further analysis. It is also worth  
7 noting that the bill apparently intends to place  
8 the decisions of special arbitrators beyond  
9 judicial review. We are concerned with the  
10 amount of personnel and administrative resources  
11 that would be needed to implement the bill with  
12 thousands of properties subject to its provisions.  
13 A last, but not least concern is cost. Mediation  
14 and arbitration, which are at the heart of this  
15 bill, while generally less expensive than  
16 litigation, can still be lengthy and costly. It's  
17 our hope that with the multi-pronged approach of  
18 services offered through SBS and EDC we can  
19 continue to grow our commercial areas. Thank you.

20 CHAIRPERSON YASSKY: Thank you.

21 ANDREW SCHWARTZ: That was  
22 abbreviated.

23 CHAIRPERSON YASSKY: It was. Thank  
24 you.

25 MICHAEL N. MEOLA: Thank you.

1  
2 Thanks, Andrew. In the interest of time, I will  
3 abbreviate my testimony. Thank you, Chairman  
4 Yassky and members of the committee, for allowing  
5 the NYCEDC to speak on Intro 847-A. My name is  
6 Michael Meola and I'm a senior vice president at  
7 the NYCEDC. I'd like to structure my testimony,  
8 even abbreviated, in two parts; first talk very  
9 quickly about some of the exciting initiatives  
10 that EDC is doing to address the needs of small  
11 businesses. And then secondly, discuss the  
12 current trends in commercial real estate and some  
13 of the concerns we have about the bill. As you  
14 all know, our primary mission is to create jobs  
15 and grow businesses throughout the five boroughs.  
16 In the last several months we have launched a many  
17 initiatives with this purpose including  
18 JumpStartNYC, which is a five-day boot camp  
19 followed by an internship program to help laid-off  
20 workers transition into new industries. We've  
21 also launched a series of incubator programs, once  
22 again, to help startups and entrepreneurial  
23 businesses gain the services and networking and  
24 coaching that the need. We have launched the  
25 FRESH program with the Department of Mental Health



1 and Hygiene and the Department of City Planning to  
2 facility the development of supermarkets,  
3 particularly in the boroughs. We've launched the  
4 Capital Access program, which is a \$5 million fund  
5 of EDC funds matched through the private lenders  
6 which will inject \$14 million of new lending into  
7 the community. There are several other  
8 initiatives also. I just want to take a few  
9 minutes to comment on trends in the real estate  
10 market. While I share the concerns of the  
11 committee for economic hardships faced by small  
12 businesses, I believe that, at least for the  
13 moment, the pressures that Intro 847-A is intended  
14 to address have greatly dissipated. A couple of  
15 years ago rents seemed to be on an ever-increasing  
16 trajectory, and vacancy rates were at historic  
17 lows, giving, in some cases at least, landlords an  
18 advantage in the leasing process. However, over  
19 the last year, rents have declined substantially  
20 across all the major property types, and vacancy  
21 rates have increased. A walk down any commercial  
22 street will verify that, actually as Council  
23 Member Jackson mention, that there are many retail  
24 and upper floor office spaces for rent. The flip

1  
2 side of this, however, is that existing businesses  
3 and startups have much greater opportunity to  
4 negotiate with landlords and have the ability to  
5 choose among several landlords in many spaces.

6 Quickly, Class A rents for office space have  
7 declined by 18% from the peak and Class B offices,  
8 which are relevant to small businesses, have  
9 declined by 15% from the peak. Retail rents have  
10 declined by 11 % from the peak and we've seen an  
11 increase in vacancy in all those property classes.

12 What these statistics indicate is a broad  
13 correction in the pricing of commercial real  
14 estate, which ultimately translates into a  
15 readjustment in the balance of power among  
16 landlords and tenants. In conclusion I would like  
17 to echo the concerns of my colleagues at SBS about  
18 the proposed legislation. Intervention of this  
19 type in the commercial real estate market would be  
20 a dramatic departure from current and past  
21 practice in New York City. Such an intervention  
22 in the vast commercial real estate market could  
23 have the unintended consequence of reducing the  
24 supply of new capital investments in commercial  
25 and retail space. This could, over the long term,

1  
2 lead to increased rents to tenants, especially to  
3 new and innovative tenants. What we do not want  
4 to see is a reduction in the ability of developers  
5 and small investors to build new commercial  
6 property. And we do not want to reduce the  
7 ability of landlords to invest in the maintenance  
8 and upgrade of their properties. NYCEDC and SBS  
9 have developed many programs and initiatives to  
10 address the needs of small businesses and we  
11 believe that these will continue to create new  
12 jobs. What the data tells us is that the trends  
13 in the real estate market, at least for the time  
14 being, have reduced the pressure, on average, on  
15 small businesses and small retailers. Thank you  
16 and I'm happy to answer questions.

17 CHAIRPERSON YASSKY: Thank you very  
18 much. I appreciate both witnesses condensing  
19 their testimony. I'm going to first go to my  
20 colleagues for questions because I believe that  
21 there will be a lot of them and then I'll go.  
22 Colleagues, I'm going to use a timer for our  
23 questions, mine and yours as well. I'll set it to  
24 five minutes. We can do second and third rounds  
25 if necessary, but my hope is that if we limit each

1  
2 of our individual rounds to five minutes, then  
3 overall we'll shorten the amount of time we're  
4 taking. I just want to point out that we have  
5 more than 20 people from the audience who have  
6 signed up to testify. If we're going to get to  
7 the public we're going to have to make sure we  
8 leave time for that. Council Member Jackson, this  
9 is your bill, please begin the questioning.

10 COUNCIL MEMBER JACKSON: Thank you,  
11 Chair Yassky, I appreciate that. I guess my  
12 question is more for the SBS at this point in  
13 time. Commissioner Schwartz, you mentioned other  
14 programs that the city is doing. As I said  
15 earlier, I just can't separate that out. The  
16 mayor and the administration talks about what  
17 they're doing to help small businesses and  
18 especially startup businesses, but I haven't heard  
19 anything as far as to help businesses whose leases  
20 are expiring to help them to renew their lease on  
21 fair terms and not being ripped off by landlords.  
22 So I want to know what, if anything, is the  
23 administration doing for small businesses to help  
24 them to renegotiate their leases with the  
25 landlords, stop abuses of some landlords or agents

1 asking for cash before they can renegotiate the  
2 least and then doubling or tripling their lease  
3 renewals. I do understand the economic situation  
4 within the past year. Everything is down. The  
5 business that these businesses are receiving is  
6 down, just like the leases are down. We're not  
7 only talking about this year, we're talking about  
8 a long-term impact; what's happening next year,  
9 the year after that and the year after that.  
10 Business owners cannot just go from day-to-day;  
11 they have to plan in advance. What is the  
12 administration doing to help small businesses stay  
13 in business when leases are up for renewal?

14  
15 ANDREW SCHWARTZ: Council Member, I  
16 appreciate what businesses are going through. As  
17 I laid out briefly in my testimony, we do offer a  
18 wide array of services that assist businesses.  
19 That does include on leasing issues getting them  
20 pro bono counsel to review leases and assistance  
21 in understanding what they have to negotiate. We  
22 can't personally act as a representative for a  
23 business owner. I want to make clear also that  
24 our Business Solution Centers are always  
25 available. They're walk-in centers in each of the

1  
2 boroughs. We have a tremendous amount of  
3 information available online. We encourage people  
4 to look for space in areas where they get tax  
5 credits such as the 11 Empire Zones throughout the  
6 city and other areas using the city's ICAPP  
7 program, our energy cost savings program to reduce  
8 costs while understanding that they have to  
9 negotiate with a landlord ultimately what their  
10 rent is. But with all of that assistance that we  
11 provide, we are not hearing a lot of the  
12 complaints of the types that leases aren't being  
13 renewed as being the cause of impacting a  
14 business. Certainly with the type of extortion  
15 payments that you're lying out, we would welcome  
16 business owners bringing that information to our  
17 attention. It's outrageous. We don't condone it.  
18 I'm not a criminal law expert. I know that your  
19 bill doesn't provide any new penalties in that  
20 area, but we would certainly work with any  
21 business owner to bring it to the attention of the  
22 criminal justice coordinator or the district  
23 attorney's office in whichever county this is  
24 occurring because if it's illegal it shouldn't be  
25 happening. That's my response.

1  
2 COUNCIL MEMBER JACKSON: With  
3 respect to that, have you heard that this is in  
4 some areas a common practice to ask for cash  
5 payments in advance before lease renewal  
6 negotiations begin? Is this the first time you're  
7 hearing of that?

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

25 COUNCIL MEMBER JACKSON: In your

1  
2 testimony I believe you said you're opening up an  
3 office in Washington Heights to help small  
4 businesses. Is that office open now?

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

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

16 ANDREW SCHWARTZ: As I said, in the  
17 limited time I went into some of these items here  
18 which include both legal concerns with the bill  
19 that Corp Counsel is reviewing. The regulatory  
20 impact, which we really haven't talked about,  
21 would bring thousands of properties under a new  
22 type of regulation essentially. We don't have an  
23 agency currently that has the staff or resources  
24 to track that. certainly it would be a tremendous  
25 diversion from all the current services we're



1  
2 providing to start doing that. Landlords would  
3 have to be legally required to send out a 180-day  
4 notice. Now I know you'll immediately encounter  
5 concerns when a tenant hasn't received that  
6 notice. It's 100 days, what happens then? So  
7 there are a lot of practical considerations there.  
8 I also laid out the cost. The way I read the  
9 proposed bill, a tenant can go through mediation,  
10 can go through arbitration and an arbitrator is  
11 basically looking to set a fair market rent at the  
12 end of that process. The tenant can still walk  
13 away from that arbitrator's proposal and say I  
14 can't afford that or whatever. They're still  
15 going to have to pay an arbitration fee at the end  
16 of that process. So those are some of the  
17 concerns that we've laid out here.

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

20 ANDREW SCHWARTZ: Yes, I have.

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

25 ANDREW SCHWARTZ: That's what I'm

1

2 saying; that the cost will be on the tenant and  
3 they can be substantial.

4

5

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

6

7

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

8

9

10

11

12

13

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

14

15

16

17

18

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

19

20

21

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23

24

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

25

COUNCIL MEMBER JACKSON: Very good,

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2

Mr. Chair.

3

CHAIRPERSON YASSKY: Council Member

4

Liu.

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COUNCIL MEMBER LIU: Thank you, Mr.

6

Chairman for holding this hearing. In case you're

7

not aware, I am in support of this legislation put

8

forth by Council Member Jackson. Commissioner

9

Schwartz, you know what key money is right?

10

You've talked about it before. That is the

11

upfront cash payment.

12

ANDREW SCHWARTZ: I've heard the

13

term, yes.

14

COUNCIL MEMBER LIU: The only

15

response that I've heard you say so far is that

16

you're not sure that key money actually happens or

17

that the problem exists. You're waiting for

18

someone to give you information as to whether in

19

fact it exists. Do you think that small business

20

owners are being forced to pay some cash upfront?

21

I'm not saying every small business owner, but do

22

you believe that there are some small business

23

owners out there who have to pay cash upfront

24

either to get a new lease or to renew their lease?

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ANDREW SCHWARTZ: That may be the

1  
2 case, Council Member, and that's why we're asking  
3 for specifics on that.

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

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

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

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

19 COUNCIL MEMBER LIU: Right. In the  
20 12 years at SBS, have you heard of any cases that  
21 the Department of Small Business Services has  
22 pursued with regard to investigating key money?

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

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falls in SBS.

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

ANDREW SCHWARTZ: Council Member,

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we would recognize that. As I say, we are open to discussing it.

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COUNCIL MEMBER LIU: You want these

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guys to go out there and find the proof.

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Meanwhile, the City of New York is unable to

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recognize that this is a problem and go out there

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and find the information?

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ANDREW SCHWARTZ: Council Member,

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I'm not sure how the bill gets at that particular

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problem.

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COUNCIL MEMBER LIU: It does get at

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that problem because the fact of the matter is

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that the administration just doesn't understand

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that this is a problem, it's a longstanding

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problem. Don't take it personally. I don't mean

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you personally, I mean the administration.

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ANDREW SCHWARTZ: Council Member,

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we've worked together on a lot of things, so I

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don't take it personally.

21

COUNCIL MEMBER LIU: The

22

administration has worked to reduce the tax

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burden, the reform of the UBIT, right?

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ANDREW SCHWARTZ: Yes.

25

COUNCIL MEMBER LIU: How has that

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2       been reformed?

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4                   MICHAEL N. MEOLA: I can pick that  
5       up. Let me get my testimony in front of me. In  
6       2007, Local Law 35 was passed that increased the  
7       credit for owners of small businesses that are  
8       subject to both the personal income tax and the  
9       Uniform Business Tax, the UBT. The bill that is  
10      now going through the state legislature, which was  
11      passed by the Assembly and I believe is waiting  
12      for the Senate to pass it, would increase that  
13      credit so that sole proprietors and freelancers  
14      who make under \$100,000 would not pay the UBT.

14

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

17

18                   MICHAEL N. MEOLA: It is 11,000.

18

19                   COUNCIL MEMBER LIU: I'm not saying  
20      under the bill. Your testimony says if enacted  
21      and it's been two years. If enacted, this  
22      legislation will effectively exempt 11,000 of the  
23      firms paying the UBT. What I'm asking you is how  
24      many of the firms actually have benefited from the  
25      efforts of the administration? It's certainly not  
26      11,000.

1  
2 MICHAEL N. MEOLA: Council Member,  
3 I don't have the numbers in front of me for the  
4 2007 reform, which did increase the credit and  
5 therefore reduce taxes payable for the number of  
6 businesses. I can get you that number, but it's  
7 certainly several thousand. This additional  
8 reform would reduce that number by a further  
9 11,000.

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

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

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

23 ANDREW SCHWARTZ: No, we don't  
24 support this bill.

25 COUNCIL MEMBER MARTINEZ: The



1

2 administration does not support the bill?

3 ANDREW SCHWARTZ: No.

4 COUNCIL MEMBER MARTINEZ: It  
5 doesn't say that in the testimony.

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

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

25 ANDREW SCHWARTZ: Council Member,

1  
2 as I said, we are working with businesses  
3 precisely on that issue of commercial leasing. We  
4 understand it's a complicated thing for a business  
5 to go into a commercial lease. That's why we're  
6 working in coordination with the Legal Aid Society  
7 on those types of workshops with business owners  
8 so they can negotiate a proper commercial lease  
9 with an option to renew or whatever it is they  
10 need.

11 COUNCIL MEMBER MARTINEZ: I  
12 understand that. I think it would be more  
13 productive for the hearing if we go straight to  
14 the point. The pink elephant in the room is the  
15 fact that small business owners in the City of New  
16 York have to pay cash. We do nothing in the City  
17 of New York for small business owners. We do  
18 nothing for small business owners if we do these  
19 workshops with Legal Aid Society if they can't  
20 keep their business, if they can't renew their  
21 lease. So why have these programs? The issue is  
22 what do we do as a city if we want to maintain the  
23 small business community in the City of New York?  
24 I know you've seen the report in New York One.  
25 They did 125th, then they did Washington Heights

1  
2 and Inwood, and we saw the vacancy rates and we  
3 saw how many people are just leaving. One of the  
4 number one reasons was high rents. We had the  
5 chambers of commerce here who have done their own  
6 surveys. The number one issue is high rent or  
7 couldn't renew. The question is what we do as a  
8 city to address that issue. I'm familiar with  
9 many of the programs that both EDC and Small  
10 Business provide. That's not the issue. The  
11 issue is what we do to deal with the issue of the  
12 lease renewal and the money in the brown bag that  
13 has to be given.

14           ANDREW SCHWARTZ: Certainly, money  
15 in a brown bag, again, we've talked a little bit  
16 about that and the concerns with it. We  
17 completely agree with you and we would look for  
18 perhaps some type of penal provisions to be done  
19 that can address that specifically. On the other  
20 hand, we know as tenants, rents are a difficult  
21 cost of business in New York. You want long  
22 leases at low rents. Landlords want high rents  
23 and good tenants. As my colleague from EDC  
24 mentioned, there is a commercial marketplace for  
25 determining that. Right now, vacancies are up and

1  
2 we're seeing declines in rental prices around the  
3 city. Now, certainly in a lot of neighborhoods,  
4 new businesses come in, sometimes they're going to  
5 go to a less desirable location. There are some  
6 areas with second story locations that might be  
7 better for a new startup business to get at a  
8 lower rent before they establish themselves and  
9 want to move into a higher rent area. I also know  
10 that the Manhattan Borough President's office did  
11 a report on saving mom and pop stores which had a  
12 panel from a wide range of industries. I think  
13 Chairman Yassky was on that panel as well. It  
14 came up with a list of ten recommendations which  
15 we're looking over as well. Certainly a program  
16 like this was not on those recommendations. So  
17 there are things that can be done in terms of  
18 assistance to businesses, incentives to  
19 businesses, the tax type of relief that we've been  
20 talking about, but a step into regulating  
21 thousands of property owners in a new way may, at  
22 the end of the day, have some of the adverse  
23 impacts that Mr. Meola laid out.

24 COUNCIL MEMBER MARTINEZ: When you  
25 speak of the tax relief, is the tax relief going

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to the small business or to the property owner?

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

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

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

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

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

COUNCIL MEMBER AVELLA: Thank you, Mr. Chair. Do you believe that escalating rents are the major problem facing mom and pop small businesses? A simple yes or a no, is that the number one issue facing small businesses today in the City of New York?

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2           ANDREW SCHWARTZ: I can't say if  
3 it's a yes or a no. There are certainly a lot of  
4 concerns expressed about the high cost of doing  
5 business in a lot of different ways. Decreased  
6 commercial customers, during the economy downturn,  
7 is certainly a big impact on a lot of businesses  
8 and deescalating rents is something that's going  
9 on too, as we pointed out in the data.

10           COUNCIL MEMBER AVELLA: I've got to  
11 say from your very presence here, and this is not  
12 personal, why isn't the commissioner of Small  
13 Business Services here? Why isn't the president  
14 of EDC here giving testimony? All you have to do  
15 is go out and talk to any one of the small  
16 business owners here. What is the number one  
17 issue? You just have to go to your deli on your  
18 corner or the dry cleaner on your corner, what is  
19 the number one issue. For you not even to  
20 acknowledge that is amazing to me. It is  
21 absolutely amazing. I don't expect an answer  
22 because I don't think the administration really  
23 understands at all what the problem is. Your  
24 testimony here is BS. I can't say it in any other  
25 way. Instead of addressing the number one issue,

1  
2 and shrug your shoulders, go ahead, but the number  
3 one issues is escalating rents. You come up with  
4 a loan program. The mayor is out there doing  
5 advertisements for his mayoral campaign about  
6 loans. Council Member Martinez said it the best.  
7 What good is a loan if they don't have a business?  
8 When is this administration going to step up to  
9 the plate and recognize the fact that something  
10 has to be done about the rents? You can talk  
11 about all the other stuff you want, but if they  
12 don't have a business, they have nothing. I'm  
13 saying to you, the commissioner who is not here,  
14 the president of EDC who is not here and the  
15 mayor, are you going to do something about the  
16 rents or not?

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

23 ANDREW SCHWARTZ: What was the  
24 question exactly? I heard a number of questions  
25 there. We received a survey. The only support we

1  
2 really received for this bill was a survey done of  
3 businesses by I think it's the USA Latin Chamber  
4 of Commerce and we would really appreciate getting  
5 the backup on it because we just have like kind of  
6 the final tallies. One of the categories is  
7 increased operating costs comes in at 67%. Higher  
8 rents, is at 74%, but it is higher rents and  
9 unreasonable lease terms. Again, that's the point  
10 I'm getting at. Many people have concerns about  
11 lease terms that may involve many other things  
12 besides the amount of the rent or the term of it  
13 and how they can operate their business. There  
14 are other things on this list too that are of  
15 concern to small businesses. So I didn't mean to  
16 not answer you question when you asked me is that  
17 the primary concern of small business. I said to  
18 you there are a lot of concerns that small  
19 businesses face and our agency recognizes that and  
20 tries to address the full panoply of problems that  
21 businesses face doing business in this city. We  
22 work very hard at providing those services.

23 COUNCIL MEMBER AVELLA: I think the  
24 people here in this room, who are small business  
25 owners, would disagree with you. Until you start



1  
2 doing something about the number one issue, the  
3 rest is all a joke.

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

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

16 CHAIRPERSON YASSKY: Bear with me,  
17 and I would say this goes for everybody here.  
18 Please don't take it as impolite if people  
19 interrupt only because we have our time  
20 constraints here. You said there are legal issues  
21 but you did not kind of detail those. If you  
22 would like to, that would be welcome. As far as  
23 policy issues go, and I don't want to put words in  
24 your mouth, but I read the testimony to say this  
25 is such a big change in policy, the government

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2 intervention in the retail rent market that we are  
3 not comfortable with that and there are no tweaks  
4 or changes to the proposal here that would make us  
5 comfortable with that. Again, I don't want to put  
6 words in your mouth. That's why I ask you if  
7 you're opposed to any version of this, or are  
8 there edits or amendments that you would propose  
9 that would make this supportable?

10

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

15

CHAIRPERSON YASSKY: I'm just  
16 thinking out loud here; we haven't talked about  
17 this within the Council or to the administration.  
18 Would you support meet required mediation as  
19 opposed to arbitration? How would you think about  
20 that? There plainly is an issue that the little  
21 guy, little person, mom and pops, do feel at a  
22 disadvantage vis-à-vis the landlords. Is there  
23 something the government can do to give people at  
24 least a fair shot? If it's not binding  
25 arbitration, maybe having a requirement that they

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2 talk to a neutral third party mediator helps to  
3 even the playing field some.

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

12

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

16

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

19

CHAIRPERSON YASSKY: Have you  
20 considered providing this particular service?

21

ANDREW SCHWARTZ: No, not  
22 specifically. But it's something we can look at.  
23 In terms of where I was going with the pro bono  
24 legal services and trying to get more of that  
25 because we recognize it's a need for businesses.

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2                   CHAIRPERSON YASSKY: I understand  
3 that. On the key money thing, I heard you say  
4 it's appalling. If somebody came to you with an  
5 example, I'm curious what you would do. Is it  
6 legal for a landlord to say your rent has been  
7 \$1,000 a month, I'm going to increase it to \$1,500  
8 a month and I want you to give me \$10,000 right  
9 now as condition of renewal? Is that legal or  
10 illegal?

11                   ANDREW SCHWARTZ: This is not my  
12 field of expertise.

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

19                   ANDREW SCHWARTZ: Agreed.

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

25                   ANDREW SCHWARTZ: I absolutely

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agree with what you just said.

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CHAIRPERSON YASSKY: Would you support that?

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ANDREW SCHWARTZ: I said there was nothing in this bill that seemed to address it.

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Certainly if that could be drafted, we would look

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at that as well. I think if there was something

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that made that type of activity and you could

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define--

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CHAIRPERSON YASSKY: [interposing]

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Your answer is you can't say now whether you would

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support that or not? You would look at it.

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ANDREW SCHWARTZ: If it could be

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defined appropriately, yes.

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CHAIRPERSON YASSKY: We'll have

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another round. Council Member Jackson.

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COUNCIL MEMBER JACKSON: Thank you,

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Mr. Chair. This question is for any one of the

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panelists. Is it a common practice for tenants

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and landlords to resort to mediation and/or

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binding in any fashion, manner or form that you're

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dealing with in any capacity? Or, is this a brand

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new concept to either the New York City Economy

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Development Corp or SBS?

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2           ANDREW SCHWARTZ: As I was saying,  
3 it's not a problem that we encounter every day in  
4 our Solution Centers and we get many, many issues  
5 coming in. Certainly mediation services and  
6 arbitration have been a growth area as  
7 alternatives to litigation when parties can't  
8 resolve something. New York does have a lot of  
9 good services in that area.

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

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

16           COUNCIL MEMBER JACKSON: The reason  
17 why I raise that is because obviously in New York  
18 City negotiations with labor unions there is  
19 binding arbitration. We know the history of that.  
20 Sometimes you win and sometimes you lose, but  
21 that's part of the process. But also, I know you  
22 must have heard recently that Mayor Bloomberg  
23 suggested arbitration with the State Senate so the  
24 concept clearly is out there and has been espoused  
25 by Mayor Bloomberg with regards to the State

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2 Senate. I say that knowing that as you indicated  
3 earlier, Mr. Schwartz, that binding arbitration is  
4 less expensive and speedier than going through a  
5 judicial process. That's why I asked whether or  
6 not is there anything that you deal with that  
7 takes into effect mediation and binding  
8 arbitration. I want to know with respects to  
9 overall, even though Mr. Schwartz you indicated  
10 that you would be interested in looking at another  
11 version of the bill, I'm interested in knowing  
12 what Corp Counsel's office has had to say and any  
13 opinions given on this. This is not a new bill.  
14 This bill has been out there for a little while  
15 already, so it's not new. Do you have an opinion  
16 from Corp Counsel's office on this particular bill  
17 as of now?

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

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2 analysis.

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



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2 stores. There were three on one side, two on the  
3 other within two blocks. Do landlords get any  
4 reduction in taxes by having spaces that are not  
5 rented? Do they get a reduction in their taxes or  
6 anything else in order to keep these stores  
7 vacant? That's a question to anyone.

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

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have to keep something vacant.

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COUNCIL MEMBER JACKSON: Mr.

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Schwartz, as you know, all of the strips and

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avenues are not covered by a Business Improvement

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District. You know that, right?

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ANDREW SCHWARTZ: Yes, I do.

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COUNCIL MEMBER JACKSON: So what

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happens then when there is no BID?

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ANDREW SCHWARTZ: We also do have

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numerous local development corporations around the

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city. We do run a program, Avenue NYC, which

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provides funding to these groups to do a lot of

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the same type of activities that BIDs do,

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including helping to form a BID and that's been

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successful in a number of areas. That's something

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also the Council has funded a number of

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organizations to provide those services and we

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appreciate that and we work with those groups as

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well.

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COUNCIL MEMBER JACKSON: Mr. Chair,

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before you go to the next question, let me just

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comment. When I grew up, I worked in a grocery

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store. Rob's Barbecue, on St. Nicholas Avenue

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between 148th and 149th Street, and St. Nicholas

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2 and he would open up at 7:00 in the morning and  
3 closed at 11:00 at night. So he was there for  
4 like 16 hours a day. Most of these small  
5 businesses that I know are working 12, 14, and 16  
6 hours a day, seven days a week. Quite frankly,  
7 they don't have time to be going to a workshop or  
8 other things because they just don't have the  
9 time. They're just trying to run their  
10 businesses. I think SBS and New York City  
11 Economic Development Corp needs to be aware of  
12 that. These small businesses need relief now. As  
13 I said earlier in my opening statement, they need  
14 action. They don't need to talk and talk about  
15 workshops. They need immediate action in order to  
16 help them stay in business. Mr. Chair, thank you.

17 CHAIRPERSON YASSKY: Thank you,  
18 Council Member Jackson for your questions.  
19 Council Member Liu is next.

20 COUNCIL MEMBER LIU: Thank you very  
21 much, Mr. Chairman. Commissioners, the reason I  
22 was asking you about key money before was just to  
23 highlight a clear example of a problem that does  
24 exist and yet, the administration does not have  
25 any kind of handle on it. The reason I say that

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2 is because every time we have a hearing with EDC  
3 or with Small Business Services, there is always  
4 talk about all these great programs that are out  
5 there to help small businesses. I've had many  
6 conversations with the folks at Small Business  
7 Services and at EDC, not necessarily with the two  
8 of you but many of your colleagues, and I've  
9 always said not to tell me to go back to my  
10 constituents with these programs because they  
11 don't really think very much of these programs.  
12 They don't. I think we'll hear testimony to that  
13 effect. So as much as your two departments and  
14 agencies can say that you have all these great  
15 programs to assist small businesses, the small  
16 businesses aren't buying it. They're not buying  
17 it because they're not being asked what they need  
18 help with. There are all sorts of different  
19 marketing programs and programs to help small  
20 businesses with paperwork, but when the city  
21 doesn't have a good idea how prevalent the problem  
22 of key money is out there, that really suggests  
23 that the administration is very, very far out of  
24 touch with small business owners. So I would ask  
25 you to really consider this legislation and think

1  
2 of it as a real way to help small businesses. Now  
3 nobody is suggesting that the city start  
4 regulating the rents. That's not what the bill  
5 says. In fact, many of the advocates here today  
6 will say from that from the outset because they  
7 predicted what the administration's response would  
8 be. They will say that this is not commercial  
9 rent control. This is simply assisting them so  
10 they have a little bit more leverage because right  
11 now they're totally dependent upon the landlord of  
12 the building that they have spent years building  
13 up their small business. The ironic thing is that  
14 the more successful these entrepreneurs are in  
15 building up their small business, the more  
16 valuable the landlord's property becomes and then  
17 the landlord can demand even higher rent. These  
18 small business owners just have no leverage  
19 whatsoever. So what they're asking for is not for  
20 the city to institute rent control; they're asking  
21 for the city to stand on their side for a change  
22 and to help them with the negotiations that take  
23 place whenever their leases come up for renewal.  
24 I'm not trying to give you guys a hard time here,  
25 but you really have to understand that this is a

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2 huge problem. It's a huge problem. You don't  
3 have to take their survey for granted or just  
4 accept it on face value. I would suggest you  
5 conduct your own surveys. I don't think that your  
6 results will be any different. So don't discount  
7 the survey just because they haven't given you the  
8 statistical backup. Do your own survey because  
9 this is a huge problem out there. I would ask  
10 you; does the administration really consider this  
11 to be a bill that would implement some kind of  
12 commercial rent control? Is that the way this  
13 bill is regarded?

14

MICHAEL N. MEOLA: Thank you,  
15 Council Member for the question. I don't think  
16 this is commercial rent control. But I do think,  
17 as my testimony mentioned, that at a global level,  
18 this would be an intervention in the commercial  
19 real estate market that really is a dramatic  
20 departure. There would be a very significant  
21 infrastructure that would have to be built up to  
22 monitor and potentially to enforce the provisions  
23 of the bill. It's very broad. It appears to  
24 apply to all commercial space for tenants with 100  
25 employees or less. I think the mediation

1  
2 provisions, in some ways they're fine, but there  
3 would have to be some oversight. What happens  
4 when the parties can't agree, can't mediate? I  
5 think inevitably there would have to be rules  
6 promulgated by an agency, whether it's SBS or  
7 another agency. I do think there are a couple of  
8 levels of concern. One is the administrative cost  
9 on the city side which really would be  
10 significant. The second one is there really is a  
11 potential for the dampening of the attractiveness  
12 of investing in commercial space in New York City.  
13 That was the gist of my point.

14 COUNCIL MEMBER LIU: I have to say,  
15 you know the EDC uses that line all the time. Any  
16 time the EDC doesn't want to get involved in  
17 something, it starts talking about the unintended  
18 consequences of reducing supply of new capital  
19 investments in commercial and retail space. That  
20 phrase has been said over and over again by EDC  
21 any time the EDC doesn't want to take action. You  
22 can say such an intervention. Well of course, any  
23 time government takes action you would regard that  
24 as some kind of intervention. That's exactly what  
25 it is. What we are asking is that city government

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2 intervenes. Intervene in a process that is  
3 severely lopsided against small business owners  
4 here that we demand a lot from in this city. We  
5 are asking for some kind of intervention. What is  
6 the estimated cost of the infrastructure that you  
7 talked about?

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

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

24                   MICHAEL N. MEOLA: I don't have the  
25 dollar number for the current, but I was able to



1  
2 get the number for the 2007 reform which was \$44  
3 million annually in reduced tax burden to  
4 unincorporated business owners. Once again, I'd  
5 have to get back to you on the dollar number for  
6 the current bill.

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

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

16 COUNCIL MEMBER LIU: Thank you, Mr.  
17 Chairman.

18 CHAIRPERSON YASSKY: Council Member  
19 Martinez is next.

20 COUNCIL MEMBER MARTINEZ: Thank  
21 you, Mr. Chair. You speak about the burden and  
22 the economic impact but you don't have specific  
23 numbers on it. That's disappointing. I want to  
24 ask you about the loan program in your testimony  
25 that mentions 48 loans already being issued and

1  
2 injecting a million dollars in several communities  
3 already with a maximum of \$250,000. What's the  
4 flexibility on that money? I want to focus not on  
5 startup business because in your testimony you  
6 both mentioned and continued to use startup  
7 business. We're not talking about businesses that  
8 are starting, we're talking about businesses that  
9 are established and are looking to renew their  
10 leases. Can a small business owner apply for this  
11 loan with the intention to pay to renew his lease?

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

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

17 MICHAEL N. MEOLA: Yes.

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

20 MICHAEL N. MEOLA: The Capital  
21 Access program was launched this spring. We've  
22 taken \$5 million of EDC funds to use it as a loan  
23 guarantee fund. Basically we are working with  
24 several banks, including Citibank, Accion NY,  
25 Seedco and the Brooklyn Coop Federal Credit union.

1  
2 COUNCIL MEMBER MARTINEZ: By the  
3 way, they have high rates and they're not lending.

4 MICHAEL N. MEOLA: What this is  
5 doing is it's facilitating and encouraging those  
6 banks to lend. The EDC guarantees a portion of  
7 the loan that they make. The loan proceeds can be  
8 used for any business purpose, for buying stock,  
9 for buying equipment, for working capital. I have  
10 a very small smattering of the loans that have  
11 been made. There was a \$250,000 loan to an  
12 asbestos removal company for working capital in  
13 Staten Island. There was a \$10,280 loan to a shoe  
14 store in Inwood on Nagle Avenue. There was a  
15 \$6,240 loan to a unisex salon on 27th Avenue in  
16 Queens.

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

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

21 COUNCIL MEMBER MARTINEZ: I know  
22 this is not popular and I know I'm going to get  
23 some calls but I'm going to put it out there.  
24 When you spoke about commercial rent control as  
25 sort of like mind-boggling and unheard of, but we

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had commercial rent control in New York City in the 1940s. Am I right?

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

COUNCIL MEMBER MARTINEZ: I think you've taken a position of not supporting this bill with the actual facts of how do we come up with a mechanism. The issue is not programs. I think every five minutes when we turn on the TV we hear the mayor talk about supporting small businesses through programs. We all are aware of that. There are programs, there are loans and I give a lot of credit to EDC because a couple of years ago when I introduced the concept in our budget process I was told it would never happen because the city is not in the business of lending money. We took on this issue and both EDC and Small Business had their ears shut to the concept and the idea. However, now the city is promoting it. You come with the idea that this cannot happen and yet you're not giving us options on the issue of lease renewal, not on the issue of programs that the mayor and the agencies are putting forward, but rather on dealing with the

1  
2 issue of lease renewals. There was a time in this  
3 city a long time ago where there was commercial  
4 rent control. Does this mean that we have to have  
5 a conversation with our colleagues in the state?  
6 Let's talk about it. Does this mean that we need  
7 the mayor to come and send a home room message and  
8 the Council needs to do that? Let's talk about  
9 it. But basically just to sit here and just  
10 listen to you talk about programs, I know these  
11 people know how to do business. That's why  
12 they're businessmen and they've survived. Because  
13 when the big companies left our city in the 70s  
14 and 80s, they stayed. Now the big ones want to  
15 come back and they come back with a lot of  
16 subsidies, tax breaks and they're able to open up  
17 their stores. They're able to open bigger stores.  
18 The issue at hand is what we do as a city to  
19 address the issue. I was expecting to hear from  
20 the agency, especially Small Business, what do we  
21 do? Do we need to have a home room message? Do  
22 we need to sit down with Albany and talk about  
23 rent control again? Do we need to sit down with  
24 the Real Estate Board? Do we need to sit down  
25 with the group of landlords and come up with

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2 something that will guarantee? There are some  
3 owners who believe in the concept of mom and pop  
4 stores. Do you know why? It's because mom and  
5 pop stores also give value to their property.  
6 They're looking out for their property. There is  
7 that mixture, but we need to work together on this  
8 and not just say we have programs. What good is  
9 it for you to have small loans available if I  
10 can't keep my store open? That's the issue. The  
11 issue is not loans, the issue is not programs, and  
12 the issue is what we do about lease renewal and  
13 avoiding the issue that these small business  
14 owners are going through now. Thank you, Mr.  
15 Chair.

16 CHAIRPERSON YASSKY: Colleagues,  
17 I'm going to ask two follow up questions and then  
18 it's my intention to move to the public testimony.  
19 If you have remaining questions that are top tier  
20 that need to be asked now, we'll accommodate that.  
21 Obviously it's important the committee be able to  
22 ask its questions. But we now have over 30 people  
23 that have signed up to testify, so I would like to  
24 move to the public if that's okay and if there are  
25 no other urgent questions. I think Council Member

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2 Liu asked exactly the right question. You  
3 referred to administrative costs. I really do  
4 think we need an answer to what you expect this to  
5 cost the city government if that's one of the  
6 prime objections to it. I don't see a lot of  
7 government responsibility on the city government  
8 as an entity in this bill. This bill has been out  
9 for quite some time. I understand the  
10 administration doesn't look at things maybe until  
11 they're noticed for a hearing, but I would ask you  
12 to supply the committee with an estimate of the  
13 cost. Okay?

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

19 CHAIRPERSON YASSKY: I think it's  
20 fair to say it's a bill with more than half the  
21 Council as co-sponsors. We've had a hearing on  
22 it. I understand you say there are 1,000 bills  
23 introduced and we can't do a cost estimate. I'm  
24 not saying do one on everything, but I'm saying  
25 this is a serious bill that has a serious chance

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of moving forward. I think we need a cost estimate to know if your objection is well rounded. Can you agree that you'll provide one?

ANDREW SCHWARTZ: Yes.

CHAIRPERSON YASSKY: Thank you.

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

ANDREW SCHWARTZ: I cannot at this point. Actually I looked at that report today after it was referred to in a New York Times story on Saturday. It's about Upper Lexington Avenue on the Upper East Side where it's a high rent area where mom and pop stores and independent stores seem to be thriving and continuing. What that article discusses is the enormous number of variables that seem to exist in neighborhood commercial markets. I think that story is worth looking at and it led me to the Stringer report, so I can't go any further than that today.



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2                   CHAIRPERSON YASSKY: As you said, I  
3 sat on that task force. I believe the report was  
4 issued in February or March. I know it was  
5 covered at the time. I'm going to return to what  
6 I said at the outset. I think it is imperative  
7 that the city do something to assist mom and pops  
8 with the problems they face in securing reasonable  
9 rent. If the administration's position is that  
10 this bill is not the right answer, then we need to  
11 know what the right answer is from your  
12 perspective. The Council may well choose to  
13 proceed with this bill regardless. But we  
14 certainly want to know what the right answer is  
15 from your perspective. Borough President  
16 Stringer's report gave other options and maybe you  
17 think those are preferable. But not doing  
18 anything is not an option at this point. I urge  
19 you to be part of this conversation rather than  
20 absent from it. I thank you very much for your  
21 testimony and your participation. I'd like to  
22 call the first panel of witnesses. It's not my  
23 place to impose on your time, but I would ask you  
24 to stay to hear the next group of witnesses  
25 because these are the folks who really put the

1  
2 most time and effort into fleshing out this  
3 proposal. I think they have a lot to add. So I'd  
4 ask if you could hear them out. Thank you very  
5 much for your time this afternoon.

6 ANDREW SCHWARTZ: Thank you.

7 MICHAEL N. MEOLA: Thank you.

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

21 STEPHEN NULL: Good afternoon  
22 Council Members. My name is Stephen Null. In  
23 1984 I founded the Coalition for Fair Business  
24 Rents and was the former owner of 3 small  
25 businesses in New York City. The bill before this

1  
2 committee today is an updated revision of a bill  
3 written in 1986 and introduced into the City  
4 Council by then Councilwoman Ruth Messinger. The  
5 bill was later revised and introduced by  
6 Councilman Stanley Michaels and finally by  
7 Councilman Guillermo Linares. The original bill  
8 took had every type of business and profession  
9 represented. It was fair to all parties involved  
10 and would have accomplished the goal of creating a  
11 commercial lease renewal process where both  
12 parties would "negotiate in good faith" to arrive  
13 at reasonable lease terms. The business community  
14 of New York City hoped the passage of this bill  
15 would again establish "bargaining in good faith  
16 between the landlords and the tenants" when a  
17 commercial lease expired. For 40 years in New  
18 York City, whether under a strict commercial rent  
19 control law, like the law from 1945-1963 or  
20 unregulated, the practice and policy when a  
21 commercial lease expired, was for the landlord and  
22 commercial tenant to meet, face to face, and  
23 negotiate the new lease terms. The outcome of  
24 this process for 40 years was beneficial to both  
25 parties, to the economy, to society, to the

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2 workers, to the government, and to the community.  
3 It worked, whether under control or voluntary.  
4 Beginning in the mid 1980's, the practice of  
5 negotiating in good faith for lease renewals began  
6 to gradually stop. While most landlords continued  
7 to negotiate in good faith, the influence on the  
8 rental marketplace by the newer real estate  
9 speculators was growing. These speculators were  
10 buying property for the sole intent of "flipping  
11 or selling" and making a quick profit. Record  
12 real estate sales of commercial property occurred  
13 in New York City between 1986 and 1989. By the  
14 late 1980's, very few landlords were now  
15 continuing the practice of negotiating in good  
16 faith lease renewal, with the result being  
17 widespread business closings. What we're talking  
18 about today is nothing new, the loss of  
19 businesses. The anti-small business environment  
20 created during the lease renewal process has only  
21 gotten worse through the years, until today where  
22 very few landlords negotiate with their commercial  
23 tenants face to face. The language used in the  
24 1945 Commercial Rent Law to describe the  
25 commercial lease renewal process would apply today

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2 and anytime during the past 45 years. This is the  
3 language used to enact commercial rent control.

4 "Unjust, unreasonable, and oppressive leases and  
5 agreements for the payment of rent for commercial  
6 space in certain cities having been and being now  
7 exacted by landlords from tenants under stress of  
8 prevailing conditions, whereby a breakdown has  
9 taken place in normal processes of bargaining and  
10 freedom of contract has become an illusory  
11 concept".

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

17 STEPHEN NULL: I'm more than  
18 halfway. What we're dealing right here is the  
19 outcome of a lease renewal process. What I have  
20 made over here and I would ask anyone to refer to  
21 it is that the outcomes of the unregulated  
22 commercial lease process in New York City. These  
23 are some of the outcomes. For the real estate  
24 industry, the administration and the people who  
25 are opposed to regulating, what are the outcomes

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2 of the system for the past 20 years? It is empty  
3 stores, loss of jobs, and corruption. All of  
4 these things are outcomes. Why not change it?  
5 That's all this bill is. It's saying that the  
6 outcomes that we've had since this speculation  
7 aren't working. These are unacceptable. What I'm  
8 saying is we know for a fact in 40 years of  
9 experience that the outcomes when the landlord and  
10 the tenant negotiate in good faith aren't these.  
11 If there are any questions, I'll take it.

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

14 SHERRI DONOVAN: Good afternoon,  
15 Council. My name is Sherri Donovan. I am the  
16 original drafter of the bill over 20 years ago. I  
17 worked with Ruth Messinger at the time. I came up  
18 with the concepts, along with Steve and others  
19 about the legalities of the bill. I'm an  
20 attorney. I've had my own practice, a small  
21 business, for 20 years. I'm a former district  
22 leader of New York City from the Greenwich Village  
23 61st area. I'm also an attorney for the National  
24 Organization for Women. I've followed this bill  
25 for over 20 years. I've heard all the legal

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2 arguments from the city about trying to stop this  
3 bill. This is not new. I've heard them mention  
4 home rule. I've heard them mention  
5 constitutionality. I've heard them mention  
6 interference with property rights. I've  
7 researched the cases. I've done the briefs 20  
8 years ago on this issue and updated it as of  
9 today. This bill is completely constitutional.  
10 This bill is completely reasonable. There is not  
11 a legal challenge that would be upheld in the  
12 courts on this bill. You do not need to be afraid  
13 of the real estate developers and their lawyers to  
14 pass this bill. That's why so many of you have  
15 backed it. This is not a control. I'm a  
16 constituent of David's, and when I first looked at  
17 this bill over 20 years ago, we considered  
18 percentages because percentages were being used  
19 with tenants. Arbitration was new then too. But  
20 we tried to come up with a process that wasn't  
21 just pro-tenant; this actually helps the landlords  
22 too, although the mayor may not tell you that. It  
23 actually helps the landlords too because  
24 arbitration and mediation is about communication.  
25 It's about when there's a dispute and they cannot

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2 resolve it that there is a problem-solving  
3 mechanism. Twenty years ago arbitration was a new  
4 word. Today, it's as common as this cell phone.  
5 It's as common to do business with an arbitration  
6 clause in a contract as it is to pick up a cell  
7 phone and do business. There is no legal problem  
8 here. What will happen though is that if this  
9 bill for arbitration is not passed, you will  
10 continue to have many illegalities occur. That's  
11 what is happening now. You're having rampant  
12 illegalities with the money under the table.  
13 People are not going to say no to their landlords  
14 after investing their life savings and their  
15 family savings to build their businesses as all  
16 these people have, including my own family in New  
17 York City. They're not going to say no to key  
18 money if they don't at least that there some  
19 process that they can go and have someone hear  
20 them, an arbitrator. I've heard that you want  
21 alternative solutions.

22 CHAIRPERSON YASSKY: I apologize,  
23 but I guess when I pressed the button it didn't  
24 start, so I'm just going to ask you to sum up even  
25 though we weren't running the timer.



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SHERRI DONOVAN: Sure, that's fine.

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I just want to state one thing. The alternative

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solutions or creative options, loans, et cetera,

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but that doesn't get up into a dispute resolving

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process with arbitration. Administrative costs,

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the city mentioned it and I just want to address

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that briefly. There are so many arbitration

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processes already in place. There are arbitration

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associations, mediation associations. It's

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already in place. It's not that there is such a

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huge administrative cost for that. This is what's

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done in business all the time. Thank you.

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CHAIRPERSON YASSKY: Thank you.

15

ALFRED PLACERES: Good afternoon

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and thank you for this opportunity to speak in

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support of the bill. My name is Alfred Placeres

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and I'm president of the New York State Federation

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of Hispanic Chambers of Commerce. We represent 20

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chambers throughout the city. I'd like to take my

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two minutes to talk about two Hispanic businesses

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that were back in the day when we tried to do this

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the last time. Since we never came up with a

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bill, they're no longer in business. One was

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Michael's Hardware Store near 103rd Street and

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2 Broadway and the other one was Off the Square  
3 Beauty Salon, which was run by my mother who is  
4 here in the audience today supporting us. Even  
5 though she lost her business a long time ago, she  
6 wants to help the hairdressers and beauty salons  
7 that are out there today. Thanks for coming, Ma.  
8 She's over there in the front row. Michael's  
9 store stayed vacant for three years. Three years  
10 wasn't uncommon back then. Has anybody estimated  
11 how much the city lost by having the store empty  
12 for three years? I think you did Steve. What was  
13 it?

14                   STEPHEN NULL: \$370,000.

15                   ALFRED PLACERES: I think the bean  
16 counters better be listening today. Under the  
17 system that we have now it's unfair. It's a  
18 discriminatory practice. The new tenant gets all  
19 the benefits of the free enterprise system. He  
20 negotiates whatever he wants or he walks away to  
21 another space. What option does the existing  
22 tenant have? It's a take it or get out offer.  
23 That's it. We're talking about everything under  
24 the sun here. I know you guys are addressing it,  
25 but the city doesn't seem to be addressing the

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2 issue. The new tenant gets all the benefits,  
3 otherwise he walks away. He can negotiate. The  
4 existing tenant not only has to accept what the  
5 landlord says in terms of the rent, but how about  
6 all of things that are passed along? They're  
7 always complaining about the increases, such as  
8 water and real estate taxes, but they don't pay  
9 the increases, they pass them along. They could  
10 pass along their kid's school tuition and the  
11 existing tenant would have to accept those terms  
12 because where does he go to complain about that?  
13 You can call it something else if that's too  
14 blatant, but if they're asking for money under the  
15 table and no one is doing anything about that,  
16 then why not pay the tuition as well? That's the  
17 issue. Why are we treating prospective tenants  
18 better than existing tenants?

19           MIGUEL PARABONS: My name is Miguel  
20 Parabons and I'm the president of the USA Latin  
21 Chamber of Commerce. I would like to say that the  
22 Coalition of Small Business have met with the  
23 Small Business office in the city. Ramon Murphy,  
24 Sylvia Smith and others from different  
25 associations were at the meeting. We spoke to

1  
2 them about the problem with the leases and  
3 Commissioner Schwartz from the Small Business  
4 Office told us that they were very sorry but they  
5 couldn't help us. They only thing they could  
6 discuss were creating businesses, loans,  
7 operations. They told us sorry; we cannot talk to  
8 you about this. If you have a problem with leases  
9 this is not the right office, we can only talk to  
10 you about operating. I was wondering how Small  
11 Business says they didn't know anything about it  
12 when we met with them twice. A lot of people here  
13 were in that room when they told us that this is  
14 not the right place to talk about lease renewal.  
15 This is the place to talk about loans for small  
16 businesses, et cetera. In November 2008, we had a  
17 meeting with business owners. Chairman David  
18 Yassky and Council Member Robert Jackson were with  
19 me. Many of the business owners were startled at  
20 the renewal lease. At that time we decided to  
21 make a survey. With 40 people, we did a survey of  
22 937. It was very difficult. It was wintertime.  
23 We did it from the middle of November to the  
24 middle of January. Of those businesses, 53% told  
25 us they were planning to close their business in

1  
2 the next few years. Most of them were closing  
3 because of high rents. When it came to talk about  
4 extortion, 31% of them told us they had been asked  
5 for money under the table as a condition to start  
6 the negotiation of the lease. More than 20% were  
7 afraid to give us information because they didn't  
8 know the confidentiality of our survey. There are  
9 50,000 small businesses thinking about closing  
10 today. There are 100,000 businesses owned by  
11 Latinos and 500,000 jobs depend on them. We are  
12 the first employer in the city. To finalize, if  
13 you want the half a million jobs to be lost, do  
14 not pass the bill. If you want the crime to  
15 continue and around 60,000 businesses to be  
16 extorted, then do not pass the bill. That's all I  
17 have to say. Thank you.

18 CHAIRPERSON YASSKY: Thank you.  
19 Council Member Jackson and then Council Member  
20 Martinez both have questions.

21 COUNCIL MEMBER JACKSON: Thank you.  
22 I guess this question is for Steve Null or any  
23 other panelists. Do you have any opinion as to  
24 what caused the landlords to stop bargaining in  
25 good faith with their tenants? You testified that

1  
2 for 40 years the landlords and tenants bargained  
3 in good faith successfully. What happened? Why  
4 is it not happening now? Is it because of just  
5 greed in order to get as much money as possible  
6 with no regard for the tenants or small business?  
7 What is the answer in your opinion?

8                   STEPHEN NULL: Three things  
9 happened in New York City. The first was that  
10 they allowed speculators to flip buildings and  
11 they allowed this to go on too long. They didn't  
12 stop it. What happens when somebody goes to buy a  
13 building to flip it, they don't want to negotiate  
14 with the tenant. They would prefer to have the  
15 tenant out. That's the first thing that happened.  
16 The second thing was the franchises. Again, the  
17 landlord didn't want to negotiate with the little  
18 mom and pop buy because he's going to negotiate a  
19 fair rent. He cannot compete against banks and  
20 franchises, even though they're going to go out of  
21 business. That was the second thing. The last  
22 factor was the overall real estate speculation  
23 that's encompassed everything, Wall Street, every  
24 block, everybody. Nobody wants an average profit.  
25 Everybody wants a fortune. So the poor little

1  
2 tenant who's negotiating and trying to get a  
3 reasonable lease, he's caught up with all this  
4 speculation and greed. So obviously, the  
5 negotiations have stopped.

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

13 SHERRI DONOVAN: I heard the city  
14 mention about offering pro bono lawyers. But that  
15 doesn't solve the problem at all because when you  
16 go to court, and I've helped many small businesses  
17 go to court when they were facing evictions,  
18 including a shoe shiner who had been in the  
19 Trinity Church for 30 years and the church was  
20 evicting him and he basically became homeless  
21 after that. The only thing the judge will do is  
22 possibly give you two to three months. So having  
23 a lawyer in place when there's not even a proper  
24 law to protect you doesn't do anything. So aside  
25 from that, I haven't heard anything from the city

1  
2 in terms of a legal process when the lease expires  
3 to help the landlord and tenant negotiate a fair  
4 rent. I have not heard anything at all like that.

5 ALFRED PLACERES: The other problem  
6 is if you go to court and you're past your lease,  
7 that's called use in occupancy so it's not the  
8 rent anymore. Your rent could have been \$5,000  
9 and those extra months that you stayed over they  
10 could say that's after your lease so that's  
11 \$15,000 a month. So now you owe \$30,000. You  
12 thought you owed \$10,000 but now you actually owe  
13 \$30,000. That's another issue.

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

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

25 MIGUEL PARABONS: We had 40 people



1  
2 on the street for two months. We finished with  
3 937 surveys. It was very hard. I can provide any  
4 information that they may need in reference to  
5 that.

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

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

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

25 ALFRED PLACERES: Correct. In

1  
2 front of the coalition and we didn't have any  
3 reaction.

4 COUNCIL MEMBER JACKSON: Thank you.

5 CHAIRPERSON YASSKY: Council Member  
6 Martinez is next.

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

18 SHERRI DONOVAN: Absolutely. Yes,  
19 this is a capitalist market but we have government  
20 to balance interests. Whenever there is a public  
21 interest, the government has the right to step in  
22 with reasonable regulation. This is so minimal.  
23 This is just sending them to an arbitrator process  
24 to negotiate. This is not established rent. This  
25 is not a percentage. This is not even a tax.

1  
2 Look at the regulation that the city does and no  
3 one says boo or challenges it in court, right? We  
4 have real estate taxes. Now, some people could  
5 say you're interfering with my property rights  
6 because you're charging my property. We've had  
7 property taxes for quite a while in New York City  
8 and quite hefty ones, by the way. So no one  
9 challenges the taxes or they have and they lost.  
10 We have various regulations about environmental  
11 concerns and that has been upheld. So this is not  
12 even a definite control. This is simply a process  
13 and you still have the right to go to court if you  
14 do not like an arbitrator's decision. If you  
15 think it was arbitrary or there was bias, you  
16 still have another process. This is the most  
17 democratic process that America was built on. It  
18 is checks and balances. Using mediation, using  
19 negotiations and then the court process and  
20 government balance. This is not even a legal  
21 issue. It's not a definite control of a piece of  
22 property.

23                   STEPHEN NULL: I just want to add  
24 one quick thing. Of all the bills, Councilman  
25 Jackson's bill is the simplest form that we've

1  
2 ever had. No government involvement, no  
3 speculator involvement. There are no government  
4 procedures. By the way, the costs are split  
5 between the landlord and tenant. There are no  
6 costs to government.

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

16 COUNCIL MEMBER MARTINEZ: Thank  
17 you. Mr. Chair, I bring that up because we have  
18 precedence in the Council with legislation that we  
19 approved when we enacted legislation and the mayor  
20 signed it that required businesses in the City of  
21 New York, particularly supermarkets. I remember  
22 the debate clearly. The original bill required  
23 independent supermarket owners to provide health  
24 insurance to their employees. The bill was worked  
25 down to be 10,000 or 7,000 square feet supermarket

1  
2 would be exempt. The issue was brought up whether  
3 it was constitutional of not for government to  
4 intervene in telling a small business owner to  
5 provide health insurance just based on the size of  
6 their business. So I'm also wondering, Mr. Chair,  
7 and the main sponsor, Council Member Jackson, as  
8 we continue to work on this bill if we need to  
9 look at the definition of small business just as  
10 we did with the supermarkets. The issue of  
11 whether it's constitutional or not, I would be  
12 interested to compare it to what the council did  
13 with the health insurance act for supermarket  
14 owners in the City of New York. Thank you, Mr.  
15 Chair.

16 CHAIRPERSON YASSKY: Thank you for  
17 that point. The committee will ask the  
18 administration witnesses for follow up explaining  
19 their claim in their testimony that there is a  
20 legal problem here. I don't think you can say  
21 that and leave it at that. If there is a legal  
22 problem let's hear and understand what it is  
23 because I didn't hear any specifics about it, as  
24 you rightly point out. We will do that follow up.  
25 Thank you, Council Member Martinez. I have two

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2

questions and then we'll hear from the next panel.

3

On the key money issue, I'm curious whether you

4

can educate us because it's unethical and just

5

unsavory, but is it illegal for a landlord to

6

demand an upfront payment prior to lease renewal?

7

SHERRI DONOVAN: I thought that was

8

a great question when you asked the city.

9

Basically now they can put in the contract

10

whatever they want. Now you could make the

11

argument that that money is not in the contract

12

and therefore it's not legal. But even if there

13

is a criminal regulation on the book prohibiting

14

it, which would be hard to enforce.

15

CHAIRPERSON YASSKY: I'm just

16

saying but is it now illegal?

17

SHERRI DONOVAN: Now? No.

18

CHAIRPERSON YASSKY: I don't think

19

it is, right?

20

SHERRI DONOVAN: No, there is

21

nothing illegal now because basically there is no

22

regulation concerning what a landlord can ask a

23

tenant for.

24

CHAIRPERSON YASSKY: Just to think

25

out loud. If you prohibit an upfront payment, is

1  
2 that really doable? You certainly can require a  
3 security deposit upfront. Can you require the  
4 first year of the lease to be paid in advance?  
5 I'm not sure how you would go about prohibiting  
6 key money.

7 SHERRI DONOVAN: How you would  
8 enforce it, yeah.

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

15 SHERRI DONOVAN: My thinking,  
16 Council Member is that without an arbitration  
17 bill, there are two problems. One, creative  
18 lawyers can basically put in any term they want  
19 and get the payments in any way they want. Two,  
20 it's not even in the contract and they know that  
21 they have to power to evict and you'll lose all  
22 your family money to build up. Don't forget, the  
23 fixture is the inventory you put in. People say  
24 well just move across the street. Is that so  
25 easy? I don't think so.

1  
2                   CHAIRPERSON YASSKY: And then let  
3 me ask you this last question.

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

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

19                  SHERRI DONOVAN: They do it now  
20 anyhow. Look at Henry Street where we live. The  
21 whole row is empty. All of those stores are  
22 empty. It's already happening so I don't know how  
23 much worse it could get. At least with  
24 arbitration they have to deal with some type of  
25 tenant and go through some type of process. I



1 don't think they would think that far ahead.  
2 Well, I mean they're doing it now anyway. They're  
3 keeping it empty or they're just dealing with  
4 Banana Republic in the East Village instead of  
5 those great Polish restaurants. Look on Atlantic  
6 Avenue the Jamaican woman who owned that place for  
7 30 years. She kept paying the rent increases and  
8 then finally she couldn't do it anymore. She's  
9 going back to Jamaica.  
10

11 CHAIRPERSON YASSKY: Thank you.

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

21 YOOSUN NA: Good Afternoon. My  
22 name is Yoosun Na. I'm an intern representing the  
23 Korean American Voters' Council, which is a  
24 nonprofit, nonpartisan, grassroots community  
25 organization dedicated to registering, educating,

1  
2 and advocating Korean American voters in New York  
3 City. Since its establishment in 1996, the Korean  
4 American Voters' Council assisted more than 13,000  
5 Korean Americans to register to vote. And this  
6 number is growing every day. As you may already  
7 know, more than 80% of Korean American registered  
8 voters are working for small businesses. On  
9 behalf of the 18,000 Korean American voters in New  
10 York City, the Korean American Voters' Council  
11 would like to highly commend and appreciate  
12 Councilman Robert Jackson and 28 co-sponsoring  
13 council members for spearheading with the Small  
14 Business Survival Act. As you already know, small  
15 businesses are the engine of the New York City  
16 economy. Small business owners have been  
17 investing their whole lives into the small  
18 businesses, working hard from early morning to  
19 late night, seven days a week. Small businesses  
20 have been developing and keeping our community  
21 viable and sustainable by providing jobs,  
22 services, and tax revenue. However, for a very  
23 long time, under the shade of large corporations,  
24 small businesses were left without any protections  
25 from landlords' unreasonable lease renewal terms

1  
2 and conditions. There are numerous former small  
3 business owners who hopelessly and helplessly lost  
4 their small businesses simply not having an  
5 opportunity to negotiate with landlords in good  
6 faith. Now, amid economic recession, it is the  
7 right time to help New York City small businesses  
8 to survive by giving a legally guaranteed  
9 opportunity to negotiate in good faith with  
10 landlords to renew the lease. With the Small  
11 Business Survival Act, landlords have nothing to  
12 lose but malicious intent to take advantage of  
13 their tenants.

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

18 YOOSUN NA: Okay.

19 CHAIRPERSON YASSKY: Thank you.

20 YOOSUN NA: We believe the Small  
21 Business Survival Act would make a fair commercial  
22 lease market by correcting the market distortions  
23 by overwhelmingly strong bargaining power of  
24 landlords. On behalf of the 18,000 Korean  
25 American voters and small business owners, the

1  
2 Korean American Voters' Council strongly supports  
3 the Small Business Survival Act. We urge Chairman  
4 David Yassky and Small Business Committee members  
5 to move quickly to pass the bill and also strongly  
6 request Speaker Christine Quinn to take a floor  
7 action for this bill as soon as possible. Thank  
8 you for your time and consideration.

9 PATRICK PURCELL: They're going to  
10 try not to electrocute me. Hold on a second.  
11 Good afternoon, Mr. Chairman and members of the  
12 committee.

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

15 PATRICK PURCELL: My name is  
16 Patrick Purcell and I am Assistant to the  
17 President for United Food and Commercial Workers  
18 Union Local 1500, New York State's largest Local  
19 Union representing grocery store workers. UFCW  
20 Local 1500 represents over 22,000 workers employed  
21 by Pathmark, Stop and Shop, King Kullen,  
22 Gristedes, Key Food, D'agastinos and Fairway  
23 Supermarkets. Over 10,000 of our members reside  
24 here in the city. United Food and Commercial  
25 Workers Local 1500 supports passage of the Small

1  
2 Business Survival Act. We support this bill  
3 because it will preserve union jobs in smaller  
4 supermarkets like Key Food and D'agastinos that  
5 ensure basic necessities to New York City  
6 residents. The Act will guarantee that tenants  
7 have the right to bargain in good faith with  
8 landlords to arrive at fair lease terms. By  
9 passing the Act now New York City can take an  
10 important step to ensure that small businesses and  
11 good jobs are preserved. In particular,  
12 supermarkets, with small profit margins, suffer  
13 from the same lease renewal issue as many small  
14 businesses. During the last few years  
15 supermarkets have shut their doors in  
16 neighborhoods all over the city because they could  
17 not afford rent increases. Supermarkets all over  
18 the City have been replaced with pharmacies that  
19 have lower overhead costs but that don't provide  
20 healthy food and job quality is poor. Without a  
21 fair lease-renewal process, union workers have  
22 lost their living-wage jobs, and communities have  
23 been left with nowhere to turn to for healthy,  
24 affordable food. Last year, for example, we  
25 fought a battle in the Bronx with the help of

1  
2 Council Member Palma and Council Member Mark-  
3 Viverito and a number of folks that are here to  
4 preserve a Supermarket that does over \$2 million  
5 dollars a year in food stamps and has over 100  
6 union employees. In this case, the developer was  
7 trying to raise the rent to \$50 dollars a square  
8 foot. This is an amount that no grocery store  
9 could afford. Leaving the store with the option  
10 to either pay workers less and charge consumers  
11 more or close the doors on one of the only  
12 supermarkets in the area. After months of  
13 community outrage and organizing and with the  
14 support of so many of you, we were able to put  
15 enough pressure on the developer to negotiate a  
16 fair lease renewal and rent. At a time when New  
17 York City's unemployment rate is 9%, the city  
18 council needs to pass legislation that will  
19 preserve existing jobs. It's just that simple.  
20 Thank you.

21 BRAD LANDER: Chairman Yassky,  
22 Council Member Jackson, Council Member Mark-  
23 Viverito and other Council Members here, it's  
24 wonderful to have this opportunity to testify.  
25 I'm Brad Lander. I'm a Senior Fellow at the Pratt

1  
2 Center for Community Development. I believe  
3 you'll be hearing later from Adam Friedman, the  
4 new Pratt Center director as well and a candidate  
5 for City Council. The Pratt Center has done  
6 fairly extensive research on the topic of small  
7 business preservation. I know the research has  
8 been presented before and that Adam will talk  
9 about it a bit. They've done a comprehensive  
10 survey around the country of policies that have  
11 been used to try to address small business issues.  
12 I believe that one being proposed here today of a  
13 fair lease renewal process comes out high up at  
14 the top and I strongly support it. As you know,  
15 the challenges facing small business have grown  
16 from a problem to a real crisis in the city.  
17 During the boom we saw one half of that crisis as  
18 more and more people were pushed out and now in  
19 the economic downturn we're seeing the other half.  
20 But you're still seeing a stunning number of  
21 places where when a lease renewal comes up, what  
22 people are being forced to do is absurd. Just in  
23 my neighborhood, Sound Tracks, a great local music  
24 store was just forced out last month. Then you  
25 hear the grocery stores as well. I think we're

1  
2 losing those businesses that both feed our bodies  
3 and feed our souls. If we don't do something  
4 about it soon we're going to lose them more and  
5 more and more. The City's Department of Small  
6 Business Services, as we've heard, have many fine  
7 programs, but the evidence is before our eyes,  
8 they just aren't working to save mom and pop  
9 businesses in our neighborhoods. So something new  
10 and serious is needed. This is a meaningful  
11 departure from practice as we now have it. I mean  
12 I don't think we should minimize that. It is not  
13 all the way to residential rent regulation or  
14 commercial rent control, which perhaps is needed,  
15 but it is a significant step. I just think the  
16 evidence is there before us if we let the free  
17 market reign, we know without any additional  
18 regulation what it's going to continue to give us.  
19 In two years, three years, five years, we'll be  
20 back here with fewer of the small businesses that  
21 make our neighborhood great, with fewer of the  
22 jobs that we have here today. So let's put in  
23 place this one very reasonable additional  
24 regulation. I can just imagine what we'd be  
25 saying if we were trying to put for residential



1  
2 rent regulation. We'd be hearing the diversity of  
3 our city isn't worth this additional regulation  
4 that we have. We've got a much more modest one  
5 here. We ought to get started with it. Thank you  
6 very much.

7 MARGARET CHIN: Good afternoon.

8 Thank you for the opportunity to testify before  
9 you. My name is Margaret Chin. I'm also a  
10 candidate for City Council. I've been a longtime  
11 community activist and I'm also a founding member  
12 of the Chinatown Partnership Local Development  
13 Corporation that was formed after 9/11 to help  
14 revitalize the businesses in Chinatown. I just  
15 wanted to add my voice to support the Small  
16 Business Survival Act. Everybody is talking about  
17 the small businesses being the backbone of the  
18 communities and that they helped create jobs.  
19 What's happening in Chinatown is that we're losing  
20 a lot of our long term businesses. I mean  
21 recently we had a very well known hardware store  
22 on East Broadway. All of the sudden it closed  
23 down and a lot of long term jobs were lost. In  
24 its place is this micro mall. A little space  
25 that's carved up into little cubicles that

1  
2 landlords charge exorbitant rents for. Imagine  
3 the little space and you have to pay \$3,000. If  
4 you have a front space, you have to pay \$5,000. A  
5 lot of these stores are not surviving. We also  
6 had an Asian supermarket that just closed down a  
7 couple of weeks ago. In its place will be another  
8 one of these little micro malls. How many little  
9 odds and ends can they sell and survive? We also  
10 are losing the authenticity of Chinatown. We're  
11 getting Starbucks. We're getting Subways. A lot  
12 of the coffee shops that we have are closing. So  
13 we are really in a crisis situation. This bill is  
14 only a small first step. We're not even talking  
15 about regulation; just have an open process where  
16 a business owner has a right to negotiate. Right  
17 now what's happening is every time the lease  
18 renewals come up, landlords are asking more than  
19 double. The hardware store that I mentioned had  
20 \$8,000 rent a month and it went up to \$20,000.  
21 They couldn't survive. That's why this bill is  
22 necessary and is only a small step and we've got  
23 to get it passed. Thank you.

24 CHAIRPERSON YASSKY: Council Member  
25 Mark-Viverito has a question.

COUNCIL MEMBER MARK-VIVERITO:

1 Thank you, Mr. Chair. I want to thank all of  
2 those that have testified. I'm very proud of the  
3 fact that we're having a hearing on this  
4 legislation. I'm very proud of the fact that  
5 Robert Jackson has introduced this. I've signed  
6 on as a sponsor, as many of us here have. I'm not  
7 on this committee but I felt compelled to come  
8 because I really this it is an important proposal.  
9 I wanted to ask one question to Brad Lander. I  
10 know that Pratt is going to discuss this a little  
11 bit later. Obviously you were there for many  
12 years and I know that we engaged when I was doing  
13 a land use item in my district to where we were  
14 looking to carve out in a major development  
15 carving out space specifically to preserve small  
16 businesses in our community. We asked you to come  
17 in and give us a presentation as to what was  
18 happening in other cities throughout this country,  
19 what other initiatives and proposals were  
20 happening that were looking to help preserve our  
21 existing small businesses. We obviously have  
22 intent on passing this. We're going to be very  
23 firm and very strong. As a Council we have a

1  
2 responsibility to represent all sectors in this  
3 city and not just a select few, which I believe is  
4 what has happened with this administration. We  
5 are here to also represent the tenants, to  
6 represent the small business owners and to do what  
7 we can to preserve this vital backbone in this  
8 city. We are interested obviously in this, but  
9 what other things could we do, based on research  
10 that has been done, to take this a step further?  
11 I think that obviously is important and we're very  
12 much committed to that.

13 BRAD LANDER: It's a great  
14 question. Earlier there was a panel mentioned  
15 that Borough President Scott Stringer convened  
16 with a bunch of good recommendations. Quite a lot  
17 of them go very well with this legislation today.  
18 There are a number of different cities that use  
19 some form of tax benefit so that either a tax  
20 landlord that is providing a fair rent and helping  
21 somebody stay is able to get some kind of tax  
22 benefit, and they may be charging a slightly below  
23 market rent. Maybe you give them a little bit of  
24 the difference between what they're charging and  
25 what they could be charging off their property

1  
2 taxes. That would go great here. If they reached  
3 a deal and somebody was even willing to come a  
4 little bit below what the arbitrator said, maybe  
5 you'd be willing to give them a little tax  
6 benefit. So you could combine those two things,  
7 so tax benefits are one. When the city is doing  
8 its own development, there obviously could be an  
9 opportunity to create real spaces for small  
10 businesses. That was one of the things we  
11 highlighted in a report we did. There is a great  
12 development in Minneapolis where the city did a  
13 significant development and created a whole kind  
14 of plaza for small business operators of many  
15 different ethnicities and many different products.  
16 It really kind of revitalized that neighborhood.  
17 There are a number of different ways you can do  
18 things. On the supermarket side, there's the  
19 preservation of existing supermarkets and then  
20 there are so many places where we have to create  
21 new supermarkets and you're going to need  
22 different tools to do that. The one thing I'll  
23 say, especially about this legislation is compared  
24 to the others, it really doesn't cost any more.  
25 Giving tax breaks is going to cost additional

1  
2 revenue. If you use something in the city's  
3 development process you're talking about a  
4 relatively small number of new small businesses  
5 and in concentrated places and this is taking  
6 place throughout the city. So giving a more level  
7 playing field to small businesses everywhere in  
8 the city without significant additional cost I  
9 think is part of what recommends this. But I do  
10 think, as Margaret said, it needs to be more.  
11 This has got to be a first step of doing a real  
12 range of things.

13 COUNCIL MEMBER MARK-VIVERITO:

14 Thank you.

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

18 COUNCIL MEMBER MARTINEZ: Council  
19 Member Mark-Viverito sort of alluded to my  
20 question. You work closely with my office having  
21 to do with affordable housing and zoning issues.  
22 During your time there, has the institute made any  
23 recommendations or studies? I know you mentioned  
24 some of the issues we brought up in terms of the  
25 commercial rent control and so forth, but as an

1  
2 option alternative to deal with the immediate  
3 problem now. I know you're no longer there and  
4 you're looking for higher and better things. Are  
5 there any recommendations that have come out of  
6 the institute? Just tell me if you could answer  
7 the question or not.

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

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

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

21 COUNCIL MEMBER MARTINEZ: Thank  
22 you.

23 COUNCIL MEMBER PALMA: Thank you,  
24 Mr. Chair. I represent the 18th Council District  
25 in the Bronx and the majority is small business.

1

2 I have one Pathmark, Macy's and Kmart, but other  
3 than that it's the local businesses that have been  
4 there for years and years and years. Landlords  
5 will not do this to a Target or a Kmart. Have any  
6 of the small businesses reported this to the IRS?  
7 There has to be some sort of backlash in terms of  
8 the IRS. I'm pretty sure if the IRS got wind of  
9 this, the government would definitely be all over  
10 it. Do we know if they've tried to do that?

11 MARGARET CHIN: I think among a lot  
12 of them, especially the immigrant small  
13 businesses; they're trying to continue the  
14 business. A lot of times because they want to  
15 stay there, they pay the money under the table.  
16 They're not going to report it because they're  
17 concerned that they're going to lose everything if  
18 they can't stay in that place. It's easy to say  
19 they should report it, but it's not happening.  
20 The same thing with landlord tenant issue, it's  
21 the same issue. But if government can step in and  
22 have an open process and then educate people that  
23 you have a right to negotiate for fair rent  
24 openly, I think that will help the process and it  
25 will help open up the illegal practices that are



1  
2 going on in our communities. Government needs to  
3 step and say let's open up the process, let's make  
4 it transparent. So not everything under the  
5 table, but open up, the negotiation, the  
6 arbitration, it's public. This way I think it  
7 will help solve the problem in the long run.

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

23 CHAIRPERSON YASSKY: What standard  
24 would we expect an arbitrator to use? I mean if  
25 I'm the small business owner, and I've been paying

1  
2 \$2,000 a month and the landlord wants it to go to  
3 \$4,000. The landlord comes in and says Duane  
4 Reade will pay \$4,000 a month for this space. Do  
5 we expect the arbitrator to then say \$4,000 is the  
6 rent? Do we expect the arbitrator settle on a  
7 rent that is what the market will bear in that  
8 area or below what the market will bear?

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

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

19 BRAD LANDER: As I read the  
20 legislation, it speaks to fair market rent which I  
21 think is one of the challenges here. That's why I  
22 think it's not actually anywhere near as onerous  
23 as it might be. This does not, at least as I read  
24 the legislation, push anyone or require anyone or  
25 set up a process where they would be expected to

1  
2 take less than fair market rent. There will be a  
3 lot of cases where that won't end up leading to  
4 the preservation of the business to be honest. If  
5 the arbitrator finds that fair market rent is  
6 indeed 50-100% higher, then the arbitrator is  
7 going to say you can renew at that or I'm not  
8 going to sign off on a renewal. It's why I think  
9 we need more. If we're going to ask an owner to  
10 take something less than fair market rent, then I  
11 think the burden is on us to figure out what else  
12 we're going to do to incentivize that. As I read  
13 the legislation, it does not require that.

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

21 MARGARET CHIN: I think what's  
22 going on right now is that some of the small  
23 businesses don't even have the opportunity to  
24 negotiate. They have a lease and there is no  
25 option to renew.

1  
2                   CHAIRPERSON YASSKY:  If the rent is  
3 \$2,000 a month and the landlord says I want  
4 \$4,000, when you say they don't have the  
5 opportunity to negotiate, what do you mean by  
6 that?

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

11                   CHAIRPERSON YASSKY:  Give me an  
12 example.

13                   MARGARET CHIN:  The one example  
14 that I gave it was \$8,000 and now they want  
15 \$20,000.  That's more than double.  Sometimes the  
16 landlords are not basing it even on fair market,  
17 it's based on what they think they can get.  Some  
18 of the landlords are willing to leave the  
19 storefront empty until they get somebody else that  
20 can come in and pay that rent.  We have on  
21 storefront right now on Mott street that after  
22 9/11 the restaurant that was here couldn't make it  
23 and then another one couldn't make it.  Well the  
24 landlord just left it vacant because he was asking  
25 like \$30,000 a month rent.

1  
2 CHAIRPERSON YASSKY: Why do they do  
3 that?

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

17 CHAIRPERSON YASSKY: Thank you.

18 BRAD LANDER: Pat could speak to  
19 one instance where the process of negotiation  
20 preserved a business and I think you'll see that  
21 in a meaningful number of places where going  
22 through this process encourages people to come to  
23 a deal rather than evict and take their chances in  
24 the marketplace.

1

2

CHAIRPERSON YASSKY: Thank you.

3

I'm sorry; Council Member Mealy has a question.

4

COUNCIL MEMBER MEALY: I want to

5

thank the chair for having this hearing. We've

6

come a long way, we have 28 signatures now. I

7

salute you. Congratulations. Is there anything

8

in place right now that some committees here are

9

checking into that instead of letting the store

10

owners just leave the stores vacant that will

11

prevent them from splitting up those stores and

12

still make money and let it be a fair market rate?

13

Is there anything in place that will prevent them

14

from splitting it into and now collecting rent

15

from three different tenants? Is there anything

16

in place to make sure that does not happen? We

17

have to put them in a particular situation as

18

well. If they don't want to keep the rents at a

19

market rate, we should not be letting them split

20

up their store and rent it out to others. They

21

should be doing it legally. Do you have an

22

organization in place for checking that? If you

23

don't, we should start. Thank you so much.

24

CHAIRPERSON YASSKY: Thank you, and

25

thank you to the panel. For the next panel, we

1  
2 will hear from Ramon Murphy from the Bodega  
3 Association of the U.S.; Alfredo Rodriguez from  
4 USA Hispanic Chamber of Commerce; Sung Soo Kim  
5 from the SBC; and Luis Parra from Latin  
6 Association of Tax Preparers.

7                   RAMON MURPHY: Thank you, Mr.  
8 Chairman David Yassky, and the members of the  
9 Committee on Small Business, for asking me to  
10 testify on the "Small Business Preservation Act."  
11 Thank you, Mr. Chairman Yassky. My name is Ramon  
12 Murphy. I am the President of the Bodega  
13 Association of the United States, and currently  
14 own a bodega store in Hamilton Heights, 134  
15 Hamilton Place. I've been working 25 years in  
16 bodegas. We, the members of the Bodega  
17 Association, represent about 11,000 bodega owners  
18 and, all together, about 50,000 workers living and  
19 working in the City of New York.

20                   Directly or indirectly, about  
21 200,000 people depend on us, and on the success of  
22 our businesses to live or survive in this great  
23 city of New York. As the numbers show, our  
24 industry is big. It is an important part of New  
25 York. Therefore, if New York City is having

1  
2 problems, we are having program. For example,  
3 Jetro Cash & Carry, the wholesaler of our industry  
4 in New York City, reports that weekly 20 bodegas  
5 are closing. Only this year, 9% of all the bodega  
6 will be closing. This is a crisis for the city,  
7 for the sector I represent, and for the health of  
8 all New Yorkers. The members of the Bodega  
9 Association of the United States are not against  
10 the commercial landlords. Landlords have given us  
11 the opportunity to flourish our business. They  
12 are our partners, and we want them to flourish as  
13 well. A process that is fair to both, the  
14 landlord and the tenant, and a process that helps  
15 the city and its residents retain the great  
16 service that only small business, like bodegas,  
17 could offer them. It is important to keep bodegas  
18 open because we do not want them to become in  
19 "bodega deserts". Try to imagine Fulton St in  
20 Brooklyn Heights, Williamsbridge Road and Grand  
21 Concourse Avenue in the Bronx, Roosevelt Avenue in  
22 Jackson Heights, Broadway in Washington Heights  
23 and other important roads without bodegas. That's  
24 going to be a real desert. Now, allow me to go to  
25 the heart of the matter. This bill will create an



1  
2 essential toll for bodega owners to survive and  
3 weather this economic crisis by regulating a  
4 process of lease renewal. Currently, this process  
5 is unjust. What is happening in most cases is a  
6 process of, first, extortion, and second, if the  
7 lease gets renewed, the result is a rent so high  
8 that suffocates to extinction our businesses. You  
9 have to remember that bodega owners do not have  
10 money for expensive lawyers to negotiate for them  
11 a fair lease, like other corporations that can  
12 have an expensive lawyer. Our business does not  
13 resist such change. We have to stay and pay the  
14 out-of-the-market new rent, or to leave our  
15 savings, equity and equipment inside the premises,  
16 walking away with nothing, laying off people, and  
17 forgetting our New York dream. I would like to  
18 close my statement with a challenge to all Council  
19 Members. The Council Members have to go  
20 personally into in your district and ask them to  
21 tell you, in private, and with honesty, how they  
22 got the new renewed lease. Do your own research,  
23 and you will find extortion and rents impossible  
24 to pay in this market. Mr. Chairman and all the  
25 members of this committee, this bill represents a

1  
2 good public policy for the City of New York. It  
3 is a very smart way to provide more justice and a  
4 smart solution to the economic and health crisis  
5 that the city is suffering.

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

9 ALFREDO RODRIGUEZ: I am Alfredo  
10 Rodriguez of National Supermarket Association,  
11 Board of Director of United States Hispanic  
12 Chamber of Commerce. We have about 400  
13 supermarkets in the City of New York. Some would  
14 say 400 supermarkets in the City of New York,  
15 which is Seed Town and Fine Fair and all of those  
16 pioneers. We have to go back and look at history  
17 and see that we took all those stores that were  
18 abandoned by the Red Apple. They felt that it  
19 wasn't good for them and they weren't making a  
20 profit. They just abandoned them and left. I had  
21 a bodega in 1985 and the sacrifice we go through  
22 is amazing. I remember getting held up twice in  
23 less than 30 seconds in Jamaica. They talk about  
24 15 and 16 hours. That's not even the hours  
25 because we have to go to the market and buy some

1  
2 of the products or we have to go and get things  
3 before we open the store. What I'm trying to say  
4 is that we talk about fair market value, what is  
5 fair market value. Fair market value is the rent  
6 that the neighborhood is paying, not what the  
7 landlord is asking for. For example, I'm probably  
8 on both sides of the fence because I own property  
9 too and I've done leases. When I do a lease it  
10 will say based on fair market value. How do I  
11 look at fair market value? It's looking it on the  
12 totality of what rent is being paid in the area,  
13 not what the landlord wants. I could tell you  
14 that when all these drug stores like Rite Aid came  
15 in and I was paying \$6,000. They go in there and  
16 tell the landlord they would give \$30,000 to let  
17 my lease die off, that's not a fair market value.  
18 That's almost six times the amount of the real  
19 number. I'm just saying that I support this. I  
20 believe in it. The small business is the backbone  
21 of the community. When everybody else leaves,  
22 we're still there. In this bad economy, we're not  
23 letting any of the workers go like corporate  
24 America is doing.

25 COUNCIL MEMBER MEALY: Thank you.

1

2

SUNG SOO KIM: Council Member

3

Mealy, Council Member Mark-Viverito, and Council

4

Member Martinez, but where is the chairman?

5

COUNCIL MEMBER MEALY: He stepped

6

out for a second.

7

SUNG SOO KIM: Thank you. My name

8

is Sung Soo Kim. I'm the president of Korean

9

American Small Business Service Center of New

10

York, Inc. At this hearing, I represent the 9,500

11

Korean American mom and pop stores in the city.

12

Let me just give you, because of the time limit,

13

the predicament of new immigrants businesses. We

14

have 80% of mom and pop stores in the City of New

15

York. They don't speak English as the mother

16

tongue. Contributions made by new immigrants were

17

recognized here and there, even Mayor Bloomberg

18

and the Council Member. We are fainted, we just

19

feel dizzy because there are so many. You people

20

are doing good things. Fine, but what's the

21

reality? Before we came to the United States, in

22

Korea we learned American spirit and the way we

23

could be treated in the United States. They said

24

if you work hard you will be rewarded. This is

25

the basic spirit of American. But think about the

1  
2 rent situation. All the legislators and leaders  
3 are talking about loans. We don't need loans, we  
4 need protectional rent. We came here with good  
5 spirit and showing the latest of revitalizing the  
6 fading American business ethics. We work hard.  
7 We created all the market values in Flushing,  
8 Jackson Heights; you name it, in Brighton Beach.  
9 We revitalized this market. These days, when the  
10 lease renewal starts, we are ending up, with the  
11 skyrocketing rent increases, we cannot afford to  
12 pay. We worked hard. There is something wrong.  
13 We are dumped by the increase. If not, they ask  
14 us to give money under the table. Mr. Lee asked  
15 for \$50,000, \$30,000, and he doesn't want to  
16 testify because they're afraid of their landlord.  
17 But this is a true story. There are three things  
18 we really want. They are very simple things.  
19 Council Member Jackson bill guarantees these three  
20 things. We need protection from extortion. We  
21 need some room for both landlord and tenant to sit  
22 down and negotiate. This is the American way. If  
23 you ask the landlord why he increases the rent, he  
24 says, "Because I say so." He's a king. This is  
25 not American. We need to increase the right for

1  
2 renewal of the leases. For example, we have a  
3 Laundromat in the Bronx, a Korean guy created a  
4 \$300,000 value laundromat. The greedy landlord  
5 let the lease expire, kicked the Korean Laundromat  
6 owner out and this guy sold for \$300,000. There  
7 is something wrong in the city. We need the  
8 protection. We fully support the Small Business  
9 Survival Act. It's got to be done. It's a very  
10 simple thing.

11 COUNCIL MEMBER MEALY: Thank you so  
12 much.

13 LUIS PARRA: Good afternoon, my  
14 name is Luis Parra. I'm the president of the  
15 Latino Association of Tax Preparers. We are  
16 nonprofit professional organization representing  
17 the Latino tax professional in New York City. I  
18 am here today to express our support to this  
19 important bill. It is critical for the  
20 preservation of the small businesses in our city.  
21 Today, most people are speaking of small  
22 businesses like bodegas, Laundromats and other  
23 businesses. You have to take away this  
24 information. We have around 96,000 small  
25 businesses in the service sector like lawyers,

1  
2 accountants, tax professionals, doctors, dentists,  
3 engineers, real estate, day care providers,  
4 cleaning services, beauty salons, and others.

5 This bill is going to protect these kinds of  
6 businesses along with the businesses we've heard  
7 of today. According to the New York State  
8 Department of Labor, this section of the  
9 professional businesses has 583,000 employees by  
10 April 30, 2009. That represents 30% of the total  
11 of the sector. That means our sector is very  
12 important. Our professionals face the same thing  
13 as bodega owner and other small business owners.  
14 We have a very high cost of operation in the city  
15 with rent, property taxes, state and local taxes.  
16 In the past five years, 74% of the businesses that  
17 have closed are due to high cost of rent. If you  
18 add to this factor the amount of money that some  
19 business owners have to pay for the landlord to  
20 maintain the lease, the result is out of  
21 proportion. This bill brings an opportunity to  
22 the business owners to negotiate in good faith  
23 with the landlord. We strongly support this bill.

24 COUNCIL MEMBER MEALY: Thank you.

25 Do any of my colleagues have a question? We want

1  
2 to thank you so much for coming out and letting us  
3 understand exactly what we need. Thank you. Can  
4 we have the next panel?

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

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

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

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

17 COUNCIL MEMBER MEALY: Your name.

18 LOEBE JULIE: There is one other  
19 wondrous small business that I want to talk about  
20 now. I'm Loebe Julie. The other wondrous small  
21 business is that small business is where most of  
22 our inventions and new ideas come from. People  
23 like Thomas Edison who invented the electric  
24 light, Alexander Graham Bell who invented the  
25 telephone, Orville and Wilbur Wright who invented



1  
2 the airplane; they all started out as small  
3 businesses. I started in Washington to campaign  
4 for what I called tier two, which was the high  
5 technology small business which creates all of  
6 these inventions. When you start out a small  
7 invention business, as I did, you have all of the  
8 same problems with lease renewal that we've been  
9 hearing about today. Let me tell my story. I  
10 graduated from City College in New York. Through  
11 hard work I was awarded 40 patents for my  
12 inventions.

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

16 LOEBE JULIE: I went from being a  
17 small business inventor to starting to manufacture  
18 my inventions. So when you start out a small  
19 business invention company, you become a  
20 manufacturing company. Most of my language in  
21 this paper is about our experience when we were  
22 manufacturing our products. Our products were  
23 advertised all over the world and produced and  
24 sold all over the world. I was invited to lecture  
25 in England, France, Germany and Russia about these

1  
2 new inventions. Our New York City small business  
3 was also listed in Who's Who in the world. When I  
4 started Julie Research Laboratories, I chose New  
5 York City for my company location because I  
6 believed New York to be ideal. It is full of  
7 colleges and universities and a whole series of  
8 technical schools.

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

15 LOEBE JULIE: I couldn't hear that.

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

21 LOEBE JULIE: You have the  
22 testimony.

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

25 LOEBE JULIE: Thank you.

1  
2 QUENIA ABREU: Good afternoon. My  
3 name is Quenia Abreu. I'm the president of the  
4 New York Women's Chamber of Commerce. I would  
5 like to thank the City Council for giving me the  
6 opportunity to present my testimony in favor of  
7 the Small Business Survival Act. I would like to  
8 give special thanks to Council Member Robert  
9 Jackson for introducing the bill and to the Small  
10 Business Committee for this hearing. We often  
11 here the phrase "Small Businesses are the backbone  
12 of our economy", yet the city is doing nothing to  
13 protect them from going under. It is like going  
14 around saying "the children are the future, but  
15 yet we don't protect them and let them die one by  
16 one every day. Every day, our small businesses  
17 are dying because the city has failed to protect  
18 them. And every time a business dies, parents  
19 lose their ability to feed their children and pay  
20 for their college education. Our small businesses  
21 cannot continue to pay the exorbitant rents, the  
22 excessive amount of commercial real estate taxes  
23 that are passed on to them, nor can they cope with  
24 the unreasonable demands that a lot of the  
25 landlords are making to renew their lease.

1  
2 Furthermore, when they get the landlords to renew  
3 their lease it is usually a three to five year  
4 lease, not much time for a business to recoup its  
5 investment and make a profit. Plus keep in mind  
6 that no financing institution will give a loan to  
7 a business that has less than five years remaining  
8 on their lease. Business loans have a five year  
9 term usually. Everyday we get calls and visits  
10 from women in business desperately looking for  
11 help to deal with the lease and rent situation.

12 One of those women is Albania from the Albania  
13 Beauty Center in Washington Heights. Albania pays  
14 over \$3,000 in rent a month and 19,000 in real  
15 estate taxes a year. Rudy Saldana, who owns a  
16 beauty salon in the Bronx, pays \$24,000 a year in  
17 real state taxes alone. Daija, had to close her  
18 restaurant "It's a Dominican Thing" in Chelsea  
19 last year because she could not pay the high real  
20 state taxes, Awilda, the owner of Angel Eyes, an  
21 optical lens store, was forced to move her  
22 business after her lease expired because the  
23 landlord wanted her gone, and Ingrid, who is here  
24 with us today as well, lost her business because  
25 the landlord failed to give her a lease after

1  
2 taking \$14,000 from her. We hear these stories  
3 all day long, women having to close their business  
4 and others at risk of doing so. These situations  
5 could have been prevented if the landlords and the  
6 tenants had negotiated a lease that was favorable  
7 to both parties. Unfortunately, at this moment  
8 only the landlords are the ones doing the  
9 negotiations and are not doing it in good faith.  
10 In a recent survey conducted by the New York  
11 Women's Chamber of Commerce, we found that 500  
12 businesses in Washington Heights and Inwood have  
13 gone out of business, and that is only counting  
14 those businesses that were located on the first  
15 floor. We have not yet completed the survey.  
16 Harlem has already reported that more than 800  
17 small businesses have gone out of business. As  
18 you can see those are huge numbers and if you  
19 consider that those businesses provided employment  
20 to an average of three to four individuals with  
21 families, the damage and lost is quite  
22 considerable. Our small business owners are  
23 losing hope and faith in our city.

24 CHAIRPERSON YASSKY: I'm going to  
25 ask you to sum up as well.

1  
2 QUENIA ABREU: While I visited with  
3 some of them this past week, they professed their  
4 frustration and their lack of trust in our city  
5 government. Nonetheless, I assured them that  
6 things are going to change for the better because  
7 we have a pro small business City Council that  
8 cares about saving our small businesses and it is  
9 going to do the right thing by passing the Small  
10 Business Survival Act. Thank you very much.

11 MICHELLE BURKHART: My name is  
12 Michelle Burkhart. I'm the director of Dance NYC  
13 and I'm here today representing arts organizations  
14 in New York City. I am here today on behalf of  
15 our city's arts organizations; represented in our  
16 city by actors, musicians, dancers, visual  
17 artists, stage technicians, costume designers and  
18 graphic artists, as well as other small business  
19 and nonprofit organizations that are suffering  
20 from the abuses and unfair excesses of unregulated  
21 commercial lease renewal process. The Small  
22 Business Survival Act would give protection and  
23 rights to those that have been marginalized and  
24 taken advantage of when looking to renew their  
25 commercial leases. As the director of a service

1  
2 organization that supports over 5000 dance artists  
3 and over 500 dance companies, I can tell you that  
4 this is a problem in our community that has been  
5 occurring for several years and continues to  
6 perpetuate at an increased rate, especially during  
7 these challenging economic times. Our  
8 organization, as well as many others, has been  
9 directly impacted by the abusive behaviors of  
10 landlords and real estate companies that are  
11 prioritizing their profit margins over maintaining  
12 the rich and vibrant cultural ecology of our city.  
13 In 2002, our organization entered into a 5 year  
14 lease in an office space in Soho. We conducted  
15 our business but also provided affordable  
16 subsidized office space for 5 smaller companies,  
17 as well as conference room for other members of  
18 our dance community. In 2007, we were offered a  
19 renewed lease at double the amount of the original  
20 rate. We were notified less than 60 days in  
21 advance, even though we had made requests up to  
22 six months in 6 months in advance. This left  
23 little time for us to relocate not only ourselves  
24 but find alternative space for those organizations  
25 we were housing. We appealed to our landlord

1 explaining that we were a nonprofit arts  
2 organization struggling to make ends meet. We  
3 also reminded the landlord that we happily  
4 occupied the space when they were challenged to  
5 find tenants post 9/11. We were still declined.  
6 Our example is just one of many similar situations  
7 that have significantly impacted the arts and the  
8 nonprofit community. In April of this year, Paul  
9 Taylor Dance Company lost its Soho facility and  
10 home for 20 years due to an expanding Banana  
11 Republic store. When artists are refused renewals  
12 on their leases, it is not only a loss to the  
13 artist but to the community, because well  
14 established studies show that local business  
15 community economies thrive with the presence of  
16 arts organizations sharing their neighborhood  
17 space. The passage of this bill would create a  
18 fair commercial lease renewal process which would  
19 save existing jobs as well as create healthier  
20 business environments to encourage business  
21 expansion and create more new jobs. It would  
22 restore order in the commercial marketplace and  
23 bring back a reasonable means for businesses to  
24 successfully operate and compete, thus preserve  
25



1  
2 the much-needed employment opportunities for small  
3 businesses, nonprofits and the arts sector in New  
4 York City. Thank you.

5 CHAIRPERSON YASSKY: Thank you to  
6 this panel.

7 RICHARD HU: My name is Richard Hu.  
8 I own a fabric store on 40th and between 7th and  
9 8th Avenue. I've been in the garment sector for  
10 the last 20 years and worked really hard. 40th  
11 and 39th street of the same block has been known  
12 as Fabric Street all over the world. They built  
13 the New York Times building on 40th and 8th  
14 Avenue. They have a high expectation from  
15 landlords and they keep raising the rents. 40th  
16 Street used to have about 20 fabric stores and  
17 right now they have only 4 left. Most of them  
18 went out of business because they couldn't afford  
19 the higher rents. When the store owners wanted to  
20 renew their leases, landlords asked for four to  
21 five times more money in many cases. The fabric  
22 stores were replaced by the deli, coffee shops,  
23 restaurants, pawn shops and other general  
24 businesses. Even two of the new restaurants were  
25 closed because they don't have enough business.

1  
2 Four former fabric stores across the street from  
3 ours have been vacant for almost five years, even  
4 with their big for rent signs. Those fabric  
5 stores support a lot of business, like move and  
6 theater custom makers, garment manufacturers,  
7 interior designers, fashion schools and others.  
8 They depend on us for their fabric sources.  
9 Fabric stores are like art collects, with a  
10 variety of fabrics with different ideas from all  
11 over the world. If we go out of business, they  
12 will have few major sources of fabrics and ideas.  
13 Our customers are not only from New York City, but  
14 also they're from other states like Washington,  
15 D.C., Texas and California. They are also from  
16 other countries, such as South America. No other  
17 city in the entire world has as many fabric stores  
18 as New York City. They come to New York City to  
19 buy fabric. But they also stay at hotels, watch  
20 the Broadway shows and do other things. They're  
21 surprised by the changes. They're very much  
22 disappointed that they couldn't find as many  
23 fabric stores as before. They've been saying they  
24 have fewer and fewer reasons to come to New York  
25 City because so many specialty stores, not just

1  
2 fabric stores are disappearing. New York City is  
3 losing its uniqueness. Like have the garment  
4 center, diamond district, flower district and so  
5 forth, it's changing itself into a so and so city.  
6 In our area, fabric stores are not the only ones  
7 affected. Many wholesalers are moving to New  
8 Jersey because of higher rents. It makes it  
9 harder for the business and harder for us to get  
10 the fabrics to our customers on time. Thank you  
11 very much.

12 CHAIRPERSON YASSKY: Thank you,  
13 that's a very powerful and effective testimony.  
14 Thank you for that. We're going to hear from our  
15 next panel now. Adam Friedman from the Pratt  
16 Center; Christine Colligan from New York Korean  
17 American Parent Association; Steven Barrison from  
18 the Small Business Congress of New York City;  
19 Shibani Patel from ROC New York; and Eduardo  
20 Giraldo from Queens Hispanic Chamber of Commerce.  
21 Let me say that we are scheduled to be here in  
22 this room until 4 p.m. I want to try and  
23 accommodate everyone that has signed up to  
24 testify. But I'm going to alert people that if it  
25 looks like we're going to go way over time, we may

1  
2 have to cut this short before we hear from  
3 everyone who has signed up. Why don't we start in  
4 the order that you're sitting. We'll go from  
5 right to left the way that you're sitting.

6 SANG HUN RI: Good afternoon,  
7 Chairperson and committee members of the Small  
8 Business of New York City Council. My name is  
9 Sang Hun Ri [phonetic]. I thank you for this  
10 opportunity to speak in front of your committee.  
11 I used to be an owner of a small liquor store in  
12 Manhattan. I owned and operated this small liquor  
13 store for 26 years. Including a previous  
14 partnership with my friend, it was 35 years. I  
15 was forced to close my little store because of  
16 high rent. I used to pay \$2,400 per month until  
17 August 2007. My previous landlord notified me  
18 they were going to raise it to \$2,500 every month,  
19 with \$75 incremental for the five years. But they  
20 sold the building and I didn't have a chance to  
21 renew those lease contracts. New landlord asked  
22 me for \$10,000 rent. It's outrageous. I  
23 negotiate through the lawyer to cut the rent  
24 almost a year. Meanwhile, I found asbestos in the  
25 basement of my liquor store. This asbestos was in

1  
2 insulation of the steam pipe from the boiler. It  
3 was there over 30 years. I didn't know that until  
4 I tried to insulate and protect my wine stock in  
5 the basement from the heating. The plumber said  
6 he couldn't touch it. I asked why and he told me  
7 it was asbestos. So I immediately called New York  
8 City Environmental Protection Department. This  
9 made the landlord angry. They served me a 30-day  
10 termination notice, after that, get out or you'll  
11 pay \$6,000. I was forced to sign. That  
12 stipulation contained a gag order not to talk to  
13 the media because my neighborhood demonstrated  
14 against this greedy landlord. I was interviewed  
15 by local news media several times. I think this  
16 upset the landlord. After 30 days, can you move  
17 out, no, so I was stuck because this is government  
18 controlled merchandise. So I was forced to sign,  
19 which contained a gag order not to talk to the  
20 media about the building or the landlord. I was  
21 paying \$6,000. My sales volume was less than half  
22 a million dollars. My rent was \$72,000 a year,  
23 and with my worker's pay included that was  
24 \$100,000. Where is my profit? In the United  
25 States 100 years ago, there was a slavery system.

1

2

Abraham Lincoln repealed the system. Now I'm a slave of the greedy landlord. I cannot buy even the bread and butter.

5

CHAIRPERSON YASSKY: Thank you.

6

SAN HUN RI: Is that right? No.

7

Thank you, Mr. Chair.

8

CHRISTINE COLLIGAN: Thank you very

9

much. I thank God for the opportunity and I thank

10

Mr. Chairman Yassky and also Robert Jackson. This

11

is great. I support you 100%. I'm president of

12

the Korean American Parent Association. I'm

13

representing all the parents of greater New York

14

City area. I'm not talking rent here; I'm talking

15

about breaking the family. All of these store

16

owners have families, they have children. They

17

have to work so many hours. Sometimes a lot of

18

divorce is caused from the financial difficulty.

19

I know one man and his son from Junior High School

20

189. He was an excellent businessman with 10

21

employees. He couldn't renew the rent. It went

22

from \$5,000 to \$10,000. He had to give up the

23

business. I saw him come to church to pray to

24

look for a new place. I want to share my

25

experience. My husband used to have a store on

1  
2 Avenue B between 6th and 7th. All of the sudden,  
3 the landlord wanted to sell the building and we  
4 had to get out. He raised the rent from \$2,000 to  
5 \$5,000. I was very happy to come to the United  
6 States in 1983. I'm a very proud Korean American.  
7 We have to have some law. This is not free  
8 market. If you ask whatever price you want, take  
9 it or leave, that's not the way to go. As a  
10 citizen, as a taxpayer, all of the small  
11 businesses generate a great amount of the tax. We  
12 have to do something. I 100% support you. I pray  
13 every day to pass this law. Thank you very much.

14 CHAIRPERSON YASSKY: Thank you very  
15 much.

16 STEVE BARRISON: My name is Steve  
17 Barrison. I am the executive vice president to  
18 the Small Business Congress. We're a small  
19 organization of about 185,000 retail stores. Some  
20 people think of us as small. We've been shrinking  
21 over the years and it's been over 20 years of  
22 fighting. You have my testimony from the  
23 organization, so I thought I'd help you out a  
24 little bit here. You can see from the figures on  
25 our one-page statement the bottom line. New York

1  
2 is 45 out of 50 according to Washington, D.C. in  
3 small business entrepreneurship as far as helping  
4 the small business survival index. We've evicted  
5 142,738 people in the court where you can document  
6 it and look it up for the past 20 years, and  
7 almost equal the same amount for those that are  
8 not documented and evicted. That's over a million  
9 jobs lost already. The City of New York has great  
10 campaigns and great things for small business to  
11 keep new people coming in and all kinds of  
12 incentives. As you heard today by the  
13 representatives of our city, they may have well  
14 intended plans; they didn't say a single solitary  
15 thing about keeping business in place. It made me  
16 boil sitting there. All they talked about was  
17 relocation, which is usually people thrown out by  
18 eminent domain and things like that. That helps  
19 nothing. 97% of the small businesses we have  
20 found in all five boroughs, and we employ still  
21 over a million people, are the ones struggling to  
22 hang in there. Just to add to the figures, if you  
23 look at what's been submitted to you, if you look  
24 a few pages down, since it doesn't include 2008,  
25 we hand wrote in another 6,714 businesses were



1  
2 thrown out just with bankruptcy eviction. We  
3 suspect the numbers that have left that aren't  
4 documented because of the recent downturn exceeds  
5 that by many times. As a commercial real estate  
6 attorney and also residential, let me give you  
7 some eye-opening things. The key money that you  
8 hear about, that's been going on a long time.

9 It's just gotten worse lately. With the greed and  
10 the excitement of how the city was rolling along  
11 and doing well for a number of years, landlords  
12 realized they could get almost anybody before the  
13 downturn. The numbers you heard of 10,000 or  
14 20,000 are peanuts. I'm going to give you some  
15 examples real quick because you need to know this.  
16 Sheepshead Bay a small business went out, another  
17 business was coming in. There was a battle  
18 between two businesses. I was trying to help them  
19 out as a community leader, all for free. I wasn't  
20 doing it as an attorney. They had to pay \$250,000  
21 to keep their business there and they had invested  
22 20 years. There are instances, everyone who has  
23 been in New York has heard of them. They're not  
24 there anymore but for 20 years they were at  
25 Sullivan and Houston. Why did they go out? It

1  
2 was such a great restaurant. The landlord  
3 increased the rent seven times. I can go on and  
4 on and on. I can give examples for hours. Who  
5 ever heard of Dunkin Donuts. We're not even here  
6 talking about the chain stores going out of  
7 business. Sheepshead Bay right now, one of the  
8 original Dunkin' Donuts in the United States, has  
9 been there over 40 years. A new guy took over.  
10 It took his family 19 years to save up his money  
11 to open up a Dunkin' Donuts. They invested over  
12 \$1 million in renovating that old Dunkin' Donuts.  
13 The landlord said don't worry, we're going to  
14 renew your lease. You've been here forever;  
15 you're part of the neighborhood. He was fearful,  
16 maybe not getting good legal advice. I wasn't  
17 there. He signed the lease on anyway for five  
18 years. What happened? The landlord came in and  
19 took the rent, which he started out at \$3,200 just  
20 five years ago in a small neighborhood place and  
21 now he wants over \$20,000. That's why the Dunkin'  
22 Donuts there is out of business. Not that they  
23 didn't have business. The story goes on and on.  
24 You asked the question about certificate of  
25 occupancies and all of that. If someone has a

1  
2 certificate of occupancy that says they can be  
3 commercial, well then they're commercial. Unless  
4 there is a specific restriction within the zoning,  
5 generally they can chop it up. There are certain  
6 zones that restrict square footage. This is not  
7 the kind of hearing but to answer that question.  
8 The other thing you asked which also wasn't  
9 answered, because there was only one attorney here  
10 all day apparently, was how you level the playing  
11 field. This whole bill is just to get people to  
12 the table. We as attorneys are now required even  
13 with our clients to have arbitration for us for  
14 fees, just as many contracts are required to have  
15 arbitration in all kinds of businesses across  
16 America. This is not forcing anybody to do  
17 anything. To hear the gentleman here who said  
18 over 20 years with the Small Business with the  
19 City of New York and he wasn't aware that there  
20 was commercial rent control for 18 years; I don't  
21 know what planet he's living on. If I can help  
22 you answer questions while I'm sitting here, and  
23 I've been sitting here since noon waiting to  
24 speak, and I've got to get back, but I'll wait a  
25 few minutes.

1  
2 CHAIRPERSON YASSKY: Thank you. I  
3 want to thank everybody for their patience in  
4 waiting. I know it's been a very long day.

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

10 EDUARDO GIRALDO: My name is  
11 Eduardo Giraldo. I represent the Queens Hispanic  
12 Chamber of Commerce. I want to congratulate you  
13 and the great work you're doing for the community.  
14 I think a lot has been said today. We all want  
15 this to be passed. It's important for the  
16 community. It's important to small business  
17 owners. I think the lease is the most important  
18 instrument that a small business owner signs when  
19 they go into business. I think we have to  
20 consider all the legalities involved and a lot of  
21 times small business owners they don't realize  
22 when they're signing these leases. I think this  
23 bill has to be a little bit broader. It has to be  
24 from the beginning, from the start of the leases.  
25 For instance, some businesses you sign as it is.

1  
2 It could have violations, or as it is you can't  
3 have that type of business in there. The  
4 landlords just take your money. So we really have  
5 to look to protect the small business owners. For  
6 the Commissioner of Small Business Services, I  
7 think they're running a good operation, but they  
8 should have a brochure with everything you have to  
9 know about commercial leases and I don't think  
10 they have it. We have asked for it and they never  
11 supplied it. If they really want to do it,  
12 instead of having all these seminars and loans,  
13 show us how we can protect the small business  
14 owners with the leases. Thank you so much.

15 STEVE BARRISON: Can I add one  
16 thing? The people from the city that sat her  
17 almost an hour, I remember distinctly that they  
18 brought up all kinds of excuses that there are all  
19 these other factors when negotiating commercial  
20 leases that are taken into account. Of course  
21 there is. I do this every day in my practice.  
22 But when you are renewing a lease, all those  
23 factors for a business that's been there  
24 established 10 or 20 years, everybody knows who's  
25 paying the taxes, who's cleaning the sidewalk and

1  
2 who's responsible for what. The bottom line is  
3 unless there is something outrageous going on, the  
4 bottom line is Mr. Landlord, how much rent do you  
5 want and this is how much I can afford. All this  
6 bill does is put people to the table and get them  
7 to negotiate fairly. Thank you.

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

11 CHAIRPERSON YASSKY: Yes, we agree.

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

20 CHAIRPERSON YASSKY: Thank you.

21 The next panel is Sylvia Smith from the Inwood  
22 Marble Hill Chamber of Commerce; Yoosun Na from  
23 the Korean American Voters Council. I feel like  
24 we heard from her already. We have Frank Garcia  
25 from the BHCC; Ingrid Soto from the New York

1  
2 Women's Chamber of Commerce. Let's go through  
3 this panel. We have Ydanis Rodriguez.

4           LUIS ACONDO: Good afternoon,  
5 Chairman Yassky and the panel. I've been  
6 listening quite long already to the position of  
7 everyone. I'm going to address another issue  
8 which may be of more interest. We can take all  
9 the technicalities on how and when to do this in  
10 order to protect small businesses. What came to  
11 my mind is that I look up to your ceiling where it  
12 reads, "A government of the people, by the people,  
13 for the people." This is an issue that addresses  
14 that. When I go into small businesses to do my  
15 job as an architect and designer, I'm the one that  
16 first encounters what the investment they may have  
17 to make. I commonly find that the lease was  
18 poorly negotiated and they have already invested  
19 \$100,000-\$200,000 by the time that they open their  
20 business. Seven years later they're being asked  
21 again for cash under the table. I think that this  
22 is not a true and clear situation for a government  
23 who says that it works for the people. I don't  
24 understand the issue of the City Council. We have  
25 29 members. I see that we don't have the full

1  
2 Council. We don't have the mayor. I question  
3 what is it we're doing? What are we doing with  
4 our people in our communities? Why is it that we  
5 can see that we have a government for the people  
6 and this is an issue for the people? The other  
7 day I was walking on the street and I was drinking  
8 a coffee and I find Mr. Miller walking on the  
9 street. It was a pleasure for me to stand and  
10 shake his hand. I hope that by the time of this  
11 cycle I can feel proud to do the same thing of all  
12 of you by passing the bill and feel that you are a  
13 human being defending the right of the people in  
14 our communities. Thank you.

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

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

22 INGRID SOTO: Ingrid Soto.

23 CHAIRPERSON YASSKY: Thank you.

24 Please proceed.



1  
2 INGRID SOTO: I used to be a small  
3 business owner and I bought into a lease. That  
4 lease had a year left. We got a court order  
5 stipulation and I thought I was protected because  
6 it was settled in court. That lease had a year  
7 left. As soon as I complied and paid the \$14,000,  
8 the building was sold. I just happened to find  
9 out from the tenants that live in the building  
10 that they had a new landlord. While the building  
11 was sold, they never gave me a lease and I was  
12 left to deal with the new landlords. In good  
13 faith, I gave an additional \$5,000 to the new  
14 landlords and still they never gave a lease. They  
15 didn't comply and I'm in the process of suing  
16 them. But again, there is no protection to stop  
17 this. There should be no money under the table at  
18 all. There should be a certain percent that they  
19 increase the rent. It shouldn't be double or  
20 triple or seven or ten times the amount. There is  
21 no law. Whether it's the city, the state,  
22 federal, the governor, something has to be done.  
23 Thank you.

24 CHAIRPERSON YASSKY: Where was your  
25 business?

1  
2           INGRID SOTO: This business was in  
3 Harlem, right across the street from the  
4 Abyssinian Church.

5           CHAIRPERSON YASSKY: 126th or  
6 something like that?

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

9           CHAIRPERSON YASSKY: Thank you.

10          FRANK GARCIA: My name is Frank  
11 Garcia. I'm chairman of the Bronx Hispanic  
12 Chamber of Commerce. I'm also the owner of  
13 Millennium Recycled Toner. I just got elected to  
14 be chairman of the New York State Coalition of  
15 Chambers. I want to thank you, Chairman, for  
16 working on this law. There haven't been a lot of  
17 people here from the Bronx. We have a huge  
18 problem that Palma knows, with businesses closing  
19 very rapidly. The Grand Concourse has been my  
20 fight. If we had this law then 150 businesses  
21 wouldn't have closed from the Grand Concourse.  
22 Right now I own a business that my landlord wants  
23 to increase the rent 60-70%. I went to court and  
24 because the judge knew who I was from the chamber  
25 I was able to beat it and because I had a very

1  
2 good lawyer. A lot of our members can't afford a  
3 lawyer. Hearing the representative of  
4 Commissioner Walsh speaking, Mr. Chairman, I'm  
5 very disappointed not to hear more City Council  
6 people really challenge the Commissioner Walsh's  
7 representative. I've asked from the City Council  
8 to have him fired because of all the stuff he's  
9 done. I was lobbying for this law and one of his  
10 people tried to hit me in front of Jose Rivera and  
11 Peter Rivera. I spoke to you about that,  
12 Chairman. The SBS is not helping our community.  
13 You heard from our community and from our business  
14 leaders. So to hear that they're not supporting  
15 this law, why are they getting funding from the  
16 City Council to help with certification when they  
17 can't even help small business with advising them  
18 on how to pay the rent or our laws? Right now we  
19 have a problem with people asking for money on the  
20 side. It's unacceptable and we need your help on  
21 that. In the Bronx we're hoping that this passes  
22 because if it doesn't pass, those City Council  
23 people, and I know you're supporting it. I know  
24 my chamber voted, our board members all voted,  
25 including Joel Rivera's uncle who is our

1  
2 president, that those City Council people that  
3 don't support it, including Speaker Quinn,  
4 including the mayor, we're going to put posters  
5 explaining how Mayor Bloomberg has hurt small  
6 business by not supporting this law. Having the  
7 deputy commissioner here not supporting this law  
8 really broke my heart. Hopefully you, Mr.  
9 Chairman, will challenge him on what exactly SBS  
10 is doing. I've said it for a long time, this is  
11 not about SBS but in a way it is. Thank you.

12 CHAIRPERSON YASSKY: Thank you.

13 YDANIS RODRIGUEZ: Good afternoon.  
14 My name is Ydanis Rodriguez. I'm a candidate for  
15 City Council. Today is a nice day because we are  
16 here in this open hearing. At the same time, it's  
17 a sad day because we heard that the Bloomberg  
18 administration doesn't support this. It means  
19 that regardless if the committee votes for it, I  
20 hope that Christine Quinn will take it to the  
21 floor and approve it. Then the mayor will veto  
22 it. I think it's like 75%, so that means we have  
23 to do a great job in order to convince the rest of  
24 the City Council so that we can get the number to  
25 go over the mayor's veto on this bill. First of

1  
2 all, we have to thank David for keeping his word.  
3 He went said there would be a hearing in the  
4 Washington Heights area. The hearing is taking  
5 place. I think that we have to take Robert  
6 Jackson for taking the lead. At the same time, we  
7 have to think about it. I think this is a right  
8 bill. I think this is a bill that we have to push  
9 all the way. I think that this is the bill that  
10 we have to use our relationship with the mayor and  
11 say we need your support. Regardless that you  
12 represent the state, we need you. You've been  
13 saying that you're the voice and you're supporting  
14 the small business. If you are really going to be  
15 a mayor of the small business you have to be with  
16 us in this bill. There are people with two faces.  
17 There are people saying they are for small  
18 business and for tenants, but they're taking a lot  
19 of money from launderers. The people that you  
20 hear that are taking money under the table,  
21 they're giving money to elected officials. They  
22 can say that they're there for small businesses,  
23 but they're also getting money from those people.  
24 I think that we have to support the leadership of  
25 Robert Jackson and David. I'm working to be

1  
2 elected to the City Council and I would not do  
3 what the representative in my district did which  
4 was to let the bill die. I will come here and I  
5 will maintain this bill if by any chance it's not  
6 approved in this term.

7 CHAIRPERSON YASSKY: Council Member  
8 Martinez.

9 COUNCIL MEMBER MARTINEZ: I have no  
10 questions.

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

22 ROSA NOBREGA: My name is Rosa  
23 Nobrega. I want to try to speak English. I had a  
24 problem for a long time. We paid landlord for the  
25 small business and I had the business for nine

1  
2 years. Then the landlord told me when I rented  
3 the store that I didn't need to pay a lot of  
4 property tax. Then in 2005 I need to pay \$14,000  
5 and \$19,000 a year plus rent. I can't stay in the  
6 store because a lot of property tax and I need  
7 help. I need to pay on July 15, \$15,000 for  
8 property tax. If I don't pay, I need to move.

9 CHAIRPERSON YASSKY: What kind of  
10 business do you run?

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

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

17 ROSA NOBREGA: Now I'm scared  
18 because I don't know how much I need to pay in  
19 2009, it's now a new tax. It's a new charge for  
20 the business.

21 FEMALE VOICE: If you don't mind, I  
22 just want to add something. We have been working  
23 with her to help her. We got her a lawyer and  
24 everything. One of things that we found with the  
25 leases is that the landlords would put in a

1  
2 percentage like 19% or 20%, but they never know  
3 what that translates to in reality. It's another  
4 thing that's a problem. It's not clear in the  
5 lease how much they're charging. So it says 20%,  
6 24%, 25%, or 30% but in reality the tenant doesn't  
7 really know what that amount translates to, which  
8 is her case.

9 CHAIRPERSON YASSKY: Thank you. I  
10 want to thank you for coming here. I know you've  
11 got a lot on your mind. You're facing a real  
12 challenge here. I know you're coming here on  
13 behalf of all of your fellow business people  
14 trying to help get some laws passed that will help  
15 everybody. You're performing a public service by  
16 coming here and testifying. I thank you for doing  
17 that. I know most people just choose not to  
18 participate. I think it's commendable that you do  
19 that. Thank you for that. I want to thank  
20 everyone who has come to participate in the  
21 hearing today. I know most folks who were here  
22 have had to leave because they have their lives to  
23 run. I want to say to the people remaining here,  
24 on behalf of the committee, I really thank you for  
25 bringing forward all the stories that you brought



1  
2 forward today and for making this issue real and  
3 personal and direct. I can assure you that the  
4 evidence that you've brought forward will be taken  
5 very seriously by this committee and I think by  
6 every member of the Council. I thank you very  
7 much for the work.

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

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

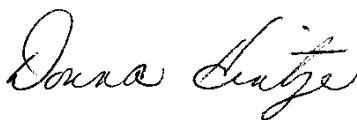
12 COUNCIL MEMBER JACKSON: Let me  
13 just thank you for moving forward with this  
14 hearing today. On behalf of all the people that  
15 testified, you've heard them and I've said in my  
16 statement that you afforded me the opportunity to  
17 make at the beginning of the hearing, these small  
18 business owners are looking forward for the  
19 legislation to be passed this year. So they hope  
20 and pray that everything that can happen to move  
21 this forward as quickly as possible even though we  
22 know that we're going into summer mode and the  
23 Council only meets when absolutely necessary.  
24 We're looking forward for September and October to  
25 move this forward and to vote it out. I ask you

1  
2 as the Chair to do whatever and the counsel and  
3 staff of the committee to do whatever has to be  
4 done in order to move forward in the fall on  
5 passing this bill by the City Council and  
6 hopefully with the mayor signing it into law prior  
7 to the November election. It's imperative. Their  
8 feeling is that if it's not done now this year  
9 then everyone is going to back off and it's not  
10 going to go anywhere. So the pressure is on for  
11 now. We're hoping that this bill will be passed  
12 this coming fall. Thank you, Mr. Chair.

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

C E R T I F I C A T E

I, Donna Hintze certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.



Signature\_

Date July 30, 2009