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M E E T I N G

of the

TASK FORCE ON UNIFORM CONSTRUCTION CODE, FIRE SAFETY AND
HOUSING CODE ENFORCEMENT AND FEES

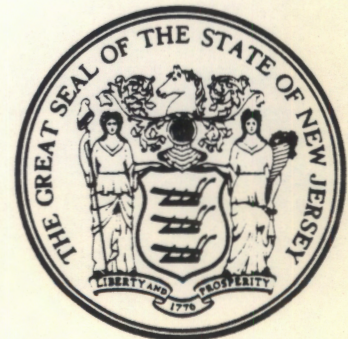
"To solicit the business community's public input on
how these codes, regulations and fee structures impact
on their business operations"

LOCATION: Ocean Township Municipal Hall
Ocean Township, New Jersey

DATE: July 20, 1993
10:30 a.m.

MEMBERS OF TASK FORCE PRESENT:

Assemblyman Steve Corodemus, Chairman
Assemblyman John V. Kelly
Jacque Eaker
Patricia Daub
Richard Alloway
John P. Cipo
Andrew Cattano
Daniel DeTrollo
Harold Baker, Jr.
Elmer Duffield
Gerald Hartman
William Strohmeyer
William Kingeter



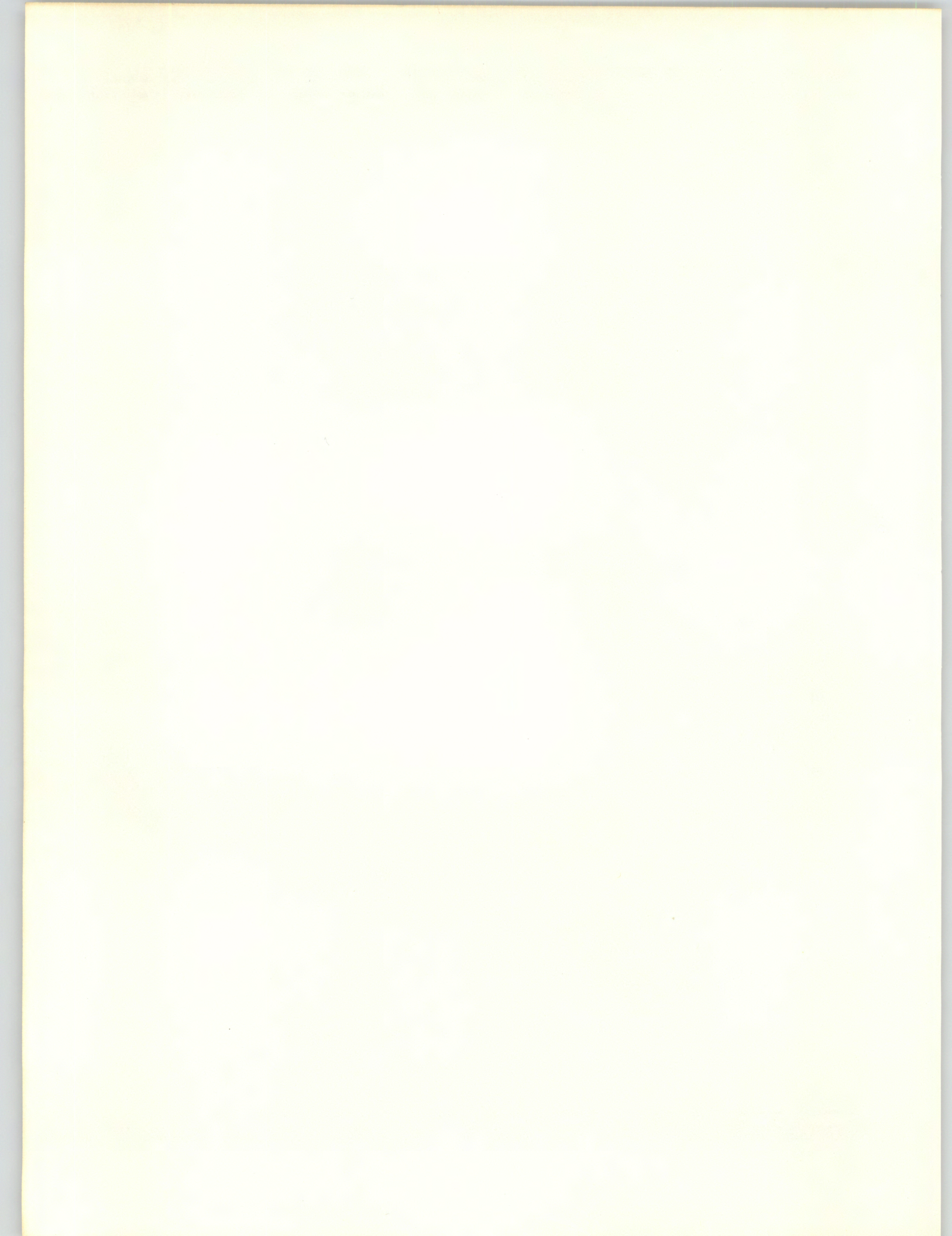
ALSO PRESENT:

New Jersey State Library

Joyce Wills Murray
Office of Legislative Services
Aide, Task Force on Uniform Construction
Code, Fire Safety and Housing Code
Enforcement and Fees

Hearing Recorded and Transcribed by

The Office of Legislative Services, Public Information Office,
Hearing Unit, State House Annex, CN 068, Trenton, New Jersey 08625



M E E T I N G N O T I C E

**TO: MEMBERS OF THE TASK FORCE ON UNIFORM
CONSTRUCTION CODE, FIRE SAFETY AND HOUSING CODE
ENFORCEMENT AND FEES.**

FROM: ASSEMBLYMAN STEVE CORODEMUS, CHAIRMAN

SUBJECT: MEETING NOTICE - July 20, 1993

*The public may address comments and questions to Joyce Wills Murray,
Committee Aide, or make bill status and scheduling inquiries to Norma
Morales, secretary, at (609) 984-0231.*

The Assembly Housing Committee will meet on Tuesday, July 20, 1993 at
10:30 AM in Ocean Township Municipal Hall, Deal and Monmouth Roads,
Ocean Township, NJ.

The Task Force will meet to solicit the business community's public input
on how these codes, regulations and fee structures impact on their business
operations.

**DIRECTIONS: TAKE ROUTE 195 EAST (TO SHORE POINTS) TO ROUTE 18
NORTH. GET OFF AT EXIT 11A (DEAL ROAD EAST). CONTINUE IN THIS
ROAD TO THE VERY END (CAN'T GO ANYMORE) YOU WILL CROSS
ROUTE 35 AND OTHER MAJOR HIGHWAYS. THE BUILDING IS ON LEFT
SIDE.**

Issued 07/13/93

MEETING NOTICE

TO: MEMBERS OF THE TASK FORCE ON UNIFORM
CONSTRUCTION CODE, FIRE SAFETY AND HOODING CODE
ENFORCEMENT AND FEES

FROM: ASSEMBLY MAN STEVE CORDEMI, CHAIRMAN

SUBJECT: MEETING NOTICE - July 20, 1983

The public may address comments and questions to Joyce Wilk, Mayor,
Committee Aide, or Mike Pappas, and scheduling facilities to Nona
Morales, secretary, at (609) 884-5231.

The Assembly Housing Committee will meet on Tuesday, July 20, 1983 at
10:30 AM in Ocean Township Municipal Hall, Deal and Monmouth roads,
Ocean Township, NJ.

The Task Force will meet to solicit the business community's input
on how these codes, regulations and fee structures impact on their business
operations.

DIRECTIONS: TAKE ROUTE 138 EAST (TO SHORE POINTS) TO ROUTE 13
NORTH. GET OFF AT EXIT 1A (DEAL ROAD EAST). CONTINUE IN THIS
ROAD TO THE VERY END (CAN'T GO ANY FURTHER). YOU WILL CROSS
ROUTE 28 AND OTHER MAJOR HIGHWAYS. THE BUILDING IS ON THE
SIDE.

Issued 07/13/83

TABLE OF CONTENTS

	<u>Page</u>
Judith A. Thornton Executive Director New Jersey Manufactured Housing Association	4
Edward J. Dolan New Jersey Manufactured Housing Association	7
Warren Gaskill New Jersey Farm Bureau	11
John W. Tobia President Atlantic Farms, Inc.	13
Larry Holtz Southampton Township Burlington County, New Jersey	19
John Indyke National Association of Industrial Office Parks (NAIOP)	20
Edward I. Brown Industrial Park on the Allaire Airport, and Publisher The Herald	20
E. Dennis Rittenhouse New Jersey Lumber & Building Material Dealers Association	23
Fred Schneeweiss President United Restaurant and Lodging Association of New Jersey	26
Susan Rankin, Esq.	29
Julie Turner Executive Director New Jersey Association of Children's Residential Facilities	33

TABLE OF CONTENTS

Page

4	Housing Association New Jersey Manufactured Executive Director Judith A. Thomson
7	Housing Association New Jersey Manufactured Edward J. Dolan
11	New Jersey Farm Bureau Warren Gaskill
13	Atlantic Farms, Inc. President John W. Tobia
19	Burlington County, New Jersey Southampton Township Larry Holtz
20	National Association of Industrial Office Parks (NAIOP) John Indyke
20	The Herald Publisher Alaire Alford, and Industrial Park on the Edward I. Brown
23	Material Dealers Association New Jersey Lumber & Building E. Dennis Rittenhouse
26	Association of New Jersey United Restaurant and Food President Fred Schneeweis
29	Susan Rankin, Esq.
33	Children's Residential Facilities New Jersey Association Executive Director Julie Turner

TABLE OF CONTENTS (continued)

	<u>Page</u>
Paul DeSantis President New Jersey Association of Children's Residential Facilities	35
Richard Villano President Jersey Shore Section New Jersey's Chapter American Institute of Architects	38
Robert F. DeSantis New Jersey Legislative Committee, and Codes and Regulations Committee American Institute of Architects	40
Larry J. Wiessmann President New Jersey Association of Fire Equipment Distributors	44
Michael Pesce Cirkus Real Estate Group, Chairperson Condominium Committee New Jersey Apartment Association, and Chairperson Legislative Action Committee Community Associations Institute	47
George V. Corwell, Ed.D. Education Director New Jersey Catholic Conference	58
Donald Legow, Esq. Vice President, and Chairman Regulatory Legislative Committee National Apartments Association	60

TABLE OF CONTENTS (continued)

Page

35	Paul Desantis President New Jersey Association of Children's Residential Facilities
38	Richard Milano President Jersey Shore Section New Jersey's Chapter American Institute of Architects
40	Robert F. Desantis New Jersey Legislative Committee on Codes and Regulations Committee American Institute of Architects
44	Larry J. Weissman President New Jersey Association of Fire Equipment Distributors
47	Michael Peace Citrus Real Estate Group, Chairman Condominium Committee New Jersey Apartment Association, Inc. and Chairman Legislative Action Committee Community Associations Institute
58	George V. Corwell, Ed.D. Education Director New Jersey Catholic Conference
60	Donald Ledow, Esq. Vice President, and Chairman Resortory Legislative Committee National Apartments Association

TABLE OF CONTENTS (continued)

	<u>Page</u>
Jay Patack President Patack Construction Company, Eastern Monmouth County Chamber of Commerce, Red Bank RiverCenter, and Monmouth and Ocean County Building Contractors Association	69
Charles Spitz Architect	69
John Bowers President Red Bank Special Improvement District	74
Bud Natelson Committee Chairman Red Bank RiverCenter	75
Edward Kelly President New Jersey State Council Electrical Contractors	79
Fred Dirla Officer New Jersey State Council Electrical Contractors	83
Norman Sanders President A.S. Barlin Associates, Inc. representing New Jersey Chapter American Fire Sprinkler Association	84
APPENDIX:	
Testimony plus attachment submitted by Julie Turner	1x

TABLE OF CONTENTS (continued)

Page

63	Contractors Association Monmouth and Ocean County Red Bank RiverCenter, and Chamber of Commerce, Eastern Monmouth County Patack Construction Company, President Jay Patack
----	---

69	Architect Charles Spitz
----	----------------------------

74	Red Bank Special Improvement District President John Bowers
----	---

75	Red Bank RiverCenter Committee Chairman Bud Natelson
----	--

79	Electrical Contractors New Jersey State Council President Edward Kelly
----	---

83	Electrical Contractors New Jersey State Council Officer Fred Dills
----	---

84	American Fire Sprinkler Association New Jersey Chapter representing A.S. Berlin Associates President Norman Sanders
----	--

APPENDIX

ix	Testimony plus attachments submitted by Julie Turner
----	---

TABLE OF CONTENTS (continued)

APPENDIX (continued):

	<u>Page</u>
Letter plus attachment addressed to The Honorable Steven Corodemus submitted by Larry J. Wiessmann	4x
Letter plus attachments addressed to Assemblyman Steve Corodemus submitted by John Bowers	7x
Testimony submitted by Norman Sanders	26x
Statement plus attachments submitted by Jeffrey N. Stoller Vice President New Jersey Business & Industry Association	29x

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* * * * *

TABLE OF CONTENTS (continued)

APPENDIX (continued)

Page

4x

Letter plus attachment addressed to The Honorable Steven Corodemus submitted by Larry J. Wiseman

7x

Letter plus attachments addressed to Assemblyman Steve Corodemus submitted by John Bowers

26x

Testimony submitted by Norman Sanders

23x

Statement plus attachments submitted by Jeffrey W. Scollier Vice President New Jersey Business & Industry Association

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ASSEMBLYMAN STEVE CORODEMUS (Chairman): Good morning. I would like to thank everybody for coming today to the DCA Task Force on fees. It is a pleasure to be here in my district -- the 11th Legislative District in Ocean Township. I would like to thank the Ocean Township municipal officials for being so kind in making this nice meeting room available to us, as they have in the past.

It is a great pleasure to have with me today all the Task Force members who have been working very diligently, on a gratis basis, to serve the State of New Jersey in this very important function. I am especially grateful today to have with me my immediate boss, Chairman Jack Kelly, from the Assembly Housing Committee. Under his direction this subcommittee was organized, and I thank him for coming. Jack, do you have any remarks?

ASSEMBLYMAN KELLY: As Chairman of the Assembly Housing Committee, I have nothing to say about this. You are the Chairman of this Task Force. Just do a good job.

ASSEMBLYMAN CORODEMUS: I'll try.

I have a brief opening statement that will explain -- that will give you an overview of the purpose of this Task Force. Then we will go immediately into the testimony of the various witnesses. We do have a witness list here of some 15 people who have contacted us in advance. I have additional people who have signed these slips. Anybody who has not signed up can find the pad in front and complete a sign-in slip. Thank you.

In April of this year, Assembly Speaker Chuck Haytaian announced the creation of this Assembly Task Force on the uniform construction code, fire safety, and housing code enforcement and fees. Three days later, the Task Force met informally for the first time at the State House. As Chairman, I am proud to announce today the addition of three new members from the private sector: Suzanne DiGeronimo from an

architectural firm in Bergen County; Harold Baker, Jr., from AT&T Labs in Monmouth County; and Dan DeTrollo, from Hartz Industries in Hudson County. Together with their expertise as leaders in the business community, we hope to weed through the bureaucracy and red tape and gain new insight into how State regulations affect private business.

We continually hear about the plight of individuals and families in need of affordable rental housing and affordable home ownership opportunities. We continually hear how New Jersey needs to improve its business climate. Then why is government burdening landlords of multiple dwellings and the business community with fee schedules and requirements that are onerous and beyond what is absolutely essential to the public health and safety?

We are here today to solicit the business community's input on how these codes, regulations, and fee structures impact on private sector operations, and what improvements could be made to make the structure and procedure less burdensome, fiscally and otherwise. Hearing from the businesses and organizations that have to comply with DCA regulations will further bolster the Task Force's overall understanding of the scope and nature of the bureaucratic compliance.

I might just interject that when we have our normal proceedings under Assemblyman Kelly's leadership, we hear about a lot of these issues tangentially as different bills appear throughout our Committee process. That is why we organized this subcommittee, just to hone in on this one particular purpose.

It is my hope that this special Task Force will scrutinize the structure and fee aspects of these programs, and take the leads being offered today and in the future to leave no page unturned in recommending ways to streamline these processes.

The inspections being performed by DCA and/or private inspection agencies serve a legitimate purpose, and that is the public safety and maintenance goals. However, we must also recognize that fees levied from taxpayers, business, and individuals-- When the fees increase to the point of taking more money unnecessarily from the pockets of landlords and commercial entities, we leave them with less dollars to improve the multiple dwellings, as well as less money to invest in expanding the creation of more jobs for New Jersey citizens. These inspection programs must be framed from a cost-benefit perspective. Clearly the cost component of the fee structure, whether the inspection is performed by DCA and municipality or a private contractor, must be specifically broken out in detail, or else we have no way of ascertaining how effectively funds are being used.

A law which became effective on June 28, 1991 required that the Department of Community Affairs submit annual reports to the Legislature and the Housing Committee on costs, fees, penalties, and productivity in the Department. We are waiting to analyze this report, which debate has not been officially submitted to the Assembly Housing Committee. We must assure that the fee structure is a logical and rational one, and not overzealous, to avoid putting businesses and landlords out of business. We must stop bureaucratic growth and government spending where it is not necessary.

I am looking forward to receiving the Task Force findings and recommendations in a few months. I think they will offer us new ways and insights on how to do business here in the State when it becomes necessary for these programs. The bottom line has to be a more business friendly and affordable housing friendly State environment.

I might also add that earlier this year there was another similar type subcommittee that was formed on affordable

housing. As a result of that, new laws were initiated and enacted under the leadership of our colleague, Assemblyman Jose Sosa.

I am going to start with the printed list of witnesses. Warren Gaskill is here, a representative of the New Jersey Farm Bureau. We will take his testimony.

Judith Thornton, from the New Jersey Manufactured Housing Association-- Judith, would you step up to the table here?

J U D I T H A. T H O R N T O N: Ed Dolan will join me. He is also a representative of NJMHA.

ASSEMBLYMAN CORODEMUS: It is nice to have you with us, Ed.

MS. THORNTON: I thank you for the invitation to bring some of our concerns to the Task Force. I did a little investigating since I received the phone call from Deb Smarth asking for the New Jersey Manufactured Housing Association's views on some of the permit fees. I am sorry to say that when I go to regional and national meetings and I give reports on various activities in New Jersey, I often get the response, "It is impossible to do business in New Jersey. Regulations have too many layers. It is too costly." As a lifetime resident of New Jersey that really hurts me. I think we can make some needed changes to make our State more attractive. I think some of the views out there may be far worse than what the picture really is.

We represent manufactured housing land-lease communities, the developers of land-lease communities, and those that also put manufactured homes on private property. In looking over some of the fees that are charged--

ASSEMBLYMAN CORODEMUS: Excuse me for one second. Is that microphone on? Can everybody hear? (negative response from audience) Is there a switch on that?

MS. MURRAY (Task Force Aide): These are only for recording purposes.

ASSEMBLYMAN CORODEMUS: Okay. I'm sorry, you are going to have to speak up for the benefit of the congregation here.

MS. THORNTON: When I looked over the fees for the permit approvals for the installation of a manufactured home-- (brief pause for discussions about microphones)

I represent the community operators, developers, and manufacturers of HUD manufactured housing. As I was investigating some of the fees that are charged for the placement of manufactured homes, which is low-income housing for first-time home buyers and often senior citizens, there is a vast difference between the cost at the municipal level, which we don't always find reasonable, and the cost at the State level. A municipality will charge from \$35 to \$80 for a bathing permit. The State, \$84 to \$91. If you don't have your municipal agency for your permits, then you do go to the State to get those.

The plumbing permit is generally \$35 to \$50 at the municipal level. It is \$184 to \$205 at the State level. It may be higher. The figures I have are based on those permits that were actually issued recently for the placement of manufactured homes. Let me expand on the plumbing issue: A manufactured home comes to the site. It has already been inspected by a third-party inspection agency. All the wires within the community have already been installed. The only task there is the actual connection of the service line on the site to the home.

Electrical permits vary as well from \$7 at a municipal level, to as high as \$46 at the State level. Then you have your DCA training fees, which are \$1 to \$4 at the municipal level and \$5 at the State level. Your COs vary from \$30 to \$65. Many municipalities then add a compliance fee. I

inquired as to what that was, and it was to make sure that you had actually taken out all of the other permits and had all the other inspections performed. It seems that some of the fees are unnecessary and excessive.

The environmental issues of fuel oil tanks became quite prevalent in our industry over the last two years. These tanks were put in prior to the regulations of requiring certain double walls to protect the outdoor tanks, and now they are outliving their life expectancy, or had outlived. The community owners and the residents had to face the task of replacing the tanks, and sometimes converting the fuel systems. Often, when natural gas was available, they felt that perhaps that would be the best way to go.

When you start getting the permits for the retesting of a tank and for the conversion of a fuel, we found that the cost of the permit fees to these low- and moderate-income residents were as much as 20 percent of the overall cost of the job, including the actual purchase of a new furnace and the cost of the plumbing and electrical people to do the work.

It became quite a burden. I'm sure that many of the elected officials have received phone calls from the residents in the community and owners alike, because it is a problem. We have to do some of these conversions to retain our environment, to keep from having fuel leaks. But I think we should take steps to make them as affordable as possible, not to burden our moderate- and low-income home owners, and not to burden our developers and community operators. These permits, of course, are on top of all the initial permits and the hoops that they must jump through to get approvals to develop the community, which we all know adds a significant percentage cost to the overall cost of affordable housing in New Jersey.

ASSEMBLYMAN CORODEMUS: If I may, the thrust of your comments is that the manufactured home comes to the site. There is really not the requirement of a stick-built house that

inspections be made on a progressive basis through the construction. You're saying that the fees are too high for the actual inspection services being rendered by the State or municipalities?

MS. THORNTON: We think the fees are high and they get raised frequently. We were very optimistic when the mechanical code adoption was passed by DCA. That would have eliminated three or four inspectors coming out, and it should also decrease the cost. In addition to the fees, you have to have a multitude of permits. You have a permit for someone just to come out and look at the hole in the ground after you take the fuel tank out, and a permit to come out and look at it before you open up the hole, and a multitude of people in between while the job is being done.

This is quite excessive, and in a manufactured home, with placement of the home itself, it has already been inspected. It is complete. They do not have to inspect individual components.

ASSEMBLYMAN CORODEMUS: Thank you very much. Mr. Dolan, do you have anything else to add?

EDWARD J. DOLAN: Yes. I think I can speak loud enough so that everybody can hear me.

ASSEMBLYMAN CORODEMUS: Okay.

MR. DOLAN: I agree with Judy, because I represent-- You have seen me before your Committee. Maybe one of the angles that Judy talked about, especially with plumbing-- There are two lines, a water line and a sewer line, and that's it. A fee of \$200 for that inspection is a little high. We have had reports of that.

ASSEMBLYMAN CORODEMUS: They should be inspecting just that one connection.

MR. DOLAN: Just the connection, correct. Judy referred to the mechanical code combining various codes, especially with respect to the installation of a furnace in a

manufactured house. Instead of requiring an electrical, building, fire -- the whole series of permits that could potentially go along, and sometimes do, with the installation of the new furnace, they have one subcode official who has expertise in all of that. They can charge one or two fees and cut the costs.

Now, we thought that that was a great idea. The Uniform Construction Code Advisory Committee advised it, but did not make it mandatory. It is not mandatory. So some municipalities continue to charge a whole array of fees, and sometimes it can be interpreted as a fund raiser. I don't know if that is accurate, but, you know, nevertheless, that is our opinion.

ASSEMBLYMAN CORODEMUS: Let me ask you this: During the process of the manufacture of the homes, I assume that when you manufacture a home for New Jersey, it has to comply with certain State requirements, and perhaps in another state, others. Is there any opportunity for inspection at your factory by anybody to see that it is actually built to compliance, because they are not going to open up walls once the product is delivered on site?

MR. DOLAN: No, we've got apples and oranges. The manufactured home is built to the Housing and Urban Development Code, which is a federally mandated code. Because it is Federal it supersedes State regs. In 1983, the HUD Code was adopted into the Uniform Construction Code of New Jersey and for placement as for residential use. The unit is inspected at the plant, so when it leaves it comes out with a seal similar to a modular unit which comes out with a Uniform Construction Code seal on it and a number showing third-party inspection compliance. What I am talking about are furnace conversions, which are prevalent now because a lot of our communities are removing the oil from the premises because of the risk of toxic contamination to the ground.

We have heard fees as high as \$170 just for the installation of the furnace, and the furnace costs \$900 to install. That is a substantial percentage of the cost of installation. We find it unnecessary. I think the Uniform Construction Code Advisory Committee came up with a program to cut those fees, but all municipalities are not employing it, either for lack of that subcode official to do the enforcement, or the lack of desire to do it. I can't put my finger on it, but, nevertheless, the fees are high for that.

ASSEMBLYMAN CORODEMUS: Of course, Ed, you know, this meeting, once we close it today, it really won't be closed. We will continue to receive any follow-up information. So if you or anybody would like to send additional information, you can send it to my attention at the Majority Office. Deb Smarth is our aide here, and she would be glad to coordinate any type of communication like that. Thank you.

MR. DOLAN: Thank you.

MR. HARTMAN: Assemblyman?

ASSEMBLYMAN CORODEMUS: Yes?

MR. HARTMAN: Are we going to be able to ask questions at this particular time of the individuals? (no response) One of the particular questions I would like to ask is: Have you notified, within your ranks, the Department of Community Affairs where you find these fees of \$175, \$200, which are extremely out of line? I am a construction official myself. I would think at the point where the first contractor complained to me, as a municipal official, I would really take it to heed what the fees represent. If it represents a fellow to go out and take a look -- an inspector to look at your job, at that point there the basic fee should be just dollars and cents-wise what it costs him to go into the field. Anything beyond that, I think I would be a screamer myself as a contractor or as a private citizen.

On my behalf, I would say that you should be notifying the Department of Community Affairs immediately on something like that, because that is outrageous even compared to what their fees are.

MS. THORNTON: In fact, I have a list that I sent to Michael Baier of DCA on October 16, 1992 on the multitude of fees that were being charged at the municipal level for the conversion. I got his response, which in essence said the municipality was within its right to do so, and hopefully the mechanical code fee -- the mechanical code inspector would be implemented by many of these municipalities and reduce some of these costs.

MR. HARTMAN: I can see a lot of municipalities have, like, a \$25 minimum fee for any inspection. So at the bottom line you would say \$100 unless you were involved with a third-party agency, which already has a set fee. But much beyond that, even myself, is ridiculous.

MS. THORNTON: They want each inspector to get a piece of the pie, so to speak, so each one comes out. The fire inspector will come out and inspect the combustible unit of the area. I believe in Dover Township it is \$50 to just have the fire inspector come out and push the smoke detector button in a new home to say that it works.

ASSEMBLYMAN CORODEMUS: Thank you. Are there any other questions from the Task Force members?

MR. DETROLIO: Mr. Chairman, the one question I have is, the \$176-- Was that in one particular town, and was this a number of houses? Was it, like, 50 in a development?

MR. DOLAN: It is in one community. There is a high degree of furnace conversions going on there. I was astounded when I first heard that, because, for instance, Edison Township has what I consider a more reasonable fee. It is \$20 for a permit, and then for each appliance you hook up it is \$25. So

if you are converting to natural gas for your hot water furnace, it is \$25 for each of those, which is reasonable.

MR. DeTROLIO: I agree with you. I just-- Most towns have a standard fee. You know, as Jerry says, if you are going to build 100 homes, it is going to be \$25 each one, maybe \$100 initial and then \$25, because he can do five or 10 of them in the same day. He is only checking a connection. I am not a plumbing inspector, but checking a connection once he knows what he is looking at, it's simple. That is really where the excessive fees are coming in, in a lot of towns. I agree with you.

MR. DOLAN: Some of them go \$50. Again, I think \$50 is going a little bit overboard, considering the simplicity. I mean, it is a very simple connection, very simple.

MR. DeTROLIO: Thank you.

ASSEMBLYMAN CORODEMUS: Thank you.

Warren Gaskill has joined us. Warren, please come up here in the front. Sit next to me. It is the only microphone that is live here. Go right ahead.

WARREN GASKILL: My name is Warren Gaskill. I am representing the New Jersey Farm Bureau.

The Department of Community Affairs and the agricultural community have been working well together. The DCA has been responsive to proposals for change aimed at fostering a better business environment for agriculture. I have included a brief summary of issues which are currently under discussion with DCA.

Uniform Construction Code: DCA is currently proposing to amend the draft Farm Building Code. Items which are being proposed for change are: site plan requirements; storage limitation requirements for materials and supplies produced or used on the farm; signed and sealed plan requirements for preengineered grain bins and silos; and fire separation requirements.

Fire Safety: N.J.A.C. 5:18-2.4 states that buildings which are incidental or auxiliary to the agricultural use of a farm property are not considered life-hazard uses. Life-hazard uses are subject to registration and periodic inspection requirements.

No definition of farm buildings is contained in N.J.A.C. 5:18-2.4. However, such a definition does exist in N.J.A.C. 5:23-3.2(d)1. For the sake of consistency, it would probably be a good idea to reference this definition in N.J.A.C. 5:18-2.4.

Suggestions to Create a More Business Friendly Environment: The main source of confusion and problems for farmers has been the wide variance in fee structures charged on the municipal level. The variance can mean the difference between undertaking the capital investment of a new structure or "making do" with an older, often less safe, and often weather pervious structure.

Municipalities are empowered to charge fees for: plan reviews; construction permits, based on volume or cost; training fees, based on a flat percentage of the construction permit fee; certificates of continued occupancy; and sign permit fees.

DCA has issued guidelines for plan review fees. The October 19, 1992 revisions call for a rate of 0.0007 multiplied by the volume of the building with the maximum fee not to exceed \$1145. This rate is for new construction and additions.

As far back as September 1979, DCA recognized that there was a wide variation in fees -- some excessive in amount -- for permits for large open volume buildings and specifically mentioned are barns, greenhouses, and other agricultural and storage use buildings. The Department went on to note that, "Since time required for plan review and inspection is significantly less than for other building types and use groups, a lower unit rate for the computation of the permit fee should be used."

An example is that one three-sided building in Burlington County measuring 50 x 110 x 16 feet -- volume of 88,000 cubic feet -- required municipal fees of \$935. If the DCA guidelines were more closely followed, the fee structure would have been: \$61.60 for plan review; \$246.40 for construction permit; \$140.80 for training fees; for a total of \$448.80.

An additional note is that for three-sided buildings the volume computation should not include the three-foot below-grade depth required for four-sided buildings, and in this particular case that three-foot depth over the surface of the ground was included in the total volume computation.

Volume computations are also based on continuous footings. Many agricultural buildings today are pole barns which do not have continuous footings. Rather, they have footings for each individual pole. We feel that the farmer should not be required to pay the same rate for review and inspections for a structure which is much simpler and less time-consuming to review and inspect.

We feel that DCA should be empowered to mandate that municipalities adopt fees for agricultural buildings to reflect the relative ease of plan review and inspection.

ASSEMBLYMAN CORODEMUS: Thank you. Do you have guests with you?

MR. GASKILL: Yes. I have Mr. Larry Holtz, from Holtz Farm in Southampton Township, Burlington County, and Mr. John Tobia, from Atlantic Farms in Wall Township.

ASSEMBLYMAN CORODEMUS: Do they want to testify?

MR. GASKILL: Yes.

ASSEMBLYMAN CORODEMUS: You can either speak loudly and have a seat there, or you can come up here.

J O H N W. T O B I A: My name is John Tobia. I am the President of Atlantic Farms, Inc. in Wall Township. Thank you

for the opportunity to come here and testify before this Committee.

My main purpose in coming before the Committee is twofold: One, agriculture in today's New Jersey is on the decline. It is hard enough keeping agriculture in the State and being profitable to continue to farm with all the other requirements and development pressure that has been put on the New Jersey farmer. One of the biggest problems is-- It is not all municipalities within the State, but I think there is a general consensus that most municipalities want to work with the farmers in their local town. However, there is an inconsistency in the enforcement of regulations and the fees that are applied to one town compared to another. That creates a problem for farmers, especially in today's concept where a lot of farmers are farming in numerous townships because of the decline in farmland.

Somehow DCA, with the work of the Farm Bureau and the Department of Ag, has got to come up with a uniform set of fees for agriculture so that there is no discrepancy and it is left up to the individual municipality on how to interpret the regulations and what fees are charged.

ASSEMBLYMAN CORODEMUS: Could you give us, perhaps, a specific example how it might have affected you directly at Atlantic Farms?

MR. TOBIA: Well, to be perfectly honest, it has not affected me at Atlantic Farms. The township officials in Wall have worked very closely with us, and have been very supportive of us on our expansion over the last couple of years. We have not personally had a problem within the Township of Wall. There are cases where-- In Monmouth County, for instance, an individual is putting up a greenhouse. He had to go for excessive fees and site plan review for a greenhouse that is going to cost probably, for argument's sake, \$10,000. With

the engineering costs and the site plan review it could easily match that, for that particular review.

ASSEMBLYMAN CORODEMUS: So the decision is not to build it, or to pass the cost along somewhere else?

MR. TOBIA: Well, unfortunately, in agriculture to pass the cost along is not possible. I mean, you are getting the same amount of money for a crate of sweet corn as you got 10 years ago, and all of your other costs have skyrocketed. I am not even touching labor. This is just strictly your cost to plant and harvest that crop.

If you had -- and I know some of the experiences we have had-- If we had to go for a full-blown site plan approval, we would not have been able to do the expansion. It comes to a very fine line as far as what agriculture can afford, if you want agriculture to go ahead and expand, you know, within the State on an individual basis.

ASSEMBLYMAN CORODEMUS: That is a decision you're saying the State has to make, whether it is sincere in keeping farming in New Jersey, whether it is going to help to keep farmers in New Jersey by giving them some type of a preferred basis on these types of regulations?

MR. TOBIA: That is correct. We are not really looking for a handout. We are really looking for consistency throughout the State as far as what is enforced and what is not enforced. You know, if I say it myself, there is no argument with the requirement that there have to be inspections, there have to be certain fees. Obviously, you know, the municipality has to cover its administrative costs. That is fully understood. However, when those fees go beyond and are excessive to what is being constructed or what is being proposed, that is where the problem exists.

Basically, it comes down to the standpoint to let farmers make a decision on whether to expand or whether to stay the way they are. It is a very fine line, especially in

today's marketplace with agriculture, because of the low profit margins. Every additional fee obviously is taking away from profit. Most other businesses would not have that same complaint. However, again, with the development pressure and the other pressures of regulations affecting agriculture, it is very difficult to expand in these economic times, let alone having to vary your fee schedules.

ASSEMBLYMAN CORODEMUS: Part of the Committee that I sit on in Housing, also chaired by Assemblyman Kelly, also contains agriculture. About the same time as we are now, last year, we took a tour of some places in South Jersey, the Blueberry Capital, and such. Even to me, who is used to Central and North Jersey, I was really amazed by the great representation of farming in Monmouth County and further south, particularly getting down toward Atlantic County. We certainly do want to preserve that. We do want to keep farming alive and well in New Jersey. We do want to make sure that you are competitive, not only within the State; you are competing with the whole world now as far as produce.

MR. TOBIA: That's right.

MS. DAUB: Mr. Chairman?

ASSEMBLYMAN CORODEMUS: Yes?

MS. DAUB: May I ask a question?

ASSEMBLYMAN CORODEMUS: Yes.

MS. DAUB: John, currently there are three speed rates in the State of New Jersey for inspections of any type. There are municipal fees which can be set by the municipalities. There are the Department fees which the State charges when they have taken over the inspections and subcode duties in the municipality. There are on-site agency fees which are currently identical to the Department fees, but that is in the process of possibly being changed due to Senate Bill No. 1227.

My question to you would be: I seem to feel as if you are asking the State to regulate municipal fees, as well as

having set their own fees, as well as having set agency fees. Would that be fair to suggest?

MR. TOBIA: Well, partially. What we are asking for is really consistency throughout the State. Just for argument's sake, we are going to construct a 50 x 100 foot x 16 foot pole barn for storage and, say, packing our produce. One municipality is going to charge one fee for that inspection; another municipality is going to interpret it a different way and charge a different inspection fee. What we are looking for is for it to be consistent throughout the State on inspections, whatever that may be. Obviously, I fully agree that the municipality has to cover its administrative costs and what have you, but not to go beyond those administrative costs, or the State's administrative costs. That should be something -- a fee schedule -- mandated or dictated by the State to cover those administrative costs. Obviously, there is going to be a range, but somewhere there has to be some consistency with those inspections and fee structures.

ASSEMBLYMAN CORODEMUS: Instead of consistency, I think we are trying to find some type of a relationship between the work involved in the inspection and the actual fees. The State should not be in the business of making money on inspections. It is supposed to be a breakeven for overhead and actual in-field type of labor costs.

MS. DAUB: Exactly, but with the municipalities they do have local rule, and they do have, under the Uniform Construction Code, the right to set their fees. If we would go to the Department of Community Affairs and suggest that they, one more time, standardize the fees and regulate the fees, we might be opening another can of worms, which we already have with the Department fees.

I agree that something could be standardized, but it would be a difficult thing to do without taking away home rule from the municipalities. How do you see us accomplishing this?

MR. TOBIA: Again, like I said, a municipality-- On any inspection fee there is a fixed administrative cost; what it physically cost that municipality to go out and make that inspection, both the field work and also the office work. Obviously, there are expenses incurred by that municipality, and obviously they should be covered. I mean, the taxpayers in general should not be responsible to subsidize inspections on agricultural pieces of property. To go beyond those administrative costs-- You know, let's take an example: If Wall Township has one particular rate for their inspector and Tinton Falls has a different rate, it should not vary that drastically; you know, within, say, a couple of hundred dollars. It should not vary beyond that point.

MS. DAUB: You would like to see, perhaps, a window set, like, no higher than, no lower than.

MR. TOBIA: Yes, in all fairness to the municipality, correct.

ASSEMBLYMAN CORODEMUS: I think what we can do, Pat-- Perhaps, like you say, it would be a big job to go and regulate a fee schedule for each town, but I think we might be in a position to set a policy, and say, "If you set a fee, this is the criteria we suggest you use." So when someone comes up, like John comes up and says, "How did you calculate that \$450 fee?" -- "Well, this is how we did it. You know, we didn't pull it out of the sky. We used this figure based on a rational relationship to the services."

MR. TOBIA: Right. That would suffice. Probably the other major point is, some municipalities -- again, this is not my personal experience, but, you know, the experience of other farmers throughout the State -- require full-blown site plan approvals for expansions and construction. That is not consistent through the State. Again, like I said, those fees requiring attorneys, you know, engineering documents, what have

you, easily could either match or exceed the actual costs of the expansion.

MS. DAUB: So setting criteria would be plausible to you. Okay.

ASSEMBLYMAN CORODEMUS: Larry, do you have a statement?

L A R R Y H O L T Z: Yes. I am in Southampton Township, Burlington County. I'm Larry Holtz.

ASSEMBLYMAN CORODEMUS: I'm sorry, Larry. You are going to have to speak up a little louder.

MR. HOLTZ: All right. I am Larry Holtz from Southampton Township, Burlington County. I am in the township where this building was put up by a good friend of mine. Our township fees, we feel, have really gone overboard. Our building inspector works two townships part-time, our township and Tabernacle Township. The other two townships where I have checked into fees-- Medford Township is a neighboring township, it is .0005; Lumberton Township is .0004; Tabernacle is .005; and our township is .0075. So there is quite a difference in, you know, just the surrounding townships. There are two townships right next to us.

I know they have a lot of fees to cover, you know, a lot of expenses, but it feels to me as if they are really just overcharging us for these buildings. We have to have a site plan. You have to have your documentation of your stress points and your seal on your things for the inspectors. It is just not within reason for what we do. Most of our area is soybeans and corn, and a little bit of hay, you know, for storage. For us to pay these fees-- To make it up, it is really tough. You have to really sit down and figure hard whether you want to do this or not. Most of the people who are doing it are doing it because of labor saving; to get equipment to put the hay and stuff into, instead of putting it into labor, because labor is hard to find now in our area. It

really makes the farmer sharpen his pencil. It is really hard coming up with the money.

ASSEMBLYMAN CORODEMUS: Thank you, Larry.

I would like to ask the Committee members, taking into account the number of witnesses we have here-- If you have a pressing question, please ask it. If you can hold off until we get the official information from the witnesses, perhaps we can do it that way.

Thank you very much, gentlemen.

Jeff Horn or John Indyke? John?

JOHN INDYKE: (speaking from audience) I was hoping that the National Association of Industrial Office Parks could present testimony today. But the secretary had a baby over the weekend, and it was not prepared in time. We are going to provide you with written comments sometime within the next two weeks.

ASSEMBLYMAN CORODEMUS: Thank you, John.

Ed Brown, are you here to testify? Would you come up, please? Mr. Brown, would you like to sit up here by the microphone? (affirmative response from audience) Please introduce yourself.

EDWARD I. BROWN: Okay. I'm Ed Brown. After looking over this list of people who are here, I am not really sure that I belong here. I am representing myself just as a taxpayer. I don't represent any group or lobbyist or anything. I am just a citizen who pays the bills.

My business is the Allaire Airport. I am a publisher of The Herald newspaper, and I run a small amusement park for children on the airport property in Wall Township. I only heard about this meeting this morning on the radio. I thought, "Well, I am going to run over there, because I am very, very concerned about the growing costs of doing anything in business.

I operate on the airport an industrial park of approximately 70 businesses. At the current time, I would say

that a third of them are delinquent in their rent three or four months. Things are tough out there. It is hard to get any help. There is nobody available to work. Then, on top of that, we have the constant fee problem. As some of you may be aware, we closed the airport twice in the last 10 years objecting to the fire safety fees of \$1500 for an outboard. It is just ridiculous. We finally fought that out.

So when I had an opportunity to come here and let someone know that we don't like all the fees we're getting charged, I just couldn't resist, and that is why I am here.

I really believe we are overregulated; we are overcharged. I sit here and I don't want to be an oddball, but I hear about all the fees and all these different municipalities, and when it is all over, the citizen is going to pay these fees, whether he buys a house in his house price, or whatever he does. I wonder why the municipalities, or the people in the towns or the State couldn't just hire the people who are inspectors and pay them, and then their salaries be passed on in our taxes. In the long run, we would save all the accounting charges, all the supervision, and all that sort of thing. It would make it an awful lot simpler. The bottom line would be that you would pay less for your house, your property, your farm, or whatever you're doing.

Probably that is not politically possible, I would bet, but I just had to mention that. I just sit here and try to think about being efficient. What we need, particularly in rural townships, which I am very familiar with-- We need relief from the charges on all the things. I have one company there that I bought into in New Jersey in 1954. It employs 400 people. They have currently bought property in the State of Mississippi. They are going to move out of New Jersey because the regulations and the costs of doing business in New Jersey are just prohibitive. I see that going-- I can name three or four companies in the last two years that moved to Carolina.

They moved out because they were just getting fed up with not only the fees, but there is a certain amount of harassment that comes with these zoning inspectors.

We have the three-times-a-day patrols throughout the airport and the industrial park of the Wall Township zoning officers. They are really rather strict, and they get on you. It is excessive, and this is not just hurting me. I am going to survive; I have survived this long. But the small businesses are packing it up and moving out because they just can't stand \$35, \$50 inspections. They come in and they see a welding torch. Well, right away that is a whole new deal, and they are getting on those.

I am just a taxpayer who is crying out, saying that this meeting is very timely. This is what we need. I would encourage our legislators to give a lot of serious thought to this and to getting the fees off our backs.

One final thing: I am not sure that the pain is here, but the pains for the future of the country are the unemployment taxes. We can't get anybody to work in our area. We have a park, and we are suffering from employment. Still, all the people who we try to employ are getting unemployment benefits of \$300, \$350 a week. They are not going to go to work until that is over with.

Thank you very much.

ASSEMBLYMAN CORODEMUS: We, believe it or not, the legislators, share your concern. One of the first things I learned in the Assembly was that we approve a budget which is in the neighborhood of about \$15 billion. There is another \$10 billion that we don't even vote on. These are fees that are charged by the Department of Community Affairs, DEPE, the Division of Motor Vehicles, and such. They raise these fees; they change these fees; they initiate these fees, without the Legislature's input. Thanks to the voters, in 1992, you gave us the authority to have oversight over these regulations. We

have an oversight committee now. This Committee is working in some fashion like that, where we are looking into these fees. It is our intention to try to relieve some of that burden off of the taxpayer.

MR. BROWN: Well, I agree. That is why I'm here. I think this is certainly a step in the right direction. I just want to emphasize that us people down there, who are just trying to work for a living, need the help. We need to do away with regulations and reduce the fees. For instance, I think \$1500 to inspect an airport is ridiculous. We fought it and got it down this year to \$1000, but this goes on constantly. It is just too much.

I might add, on this fire inspection business-- This is the question that I throw out to you: In my particular case in Wall Township, my real estate taxes approximate \$400,000 a year. Of that \$400,000, \$28,000 goes to the fire district. Now, why can't the fire districts, the volunteer firemen, be given a stipend to let them do the inspections? Cut down the costs on this. Why do they have to have in Wall three or four new station wagons with \$1000 paint jobs on them? Why do we have to pay for all this?

Well, here was my chance to sound off, so I sounded off.

ASSEMBLYMAN CORODEMUS: We appreciate your coming today. Thank you. And he owns a newspaper, too, so you are going to hear about this. (laughter)

Dennis Rittenhouse. Dennis, are you with us? (affirmative response from audience) Come on up, Dennis.

E. D E N N I S R I T T E N H O U S E: Good morning. Chairman Corodemus, distinguished members of the Assembly Task Force on the Uniform Consturction Code, Fire Safety and Housing Code Enforcement and Fees, the New Jersey Lumber & Building Material Dealers Association appreciates the opportunity to

testify on the impact on and effectiveness of the Uniform Fire Code's safety inspection program and fees.

My name is Dennis Rittenhouse, and I am the immediate past-President of the New Jersey Lumber & Building Materials Dealers Association. The NJL is a nonprofit trade Association which represents New Jersey's 450 retail lumber and building material dealers. We have been concerned for years over the inclusion of lumberyards as Life-Hazard Use "B" and the imposition of the registration of lumberyards under the Uniform Fire Code.

No lumber dealer has ever understood why lumberyards, which have significantly fewer people on site than restaurants or hotels, should be classified in the same life-hazard use as those businesses, or, for that matter, why lumberyards are in a more expensive life-hazard classification than gas stations. However, after several years of trying to change our classification, we reluctantly accepted it.

Our next concern addresses the fees charged for the program. Originally in 1985, for an average-sized yard, the registration fee was \$400 per year. Eighty percent of that fee was designated to go to the local fire official in the yard's municipality. Now, in 1993, that same yard is required to pay \$787.50 -- a 97 percent increase, with only 65 percent of the fee going to the local municipality; \$165.50 of that increase is due to the inclusion of hardware stores on premises as an "additional" life hazard. It is a rare retail lumberyard that does not have a hardware department on premises. This is not a new phenomenon, as hardware departments in lumberyards predate the existence of the Uniform Fire Code itself. I seriously question whether today's inspection is 97 percent better, or that the citizenry is now 97 percent better protected. Indeed, I would suggest that the same personnel are conducting the same inspections, but at a vastly increased fee.

The lumber dealers of New Jersey are still in the throes of the recession. They are affected by the glut of buildings, rapidly increasing lumber prices, tight credit practices by lending institutions, and all the related problems brought on by their customers' similar problems. The lumber dealers of New Jersey really can't afford any additional tax burdens, especially ones that appear to lack a rational basis. Lumber dealers haven't suddenly added a new life-hazard use, nor have they suddenly become more dangerous.

The Department's voracious appetite for increasing fees is perceived as a needless and hurtful tax on an already depressed industry. Indeed, lumber dealers actually pay twice for the same inspection -- once to our insurance carrier and once to the State. Actually, New Jersey lumbermen would ask you to consider abolishing the entire fire inspection program, and instead require proof of current insurance coverage. Believe me, if we don't satisfy our carriers' concerns regarding fire safety, we don't get insurance coverage, and without valid insurance coverage we couldn't stay in business. The insurance inspection is more thorough, and is performed by an individual who knows the lumber business well.

In conclusion, there is no doubt that the Uniform Fire Code requirements for lumber dealers is a hurtful and needlessly expensive tax. It stands as a symbol of what is wrong with government today.

Thank you for your consideration of this testimony.

ASSEMBLYMAN CORODEMUS: You soft-pedaled one thing about the insurance premiums as a result of this classification "B." What type of dollars and cents difference are we talking about if you were in a less scrutinized class? Significant savings? Marginal, nominal?

MR. RITTENHOUSE: You know, I can't answer that, quite honestly, without looking at the code structure. I'm sorry; I don't know that.

ASSEMBLYMAN CORODEMUS: Okay. Any questions?

MR. HARTMAN: A question relative to the basis of insurance from your insurance carrier: Is it based on what the fire people put on you, or their own classification?

MR. RITTENHOUSE: It is their own classification based on the--

MR. HARTMAN: Okay, so you get a classification from the Fire Bureau and also a classification from your insurance agent. Is that right?

MR. RITTENHOUSE: The insurance company bases its premium on the type of building -- concrete block, wood frame, etc. -- the size of the building, and the contents.

MR. HARTMAN: Okay.

MR. RITTENHOUSE: How much plywood, how much Sheetrock, how much insulation, this, that, and the other thing. We pay insurance on contents as well.

MR. HARTMAN: Okay, the contents, but not the fire rating of the structure itself based on your Fire Bureau?

MR. RITTENHOUSE: No.

MR. HARTMAN: Okay.

MR. RITTENHOUSE: I have copies here of my testimony.

ASSEMBLYMAN CORODEMUS: We will distribute them. Thank you, and thank you for coming.

MR. RITTENHOUSE: Okay. Thank you, sir, for the opportunity.

ASSEMBLYMAN CORODEMUS: Fred Schneeweiss. Why don't you come up here, Fred?

FRED SCHNEEWEISS: Good morning, Mr. Chairman. My name is Fred Schneeweiss. I am President of the United Restaurant and Lodging Association of New Jersey. I am here today also representing the Garden State Restaurant Association, and the Monmouth/Ocean County Development Council. I am also a certified fire official, and I am a member of the Code's Advisory Council of the Department of

Community Affairs. We are responsible for setting some of the rules and regulations and the fee structure for life-hazard uses.

As a member of the hospitality industry, restaurants and hotels have been classified as a life hazard use which requires them to register, pay a fee, and also receive permanent fees for certain types of activities that occur on the premises. They are inspected anywhere from one to four times a year to see if they are complying with the regulations. Over the years, these fees have increased tremendously. Prior to the 1987 adoption of the fee schedules, the fees that were paid for fire inspection were included in the real estate taxes. Now these fees, registration fees, and permits are separated out and paid additionally.

In 1987, a typical 100-seat restaurant paid a registration fee of \$350 and a permit fee of up to \$300. In 1990, those fees were increased 15 percent; in 1992, they increased another 20 percent. A restaurant that paid \$350 for their registration fee now pays \$484. These types of increases, I believe, are unconscionable because of the situation that arises when inspections are made. No additional services have been performed over the years. The types of inspections that are made are the same types that were made when the fees were included in your real estate taxes, and, in many instances-- The gentleman before me mentioned the insurance company that insured these operations. Their requirements are more strict than the Fire Code people.

In addition to these fees, if you carry on certain other activities, such as a restaurant or a banquet facility that might put a tent up for a wedding, they have to get a permit to erect that tent. Each time they do that they pay the fee over again. If you use certain types of sanitizing materials in your dishwashing machine or you carry sanitizers for your pool, there can be an additional \$415 fee for that

privilege. If a restaurant uses canned heat -- as we know it, Sterno -- to keep the food hot at a buffet, there is another fee to allow that use.

These constant fees are increasing, and it is becoming a severe problem for our industry. As you know, the hospitality industry has not been too successful in the last few years here in New Jersey, even though we are the largest employer in the State. We employ the largest number of minorities, women, and young people, and we are hurting as an industry. Thank goodness the weather has been helpful to us this year so far and things seem to be going well at the shore.

It is a tremendous problem to continue to pay these increases. I am concerned that they will continue to increase. As far as I know, next year there will be another increase. Registration fees-- That increased 40 percent over that period of time; permit fees have increased 38 percent. It is my understanding that the State departments that produce revenue must be self-sufficient. In that case, I can see where as wages increase, as pension plans increase, hospitalization increases, the only way to generate that money is to increase their fees and their permit fees. I don't see any end to it. Something has to be done that takes the ability to increase these fees every year -- to take them out of the hands of the department that is doing the inspections, because I think it is self-serving. If we don't do something about it now, we are going to see restaurants and hotels failing at a greater rate than they are now.

Thank you for the opportunity to testify today.

ASSEMBLYMAN CORODEMUS: Mr. Schneeweiss, who is driving these inspections? Is it the municipality doing it on their own, or is it the State? Or, is the municipality just enforcing the State mandates?

MR. SCHNEEWEISS: Well, the municipality, if it so desires, becomes the local enforcing agency, and they split the

revenue with the State. I believe the municipality receives 65 percent; the State gets 35 percent. If the municipality chooses not to do the inspection, the State takes it over. The State keeps 65 percent, and the municipality gets 35 percent.

ASSEMBLYMAN CORODEMUS: In both cases, it is the State driving the inspections, regardless of who the inspector is.

MR. SCHNEEWEISS: That is correct, yes.

ASSEMBLYMAN CORODEMUS: Thank you very much. Thank you.

Susan Rankin -- is she here with us? (affirmative response from audience) Come on up, Susan. Thank you for coming.

S U S A N R A N K I N, ESQ.: Good morning, Mr. Chairman and members of the Committee. My name is Susan Rankin, and I have to admit to being an attorney. That seems to be something that I need to tell people right away.

I am not here representing a client, although the experience that I will share is one that I garnered by representing a client in litigation involving DCA, the imposition of a fire safety inspection fee.

My client is a church that is involved in litigation; in fact, round two of the litigation is now going on. The objection to the imposition of the fee had nothing to do with the amount of the fee, but the fact that it was being imposed upon this particular church because of one of its ministries. DCA did not have an interest in how many children or the ages of the children who were in the buildings on Sunday or on Saturday. They had a distinct interest in the fact that there were children in those buildings on Monday through Friday.

ASSEMBLYMAN CORODEMUS: Can you tell us, you know, specifically what you are talking about?

MS. RANKIN: If you look under the definition of "life-hazard safety," which has changed considerably since the

enabling statute, the improved Fire Safety Code was passed and there was a category added which was to apply to private and public schools, K through 12. I believe 1990 was the first time that DCA actually imposed a fee on any agency operating what it considered to be a school.

Unfortunately, it didn't have any recourse but to go to litigation. That is one of the things that I wanted the Committee to consider today. The process, whether it is through the administrative hearing process or whatever, winds up being so shortened-- We would like the Committee members to be aware that you only have 15 days to ask for a hearing. The hearing itself winds up being an adjudicated process and one that is somewhat adversarial, as opposed to one where the two entities -- someone from DCA and someone like myself representing a client or, indeed, a religious organization itself -- can just sit down and discuss what the problem is.

Frankly, I am of the opinion that if we had been able to do that three years ago, we would not be heading now toward this litigation, which I am sure will again go up to the New Jersey Supreme Court. Despite the fact that during three years of litigation I have repeatedly asked for a meeting to sit down and discuss what our concerns were as a religious organization -- our concerns which represent issues that involve many religious organizations, if not all of them in New Jersey -- we have yet to get that simple meeting where we could broach the subject from our side and be able to address that.

What I have provided to the Committee is a copy of The Star-Ledger article from March 22, 1992, which discussed another Assembly Committee meeting -- the Assembly Policy and Rules Committee -- which was looking at DCA and the imposition of the Fire Safety inspection fees at that time. To my knowledge, this is the only written memorial of that meeting. There were no notes and no transcripts.

On one day, I was encouraged when I read this. Again, this was during the course of our litigation. There was a group of restaurant owners who had seating under 50 who had objected to the imposition of the fee, and apparently had some communication with DCA which substantiated their position. However, to my consternation, I was never able to get the same kind of audience on behalf of my client, nor have any of the other people who are representing the interests of a religious organization.

The issue that we raised is not one of the pragmatic rules that I have heard here today. I am sure you will hear again from the other individuals concerning what a burden the fee itself is on business or commerce. I am representing the interests of collective groups and believers, whether they are in churches or synagogues or temples, who have some religious convictions about the ability of the government to come in and assess a revenue for a service, which we think is a tax.

Now, with the way our government is expanding, we have gone from having something like the Congress and the Assembly -- having the Legislature pass into what we now have, a regulatory government primarily. The impact between religious organizations and the government becomes these minute types of scenarios, but, unfortunately, the nature and the details of the bureaucracy -- the concern about religious lives, the concern about the interface there, is one of the things to get lost in the day-to-day workings of government.

I would ask this Committee to consider some way to set up a system where there could be some kind of dialogue between DCA, particularly-- Again, I am not talking about money, I am talking about constitutional principles. I don't think there is anything more serious, though I know it becomes difficult for the government to say, "We will adjudicate everybody's constitutional concerns."

ASSEMBLYMAN CORODEMUS: We will provide you that dialogue.

MS. RANKIN: We would absolutely appreciate that.

The other issue is, we are talking about doing it in litigation. I think that is an ineffective and an unwise way to have to always resolve disputes. The real issue involved in our case is: What is a tax or a fee? In New Jersey, that is something very specific. It is whether or not the cost of the program equals the cost of the fee. We have never been able to have access to that information. Imagine my consternation after having been denied that -- we are now involved in round two of the litigation, and I am specifically looking for that information -- to open an newspaper and find out that there was some testimony concerning that new information readily and reasonably available.

We are just asking you to consider the concerns of the religious organizations. Property tax exemptions are something that are a constitutional guarantee in this State. We do not feel this should be taken away piecemeal by piecemeal.

Thank you.

ASSEMBLYMAN CORODEMUS: Thank you very much. Your point is well-taken. What we are going to do with all of this testimony, and written testimony submitted to us-- We are going to review it and, at one point, we will be convening a regular meeting of the Assembly Housing Committee, or perhaps another meeting of this Task Force, where we will be inviting the members of the Department of Community Affairs to come to respond to certain inquiries such as the ones you raise today, and the other witnesses thus far. Hopefully, we will be able to give you an opportunity to question people right there, as well as the Task Force members, to get some of your answers.

I saw that a lot of heads were shaking while you were testifying. People want the same type of information that you are after.

Thank you.

MS. RANKIN: Thank you.

ASSEMBLYMAN CORODEMUS: Is John Dorsey with us, from New Jersey Natural Gas? (no response) He wasn't sure whether he was going to make it today. Julie Turner? Paul DeSantis is with Ms. Turner.

JULIE TURNER: Hi. I am Julie Turner, Executive Director of the New Jersey Association of Children's Residential Facilities. We represent the private programs serving abused, neglected, and troubled children placed by the State of New Jersey into group homes, residential treatment centers, and shelters. We combine, probably, the most unfortunate combination. We are heavily regulated and inadequately and inequitably funded, so any fees, or any additional costs, are incredibly burdensome.

The Uniform Fire Code placed additional fiscal burdens on an already underfunded system. While DYFS -- the Division of Youth and Family Services -- worked with the Department of Community Affairs to develop a "Plain Language Survey Guide," which put it into English for those of us who are not in the construction field, they were unable to offer anything but sympathy to deal with the additional costs.

I have provided information on some of what may appear to be small costs in the retrofit requirements. The retrofit requirements do not include the ongoing costs. For small group homes, we were required to install things such as: fire alarm systems, emergency lighting, fireproof bedroom doors, etc. The costs could range anywhere from \$10,000 to \$20,000, or more. With an average budget at that time of \$250,000, this was a significant imposition of costs.

Residential treatment centers: Some are required to install sprinklers. For one facility, for instance, the sprinkler cost of \$80,000 was well over 15 percent of their annual operating budget. They were forced to invade a very

meager endowment fund, placing, again, their program in jeopardy.

To place in perspective the burden of the additional cost of \$10,000 to \$20,000 for group homes, the most recent cost-of-living increase is 3 percent for half a year. The result is that group homes receive a total average increase of only \$5000 annually to cover all other costs.

All right, I would like you to consider the following three issues:

1) State mandate/State pay: This Legislature has certainly discussed State mandate/State pay as it applies to counties and municipalities. However, we would urge a similar philosophy apply to new regulations that add to the costs of programs serving the State's clients. Whenever any new regulations are developed by the Department of Human Services or other departments of State government, the State should analyze and be prepared to fund fully those regulations it deems necessary.

2) Capital Bond: The requirements and timing of the Human Services capital bond, approved by the voters in November 1989, meshed poorly with the Uniform Fire Code requirements. Group homes and shelters were required to be in compliance by June 16, 1989. Residential treatment centers were required to be in compliance before October 1988, which was before the issuance of the "Plain Language Summary Guide," which also made it difficult.

According to the policies and procedures governing capital bond, a facility is not eligible to receive funding if any part of the project has been started, even for required or emergency projects. No retroactive funding is permissible. Thus, any program would be penalized by being denied any help in meeting the costs if it met the time frame. Many that had to delay were, again, delayed through capital bond, so that the two never connected in any reasonable way.

I gave the example of the residential treatment center which was required to install a sprinkler prior to being able to get funding through the capital bond. It was an incredible burden for that program. We need a workforce to check out rules.

In addition, with the bulk of the DYFS capital bond money being planned for new programs -- for which there is not now operating money to run them -- there is limited funding available to meet the Uniform Fire Code requirements.

For programs that have been in a building, and moved in at first because it is inadequate to move into a new building, there are significant additional costs related to the Fire Code, but they are unable to get this through capital bond -- but capital bond may not be your particular issue. They interrelate.

The last issue is this almost conflict between the Department of Human Resources' philosophy and some of the Fire Code requirements. The Department has placed a great deal of emphasis on moving clients into the community in family-like community-based programs that look like they fit into the neighborhood. However, some of the requirements, including bright red exit signs over the front door -- such as you would see in movie theaters -- seem a little bit of overkill, and not exactly in a homey family spirit.

I would like to give Paul DeSantis, who is President of our Association and who runs a small group home in Red Bank, a chance to talk about some very practical kinds of things and then respond to any questions you might have.

P A U L D e S A N T I S: Very briefly, I run a group home in Monmouth County, in Red Bank. We relocated there five years ago when we bought a property. Conservatively, it has cost us between \$15,000 and \$20,000, when all is said and done, to come up to code. When we began the system, the monitoring fee which we were required to have -- some company monitoring our alarm

system -- was \$150 a quarter. But since that time the municipality has required us to have a 24-hour service contract on the alarm system, which now converts to about \$400 a quarter.

We, in many respects, are a small business. Our operating budget is about \$400,000 a year. We contract with the Division of Youth and Family Services, which provides, in any given year, between 80 percent and 90 percent of the funding, so the difference we have to go out and fund-raise. I think you can all appreciate the climate in terms of fund-raising in this day and age. So any increases such as that are very hard on a particular facility.

As Julie alluded to earlier, with 1.5 percent adjustments over the last two years from the Department, some of the increases are eaten up immediately by increased costs in terms of protection. We are required, for example, to put in 24-hour lights throughout the house. The bulb for these particular lights cost \$14 a bulb.

ASSEMBLYMAN CORODEMUS: You're saying that some of these requirements-- They are too intense, these requirements?

MR. P. DeSANTIS: Well, you can land an airplane in some of the corridors in our house. I mean, that is how bright they are. The kids constantly break the lights because they can't sleep with the bedroom doors. So the two things are constantly fighting each other. The alarm system, when it was first installed, was a fiasco. It took a few months to get the kinks out of it. Now we have very few false alarms. Our fire evacuation procedure is generally between 30 seconds and 45 seconds.

ASSEMBLYMAN CORODEMUS: Do you think that if they relax some of these codes you could still provide a safe environment for the occupants there?

MR. P. DeSANTIS: What I would request is that possibly they go back and review them. What I found from experience with a lot of government regulations is that they

go 180 degrees in the other direction, and it is almost overkill. I realize what the problems were initially. I was unfortunate; I was at the Bradley Beach fire that night. I was a volunteer fireman from Belmar under Mutual Aid. So I saw the results of what that type of fire could do. But I do think that some of the regulations, as Julie alluded to earlier-- How many of you go home to a family-like setting that has illuminated exit signs above each door?

ASSEMBLYMAN CORODEMUS: We might be taking a field trip -- the Task Force -- and we might add you to the list, so you can show us graphically what's there.

MR. P. DeSANTIS: I would be glad to. You are more than welcome to come.

MR. HARTMAN: May I ask a question?

MR. P. DeSANTIS: Sure.

MR. HARTMAN: How many residents do you have within your facility?

MR. P. DeSANTIS: Up to 12.

MR. HARTMAN: Up to 12?

MR. P. DeSANTIS: Yes. Right now we have 10. We have two staff on duty during all waking hours, and during the night hours we have one staff person. So I think the amount of awake supervision is much more than you would find in most of your families.

MS. TURNER: That coverage is required. That is in group homes. Residential treatment centers can be larger, but they would have different requirements.

ASSEMBLYMAN CORODEMUS: Thank you very much. We appreciate it.

MS. TURNER: Thank you.

MR. P. DeSANTIS: My pleasure.

ASSEMBLYMAN CORODEMUS: Richard Villano? Is Richard with us? (affirmative response from audience) Then, Bob DeSantis, you are up next.

R I C H A R D V I L L A N O: Good morning, everyone. My name is Richard Villano. I am an architect. I am also President of the Jersey Shore Section of the American Institute of Architects, New Jersey's Chapter.

I am here today because I have a concern with the Planned Review Section of the Department of Community Affairs. Many architects who have to submit plans to this Department have found it to be very elaborated and very costly, especially to our clients.

Now, if you don't know, the towns across the State of New Jersey have different licensure classifications, depending upon the inspectors in those towns. If you happen to have a project the town cannot do a planned review for, then that particular project has to go to the Department of Community Affairs Planned Review to obtain their building permits.

ASSEMBLYMAN CORODEMUS: What would be an example of something that would typically go there?

MR. VILLANO: Sprinklers; anything that exceeds the education of the plan -- of the construction officials in that one particular town. A small town like Spring Lake, New Jersey, which might not have vacant land to build a large, maybe, high-rise apartment building, or a commercial structure, would not hire a Class 3 construction official to keep their costs down. Therefore, if there ever became an opportunity where someone would go in there and do a shopping center or an office building, these plans, then, would have to be sent to the Department of Community Affairs or you.

ASSEMBLYMAN CORODEMUS: What happens once it gets there?

MR. VILLANO: That is a very lengthy process. It comes back in bits and pieces. The construction officials do a building review, and you get a letter back stating that these are all the things that are wrong. We will make those corrections. Then it is passed on to the plumber, the plumbing

official. He will do his inspection, a review of his plans, and then send that back. This process goes on for months and months and months. Meanwhile our clients are paying for this, and they are also paying the bank for the interest on the note they have, for the loan they have taken out. They are paying for the architect's time to refix these plans up and resubmit them.

ASSEMBLYMAN CORODEMUS: What is your proposed resolution of the problem?

MR. VILLANO: A one-time review all at once, not in bits and pieces. This way the architect can make his changes one time only and send it back for review so that the time frame here is not going to be incurring any additional costs to our clients.

On the other side of that coin, you have towns which are classified to review these plans. These local towns seem to be doing their job much better than the State agency.

ASSEMBLYMAN CORODEMUS: We knew that. Where's Andy? Andy, do you have a question?

MR. CATTANO: No, Mr. Chairman, just a comment for the benefit of the Task Force and the audience: This percentage that Richard is talking about stems from the increase in November of 1987, which at the time was a 30 percent surcharge and was intended to pay the salaries of temporary help to perform planned review by the Department until such time as the backlog -- and this was in 1987 when we had some boom times -- was eliminated. Now the boom times are over; the surcharge is now 40 percent; and that is a big issue in our industry as well. So I am not sure there is a need for any surcharge if there is no backlog. That is something that we wanted to point out.

ASSEMBLYMAN CORODEMUS: Good.

MR. VILLANO: Well, we are very concerned with the time constraints here. If the plan review process runs a

little bit more quickly, then our clients will be able to get their jobs under construction sooner and reduce their costs.

ASSEMBLYMAN CORODEMUS: Thank you very much.

MR. VILLANO: Thank you.

ASSEMBLYMAN CORODEMUS: Bob?

R O B E R T F. D e S A N T I S: Thank you, Assemblyman Corodemus and members of the panel, for the opportunity. I am here, actually, representing the AIA New Jersey Legislative Committee and the Codes and Regulations Committee. I caught wind of this meeting late in the week and do not come with any specifics, but do offer those two Committees to this panel and any information we may have.

The issue brought by Richard, as far as the time of the planned reviews, I would just like to touch on briefly. In this State you have licensing of the design professionals, those being the architects and the engineers. We are required by that licensing to use the codes to design any structure in conformance with those codes. We feel that the expectations of planned review have become such that these items are being redesigned. It is not necessarily, and should not be, the influence of planned review to check and review each detail.

We feel that if these plans are correct and they are submitted, then for planned review you should look at the plans and make sure that the information that is required, which is based in an outline form -- plans, elevations, details, schedules, etc.-- If that information is in that package, then it is up to the design professional licensed by the State to be technically correct. You do not need another level to review that technical correction, either DCA or local, and then again once it hits the variety of tradesmen, goes out into the field, and gets reviewed.

We understand that there has to be an inspection or an observation process at the end of the period of construction.

ASSEMBLYMAN CORODEMUS: Excuse me, Bob. What is the stated purpose in DCA reviewing all of that raw material you give them?

MR. R. DeSANTIS: I am not sure of that, and I am not sure whether that policy of the expectation of that review maybe should not be reviewed. What Richard is saying is that the delay-- I think the time issue is because their expectation is to go through every sheet, every detail, and read every schedule, then come forward with volumes of "corrections, changes, or their interpretations." Those are issues that we feel can be dealt with later, and it really is the responsibility of design professionals to be technically correct. So maybe it is a little bit of expectation. If that time is reduced, then the Department, in essence, could be reduced to maybe making sure that what is required to be in the information package, is there.

ASSEMBLYMAN CORODEMUS: Right.

MR. R. DeSANTIS: We feel that that would result in money, obviously, for time. Then you are relying on the design professional's license by the State.

Again, I offer any assistance from the AIA New Jersey -- from both of those two committees.

ASSEMBLYMAN CORODEMUS: We may take you up on that.

MR. R. DeSANTIS: Okay.

MR. DeTROLIO: Are you suggesting a similarity to what they do in New York City, where the designer and the contractor follow what is known as a "Building Notice?" The architect certifies his plans, and basically you get a permit. After the work is done, or during the course of the work, the inspectors (indiscernible three or four words) the plan review. Is that what you--

MR. R. DeSANTIS: I don't do a lot of work in New York, but that sounds like something that would certainly

shortcut the time. There are many times when the design professional and the owner are running parallel and things are moving rather smoothly--

MR. DeTROLIO: But you're saying you want--

MR. R. DeSANTIS: --they are involved and ready to go, and the permitting process can take as long as the design process.

MR. DeTROLIO: You want to go on the basis of the code where it says: "I certify that the attached plans are designed according to the code," etc., etc.

MR. R. DeSANTIS: By putting that license on me, you have done it.

MR. HARTMAN: I would like to make a comment on that: Being a construction official and not doubting an AIA-- I am sure I am not the only one, but we see many mistakes that are brought before us based on the type of building, the classification of the building, the fire grading, and everything else. By having a person in your profession certifying to us after the fact, it becomes a little doubtful in my mind because of the fact that when the building is half up, all of a sudden we have problems. Now we have to start making some major changes on it. We are starting to clash, and I think the process, as it is right now, where the plan review is necessary, and keeping it limited to what you may have to make changes in, or our questions to you, I can see it happening. But I cannot see you taking the full responsibility and saying, "This is okay," because, just like my own profession, I consider myself a professional, but there are others within my own ranks-- I don't think when I get a Class 1, Class 2, and Class 3-- There are three bases that the people doing the plan review have questions with.

MR. R. DeSANTIS: I can agree with that on a cursory basis. Obviously, the buildings must be classified and must fall into particular categories, etc. If there is a gross

error there, then somebody has stubbed their toe. I am talking about going through the process of actually digging into each one of the details, expensively going through the time process of reviewing schedules, detail sheets, etc., etc.

I agree that there should be that time of permitting, looking at the package in general. There are "forms" that should be filled out. A quick review, I think-- I say "quick review," certainly less time than it would take the individuals of the cadre at any level, whether it be DCA or the local level, which gets burdened a lot when there is a great deal of activity. I think then you are shifting that burden, and rightfully so, to the design professional.

MR. HARTMAN: A question for you: Have you had the opportunity to take drawings down to the Department of Community Affairs and suffer review?

MR. R. DeSANTIS: Yes, yes.

MR. HARTMAN: What was the basic time limitation? You dropped off a set of drawings today. How long was their review process?

MR. R. DeSANTIS: Well, I would say that the last project that my office took through -- that I did not take through -- did not take an inordinate amount of time. I was running projects through in the latter part of the '80s -- '87, '88 -- but unfortunately, that process was so cumbersome. They do have a policy that with no review, there is no permit, so that at times you have to allow them that time. As Rich Villano indicated, they would come back with a partial review and kick it back. Then you wouldn't know where your package was in the other sections of the Department. Possibly more interface with the design professionals would allow them to have a day or two to actually carry the project through and sit and go through this design process. I mean that is kind of from the hip a little bit, but maybe more of a closer interface

that way would shorten the period of time and have that permit process go more quickly.

MR. HARTMAN: I know that back in '87, '88, it used to take six months sometimes. I am just wondering if that is still happening down there, or if that process has reduced itself in number.

MR. R. DeSANTIS: It is still timely, but I think it is the essence of how many plans are going through now.

MR. HARTMAN: Okay, thank you.

ASSEMBLYMAN CORODEMUS: Bob, thank you very much.

Larry Wiessmann?

LARRY J. WIESSMANN: Good morning. My name is Larry Wiessmann. I am President of the New Jersey Association of Fire Equipment Distributors. Currently we have 47 members, and we are the largest organization in the State of New Jersey representing fire equipment distributors.

I have handed out a letter to all of the panel members detailing some of our concerns with pending registration fees. This may or may not make it more complicated or simple to address.

ASSEMBLYMAN CORODEMUS: Take the most important one.

MR. WIESSMANN: Well, we will start from the first one, where I say we are concerned with financial impact -- the proposed fee schedule. Now, this is a little bit different than permit fees or anything like that. This is a registration fee for each company to become-- Well, we call it "licensed," and they say, "Well, there is a difference between being licensed and registered." I am not sure that there is a big difference, but there is a difference.

For example, an electrical contractor -- a large electrical contractor -- pays a set fee each year to be licensed in the State. I have been told by several different electrical contractors that their fee is about \$75. For one of our members, if he were to have 25 employees and one of them

registered, it would cost him \$7900 a year under the new proposed fee schedule. This is on top of all town licensing fees or the registration fees, and in addition to all permit fees that we get when we do our work.

ASSEMBLYMAN CORODEMUS: What kind of stuff are you dealing with?

MR. WIESSMANN: Well, we install and maintain fire protection systems of various different types for various different hazards. We install alarm systems; we install suppression systems. Some of our members install sprinkler systems. We never have been registered. Apparently Public Law 1983 deemed that we should be registered, but I am not quite sure because of the large number of complaints about our industry, or just that they felt it was necessary to license all trades within the State. Obviously, it is 10 years, and we still don't have any burn registration plan, although they are getting to the end.

There is also a secondary level of financial impact. That has to do more with the technical aspects of the regulations they are writing requiring seven years of experience for anyone to be registered. Unlike an electrical contractor where they need one license and they can have as many workers as they need working on the one license, this proposed regulation would say that every worker has to be registered. Now, I am not sure, but I think it takes about six extra years to become a brain surgeon. I don't think seven years to learn how to install a fire protection system is consistent with the level of expertise necessary.

There would also be a great loss of jobs, again, adding to unemployment and causing all sorts of secondary effects, because companies which would have employees who are not qualified to be registered yet would have no use for these employees. Therefore, they would have to dismiss employees. It certainly would lead to a lack of competitiveness for all of

the New Jersey businesses. A lot of these costs would then be passed along to a lot of the people here today who are complaining that their fees are already too high.

One thing that very few people have mentioned today is that almost every industry here that spoke pays us additional inspection fees. That is one of the things that our industry does; that is, provide inspections for fire protection systems. They all pay these fees, but none of them here today particularly complained about these fees. That is just another additional fee that they all have to pay. Then, if our fees are up to cover the costs of being registered and having all of our people with seven years' training, the costs of that fire protection aspect is going to go up as well, and fire protection, as we all know, applies to every single aspect of every person's life here in New Jersey. No one would be exempt from the additional cost put on.

I understand that this is a financial-impact hearing, not a technical hearing. We have a lot of reservations about the technical aspects of the regulation itself, too.

ASSEMBLYMAN CORODEMUS: We will take that in written form, or you can submit it after the meeting. We will be glad to receive that.

Go ahead.

MR. WIESSMANN: One question that interests me is whether a pending registration is easier to deal with than an existing one. I don't know the answer to that, but I would be curious to know if it is easier to kill something before it gets passed in a very bad form, as opposed to changing one that is already in existence. Everybody has told us that it is easier to change it, so go out there and do it now. That is what we are trying to do.

ASSEMBLYMAN CORODEMUS: Okay.

MS. DAUB: Larry, do you currently pay any fees for your company to the State as a registered fire protection installation company?

MR. WIESSMANN: No, we do not.

MS. DAUB: Do you work as an independent, private industry?

MR. WIESSMANN: Right.

MS. DAUB: And now they are going to regulate you as they do--

MR. WIESSMANN: That is correct. Our objection is not to the registration; it is to the format, the prices, a lot of the technical aspects. For example, we are not-- We have made two formal requests to have representation on these subcommittees in an advisory capacity; one to Stephanie Bush and one to James Dolan, both of the DCA. While we never received a formal response to either of these requests, we have been told informally that it would be a conflict of interest to have the industry that they are regulating have any say in what the rules are going to be. To me, that is ridiculous, but that is what we were told -- but not in writing. We do have lots of individual towns register us, so in Passaic you might have one license fee; in Wayne you might have another license fee. Toms River may have a license fee for each one. I, personally, have 17 licenses for different towns that we pay fees to. I have also been told informally -- it doesn't say anywhere in the regulation that I have read -- that once the State passes this regulation, it will not supersede these towns from also having those little licensing fees.

MS. DAUB: That's right, duplication.

MR. WIESSMANN: Yes, a duplication of licensing fees, or registration fees, if that is what you want to call it.

ASSEMBLYMAN CORODEMUS: Thank you.

MR. WIESSMANN: Thank you very much.

ASSEMBLYMAN CORODEMUS: Mike Pesce? (affirmative response from audience) I know you have guests with you, too.

M I C H A E L P E S C E: Well, I will bring them up separately.

ASSEMBLYMAN CORODEMUS: Okay.

MR. PESCE: Hi. I am Mike Pesce, from the Cirkus Real Estate Group in Clifton. I am here, I guess, wearing two hats: On behalf of both the New Jersey Apartment Association, for which I am the Chairperson of the Condominium Committee, and also for the Community Associations Institute, an organization of condominiums and co-ops throughout New Jersey. I am their Legislative Action Committee Chairperson.

I would like to address two general areas: one of them dealing with multiple-dwelling inspections in general, the duplication of inspections that we are constantly confronted with, and, necessarily, the duplication of fees and operating costs that go along with it. Second of all, the inspections, particularly of condos and co-ops and how that has been virtually unworkable.

In terms of duplication-- You know, rather than just talk generalities, let me give you a couple of concrete examples of how frustrating it is out there. We manage a nice mid-rise apartment building in a suburban Essex County community. We have managed it now for about three years. When the owner we manage for bought it about three years ago, the building had just undergone a five-year cyclical DCA inspection and the issuance of a green card. The process, for anyone not familiar with it, takes approximately-- This one took approximately two years from soup to nuts by the time there was a reinspection and whatnot. So we got the three card literally on the eve of the closing.

This particular town has a separate municipal ordinance that says there has to be a CO inspection on a change of ownership. Now, the DCA inspection was done by the local enforcement official, so now there is a change in ownership after the green card has been issued, and the same people come marching back into the building to look at the very same issues that they just issued a green card on, and three years later

were not yet finished with that supplemental inspection. We just received notice that we are going to have our next five-year cyclical.

Now, this is a building which to anyone -- any reasonable person's eye -- is well-maintained, well-run, and certainly safe, yet we have a constant parade of inspectors through the building. So, we are talking not only duplicate inspection fees, but we are also talking the time it takes for the people associated with the management and the running of the building to escort these folks around, to then attend to things. My cynical view is -- and this has certainly been borne out in this case -- that you send an inspector out to do an inspection, even if he was there yesterday, and he is going to come back with a new list, because that is what he deems his charge to be.

I think you need coordination there. There has to be some action taken to cut down on the fact that you have different people, different agencies, and different bodies of government doing the very same thing.

ASSEMBLYMAN CORODEMUS: The same criteria between the DCA inspection and the enforcement of the local municipal inspection?

MR. PESCE: A lot of it is overlapping. I must tell you that during this virtually all-day long-- I wish I were sophisticated enough to know who is responsible for what. The overlap has to be as frustrating for everybody else as it is for me. I don't know what their respective jurisdictions are. Certainly the municipality, in many instances, is, in fact, enforcing the State laws. Obviously, you come up with conflicting interpretations and whatnot.

The other example is, once again, in a suburban community in Bergen County, where we had a five-year cyclical inspection and, at the same time, we had an annual fire inspection by the local subcode official. Once again, the DCA

inspection was done by the local people, and once again, I could not figure out who was doing what, except that they all seemed to be at the building at given points in time. This one became particularly frustrating because we were working closely with the fire official to get extensions of time to abate violations. Those same violations appear on the DCA five-year inspection form. We felt it reasonable to think that the one person was walking down the hall and talking to the other, but it turns out they were not. When all was said and done, while we were working with the fire official, we got a \$2000 penalty imposed by the State, which did not recognize any sort of adjournments or extensions that were given.

So those are a couple of concrete examples of the fact that I think we need a more coordinated system. I honestly am not smart enough to know how to solve the problem or who the responsibility ought to be given to, but it ought not be invested in various groups of government. Maybe they know what the respective functions are. We, as the property owners and managers, do not have a clue.

In terms of the fining mechanisms, that leaves a lot to be desired as well. Having been through that, one of the very frustrating aspects for me is that when a fine is levied-- Please understand that these fines are not levied because you have a building representing a significant safety hazard; this building in northern Bergen County is a good example of it. It was minor issues. You have no idea where that \$2000 number came from. They won't tell you. What I will tell you is that if you file an administrative appeal in the 15-day period alluded to earlier, you will get an unsolicited phone call from whoever the compliance officer is assigned to it. They immediately offer to cut the fine in half, which leads me to believe that they probably doubled it to begin with -- to be so flexible, you know, without having been asked for any negotiation.

I think there has to be some recognition given to the fact that if we are going to be fined, there ought to be a way to understand where the numbers came from in order to be able to reasonably contest them.

In terms of condominiums and co-ops, I spend a lot of my time-- We manage roughly 80 such communities in central and northern New Jersey. I am not sure whether this is within the purview of your Committee or not, but I did want to address a pet peeve of mine. It generally deals with the scope of the inspections in these community associations. You may or may not know that community associations are still considered multiple dwellings under the Hotel and Multiple Dwelling Act in New Jersey, so the fact that, you know, a building is owned by individual owners does not take it out of the jurisdiction of the State.

We could probably debate that philosophically. I am here, you know, to basically accept that proposition, because the State's position is -- and it is probably well-founded-- The fact that it has a different legal form does not take away the fact that people are living side by side or above and below people, and there are health and safety issues to be considered that do not necessarily exist in a single-family home.

What is frustrating, however, is the way that the State and the municipalities treat the units and the individual violations that may exist within units as part and parcel of a State inspection. What they used to do, until it was clarified, was they would come in to Mrs. Jones who purchased her condominium unit and inspect it as if there was some landlord responsible to fix things. Mrs. Jones -- or actually, not even Mrs. Jones would get the notice. The condo association would then get a notice, "Please compel Mrs. Jones to paint her kitchen. It looks rotten."

Well, I am happy to say that that largely has been dealt with internally by DCA, but in no written way that I could ever get my hands on. Now they tell you that for owner-occupied condominium units their only jurisdiction is to come in to inspect for health and safety issues. They won't tell you what they are. You know, "Trust us. We will tell you when we get the opportunity to inspect."

They never even ask me who owns the units and who rents them out. So my first recommendation is, the State ought to be compelled to give adequate notice of an inspection, and they ought to tell us, "Provide us with a list of the record owners and the property so that we can distinguish between owner-occupied units and those that are rented out." If they want to treat the rented units differently, fine, but at least understand who falls into that category.

Once they come in, they ought to be telling us, in advance, the specific issues they are looking to find within an owner-occupied unit. Over time, I have gotten a pretty good feel for it. Generally, they are looking for the presence and the batteries included in smoke detectors. Most of them, although not all, are looking for something other than metal switch plates in the bathroom, on the wall and on the light switch. It would be nice for them to tell us that, because if that is what they are looking for, it would give us the opportunity to get a notice out to the owners in advance, "The State is coming in. This is what they are looking for. Please make sure that you comply." Instead, we end up with a second report, violations listed, and this does absolutely no one any good, other than wasting the time and money of everybody concerned.

ASSEMBLYMAN CORODEMUS: Are they still going to the associations?

MR. PESCE: Yes, and that is the other problem. The State refuses to acknowledge that these units are owned by

owners, and that it is not the association's responsibility or place to be the middleman. They view this as a multiple dwelling, and they are going to issue interior unit violations to the association on the theory that the association has something in their documents to empower them to gain access to units to abate them. They have never asked me for one set of documents of my association to confirm that. They came up with this generic theory about it with absolutely no proof.

My recommendation there is: It may be more administratively convenient for the State, but they ought to be asking for a list of owners and they ought to communicate with the owners directly with respect to individual unit violations. Those are the people who own the units; those are the people who ought to be responsible to fix any problem.

To the extent that cannot be achieved -- and I have become a little bit jaundiced about that -- at a minimum the regs ought to provide-- There ought to be regs on this issue; none exist. If there are regs, if they won't go directly to the owner, at a minimum they ought to put something in the regs that gives us the ability to pass along any fines to our owners so the association is not left holding the bag for something that legally they are not responsible to abate.

If you hear some general frustration as I talk about this, it is because we go through it every day. It is an area where the State, I think, has seriously overstepped its bounds. I think things get better internally with the DCA in addressing this, but they have never done it the right way, which is to put forth a set of regulations that everybody can follow and make some sense out of.

ASSEMBLYMAN CORODEMUS: We appreciate your coming. You have brought a lot of good points to our attention.

MR. PESCE: Thank you.

MS. EAKER: Mike, I have a question for you: In the towns you are located in-- Do you have towns that have

separate registrations just for the buildings, not linked or not having anything to do with inspections?

MR. PESCE: Yes.

MS. EAKER: They just require you to--

MR. PESCE: Not across-the-board, but here and there you have municipalities.

MS. EAKER: They require you just to register your property?

MR. PESCE: Correct, generally on a per-unit basis per year. You register, and you pay a duplicate fee for the pleasure of them coming in and doing a duplicate inspection.

MS. EAKER: Some of those towns also have their own vacancy inspections?

MR. PESCE: I'm sorry?

MS. EAKER: Vacancy inspections?

MR. PESCE: COs on vacancies, correct.

MS. EAKER: Aside from their five-year cyclical?

MR. PESCE: Correct.

MS. EAKER: And then you have a fire inspection?

MR. PESCE: That also is piecemeal. That is where I must tell you I get very confused. We have a number of towns doing annual fire inspections now that are generally doing duplicate work with the five-year cyclical.

MS. EAKER: Is that a different inspection than the State fire inspection?

ASSEMBLYMAN CORODEMUS: Yes.

MS. EAKER: Do you have elevator inspections? Are those also separate?

MR. PESCE: Yes.

MS. EAKER: Are there any other kinds of inspections that you are aware of?

MR. PESCE: None that jump to mind, but they probably exist. I mean, it really is a confusing patchwork.

MS. EAKER: Do any of the towns-- What I am trying to get at is, there are two layers here; one is the municipal, and then there--

MR. PESCE: I shouldn't say there are no other inspections. We are also heavily regulated -- those of our properties with swimming pools, you know, where you get--

MS. EAKER: And that is a different regulation?

MR. PESCE: Yes.

MR. HARTMAN: Mike?

MR. PESCE: Yes?

MR. HARTMAN: You're saying that you are-- Under the condo associations, you guys are regulated under this multiple-housing inspection by the Department of Community Affairs?

MR. PESCE: Correct.

MR. HARTMAN: Boy, this is news to me. This is the first I have heard that. I think some of the guys here within my own field--

MR. PESCE: Well, maybe I should not have conceded that issue so quickly then, huh?

MR. HARTMAN: I think originally in the Task Force we were talking about multiple apartments and stuff like that. Now, if they are throwing condos in here--

MR. PESCE: They're in.

MR. HARTMAN: I mean, every community, probably, in the State of New Jersey has two or three condo associations going. I mean, the impact on those things has to be drastically--

MR. PESCE: I'll tell you, it is becoming a larger and larger issue as time goes on. I am active in our Legislative Committee in CAI, and I just recently spoke to a group in South Jersey. What is happening now is, I think a lot of your communities didn't even know they were subject to it, and they are getting their first notices. Those that were built in the

boom times of the late '80s are just at the point where they are triggered for the five-year inspection, and this is news to them, too. They are absolutely amazed to find out that the State has jurisdiction over them.

MR. HARTMAN: And the State, itself, is sending the paperwork directly to the condo association, and not the individuals who own them?

MR. PESCE: Correct.

MR. HARTMAN: Okay. Thank you.

MR. PESCE: The State, you know, in addition to inspecting the units, is also inspecting the common areas, where the association is the right entity to look to.

MR. HARTMAN: Oh, yeah, it will.

MR. PESCE: But they go beyond that.

MS. EAKER: Mike, there was one change that was made when they increased the DCA inspection fees that addressed--

MR. PESCE: Self-inspection. Yes, there is a self-inspection mechanism with the fee-raising amendment available to condominium associations that has three criteria to it in order to be eligible. I have yet to have an association meet all three. They are: built after '78; less than three stories; and more than 80 percent owner occupied. So if you meet those three criteria, you have the option, or at least you have the right to say to the State, "We will self-inspect." That raises a whole host of other issues, though, one of which is: Does the association really want to take on the potential liability of self-inspecting? It would be one thing to say, "There is no inspection, and, therefore, there is no legal requirement to do an inspection." It is another to say, "There is one." An association-- You have now taken on the burden.

You know, I am not sure I would want to defend that lawsuit when it comes, when the association misses something.

Somebody would make the argument that the State would have picked it up had they been authorized to come in.

MR. HARTMAN: Okay. In that sense, does the State still charge a fee relative to this noninspection?

MR. PESCE: It is my understanding that they waive the fee in that instance.

MR. HARTMAN: Okay.

MR. PESCE: There was one other amendment made at that time, too, which was the substantial compliance waiver, if you will. The regs now say, "If after inspecting 20 percent of the building the inspector finds" -- I think it was -- "a substantial pattern of compliance, they can then say, 'We're finished,'" and they waive the fee for the balance of the 80 percent of the units. I have asked for that in every instance, and I have never had it.

MR. HARTMAN: Okay.

MR. PESCE: For buildings that, you know, to the naked eye look fine. You know, they are going to find something, and they would rather generate the fees than not.

MS. EAKER: So you have not been perfect yet?

MR. PESCE: No, and I rather doubt that I will ever see the day.

MR. BAKER: What branch of DCA does the five-year cyclical?

MR. PESCE: The Bureau of Housing Inspection.

MR. BAKER: What does the fire inspector inspect in your facilities?

MR. PESCE: In the units, or on the property in general?

MR. BAKER: They do public parts of the building, but what about the units?

MR. PESCE: With the units, if you get them to understand what you are -- and that is a big "if" -- they are generally looking for smoke detectors; they are looking for the

presence of something other than metal switch plates in the bathroom. But then it can run the gamut. I mean, during a recent inspection I had a couple of weeks ago, they told me we needed chain locks on the unit entry doors. That is the first time I ever had that one imposed on me.

MR. BAKER: It's a private dwelling, though.

MR. PESCE: Well, that was my impression, you know, and where do they come off talking about people's security, when they bought their units-- I am not sure how they get to that. They certainly don't come and inspect single-family homes.

MR. BAKER: Even without a warrant.

MR. PESCE: Yes. So, that is my concern. If they are going to come into units, at the minimum they ought to be specific as to what they are looking for so unit owners can respond accordingly. At this point, when I get the notice from the State that they are coming in, I don't know what to tell the owners to be prepared for. I can tell you that I am prepared when I go into the units. They all think I am the bad guy for having invited these people in.

ASSEMBLYMAN CORODEMUS: Thank you.

MR. PESCE: Thank you.

ASSEMBLYMAN CORODEMUS: Next we will take Dr. George Corwell. Then we will have Don Legow. Don, you will be up next.

G E O R G E V. C O R W E L L, Ed.D.: Good afternoon. My name is George Corwell. I am the Education Director for the New Jersey Catholic Conference. We represent the Catholic bishops of New Jersey. They have a special interest, obviously, in the work of your Task Force. Specifically, we ask that you review the fee structure imposed upon nonprofit corporations and religious organizations in regard to life-hazard fees.

Other State agencies have routinely created exemptions from the fee structures for nonprofit corporations and religious organizations. An example of such exemption may be found in N.J.A.C. 7:14B-3.4 by which these organizations are exempt from the registration fees for underground storage tanks. We believe that such exemptions may easily be justified on the basis of the savings which these organizations provide to the taxpayers of New Jersey by the operation of their social service and educational institutions. For example, the New Jersey Catholic Conference operates over 470 schools which save the taxpayers of New Jersey over \$1.2 billion annually. Additionally, we operate homeless shelters and other social service agencies which are subject to the fee requirements imposed by the Department of Community Affairs.

There have been several attempts by the Legislature to reduce the burden of these fees on the nonprofit community. In March 1990, the Senate County and Municipal Government Committee held hearings on Senate Bill No. 213 sponsored by then Senator Paterniti. This legislation would have exempted nonprofit corporations and religious organizations from the payment of these life-hazard fees. However, the Committee did not vote on this legislation, and instead, asked the Bureau of Fire Safety to form a committee, which would include representation from the nonprofit sector, to study the impact of the current fee structure. Such a committee was never formed.

On November 9, 1992, Assembly Bill No. 910 was favorably voted on by the Assembly Local Government Committee and is presently assigned to the Assembly Appropriations Committee. This bill would exempt nonprofit religious corporations from the payment of these fees for fire safety inspections.

However, since the class of exempt organizations has now been limited to "religious organizations" in this

legislation,, constitutional impediments have created roadblocks for A-910. A 1989 Supreme Court decision -- Texas Monthly, Inc. v. Bullock -- emphasizes that benefits derived by religious organizations must flow to a large number of nonreligious groups as well; otherwise, the test of the Establishment Clause of the First Amendment may not be met. A sufficiently broad class of exemption is contained in N.J.S.A. 54:4-3.6, which represents the real property tax exemption for nonprofit organizations. Thus, our current dilemma remains how broad the exempt class must be in order to meet the concerns of both the Department of Community Affairs -- which claims a significant loss of revenue by broadening the class -- and the Constitution.

We hope that your Task Force will review this information and devise ways to provide relief from these fees for religious and charitable organizations which currently do much of the State of New Jersey's work in the areas of social service and education. We believe that all departments of State government should provide a uniform exemption from regulatory fees for organizations which continue to provide much needed care and educational opportunities to the most neglected members of our communities.

We thank you for the opportunity to address these concerns this morning with the members of the Task Force.

ASSEMBLYMAN CORODEMUS: Don?

D O N A L D L E G O W, ESQ.: Mr. Chairman, members of the panel, I am Don Legow. I am an owner/operator of apartment complexes in New Jersey. I own and manage about 21 in various locations from Bergen County to Camden County. I am also currently Vice President of National Apartments Association, and the Chairman of that body's Regulatory Legislative Committee. I, too, have to plead to being an attorney.

ASSEMBLYMAN CORODEMUS: It's okay. There's nothing wrong with that.

MR. LEGOW: Well, you know, as a previous lady indicated, you have to apologize in some cases.

I would like to address a lot of the issues that Mike Pesce has already touched upon; for example, the way that State inspections are carried on and some of the delays that are occurring throughout the municipalities and throughout the State on various other items that go to the State. My particular thing is elevators, and I will get to that.

Let me first address the five-year State inspections. When we first negotiated with the Department of Community Affairs the so-called 20 percent rule, we said, "Look, if you are getting out there you are going to find that you go through the inspection and you find 20 percent of the job is virtually in great shape. Why do you have to inspect it?"

I ran into that not too long ago. We have an apartment complex in Bergen County. An inspector came out. He went through 86 apartments in one day. After he had gone through 35 -- there were two violations -- they were all the same. One of the violations was, they had changed the rule and location of the smoke detector near the bedrooms. We had to change them all. We had to move them four feet. The other one was, we did not have a peephole on the outside door. We opened the door into a vestibule. This was a two-story garden apartment.

When my superintendent called me and told me that was what they had found, I said, "Well, you just stay there. I am going to call up." I called up and I said, "Why can't we use the 20 percent rule? This is what it is designed for. The person came in and said there were no violations anywhere else; this is the only thing." Well, about five weeks later we finally got a ruling that said, "No, there was a violation. It wasn't 100 percent free of violations." There were no other violations. There were no cracks ruled; there were no floors

that had to be done; no painting had to be done. The place was in tip-top shape. It is an expensive place. We were told, "No, you had a violation. Therefore, we had to inspect all of them." The upshot was, they inspected the other 50-some-odd units in another day.

I bring up the time period because I understand from Jacque Eaker that the Department apparently uses 2.9 units per day. I'm telling you, that entire 136-unit job was inspected in two days. Now, you didn't sit there and do nothing; you went through the apartments, and they were in relatively good shape. But it was done. One of the things is, my superintendent scored. He had the keys to every apartment, instead of everybody not having a key.

That rule is totally useless. It was put in there to help people and cut down on paying the enormous fees, because you don't really have to go and inspect all of these things. The way it is being interpreted, forget it; it is totally useless.

The other thing that was put into the law, totally useless -- well, not totally, but mostly useless -- was if you had a municipality that also required an inspection for a vacancy, you didn't have to go in and reinspect that if it had been done within a six-month period. Well, we meticulously keep those records and we give them a week's notice that we are going to come in. I go out and I get all the information. I get all of the information here on all of the apartments that were recently inspected.

I have three apartments in one Mercer County community, and in one of them the inspector recently said, "Well, you are absolutely right; no problems. Forget about these, these, these, these," and we went through the rest of the job quickly. We had about a third turnover -- 80 apartments. You just forget that you have already been approved for those. A mile-and-a-half in length, a 336-unit

job. I gave them 65 move-ins in the last year, and they said, "Forget about it." To the municipalities, that doesn't mean anything," and I had to go through and reinspect the entire job. Now, it was designed to help us. It was designed to say that we don't want to duplicate the fees. The way it is being implemented -- and it is on an individual basis, I guess, because the Department has no standardization on it-- They said, "Forget about it." So, again, we are paying a tremendous fee, when we have already paid it to the municipality. That municipal fee is something on the magnitude, I think in that municipality, of \$30 a unit per inspection. Not only that, but they passed a law in the municipality that it couldn't be passed through to the payer, so we absorb it all, and we absorb it again on a five-year inspection.

I think you also have to look at who is doing these inspections. If these inspections are being done by the State, it is one thing. What they are looking for are the bad jobs. They want to make sure that you don't develop bad jobs. If they are being done by the municipality, they are only interested in getting -- in converting a middle-class apartment into a total palace. It isn't going to be done, but they are treating it as if it is. Some of the picayune things that we have run into are just amazing. If you have seen these things come down from DCA, they say, "Repair waterproofing wall." Well, you don't know what that means. Actually what it turns out to mean 90 percent of the time is if we have a piece of grout missing in a tile about that much (demonstrates) behind the wall. We look around and say, "Well, what do you want me to do?"

We had 1100 individual violations on a 200-unit job one day, and it was in perfect condition. Sixty percent of that apartment had been inspected by the municipality in the last -- I think it was 15 months. It was unbelievable. It is because they are just looking and writing things down like

this: "Paint the wall; paint the ceiling in the living room. Paint the wall; paint the ceiling in the bedroom. Paint the wall; paint the ceiling in the kitchen." Every once in a while they throw in, "Paint the entire apartment." Now, painting the entire apartment you would think is more, but that is one violation, and the other was eight. So you have one apartment where it says, "Paint the apartment," and the other one, "Paint each floor and ceiling, floor and ceiling, floor and ceiling," which is eight violations.

I bring this up because this is what happens. When the reinspection comes up, they don't say there is something they don't like. "That's no good." As Mike just pointed out, you get the \$2000 fines and you are wondering where they came from, and it is a \$50 minimum, no matter what you do, you know, as long as that is the best I can do with a \$50 minimum. I don't know where that comes from, but that is what it is.

Another problem with these inspections is that you can't argue with anybody. I have met with a lot of people in DCA and I have said to them, "Well, what do I do when a guy gives me all these inspections?" They said, "You have to come in and tell them to fix it." I had a violation on a 200-unit apartment project that is currently 40 years old. They said, "Fix the windows on the exterior. Repaint them and recaulk them." I said, "Which windows do you want done?" They said, "Okay, we'll tell you which windows: the front ones, the back ones, the side ones, and the other side ones -- the left side and the right side." That was all of them; every window is what they said.

So I stopped asking, because the other way I have a chance. If I do 80 percent of the windows-- I said, "Well, I thought I had to do all of them. Maybe I can negotiate." You can't ask some of these questions, and you are talking about a guy who may be the same person who issues you your municipal inspection. So on occasion you have one person. We have had

two or three municipalities where you have a five-year cyclical, a municipal inspection, and a fire inspection all done by the same person. You know, he wants to save himself some trouble and he wants to make his particular municipality great. He just hits you with everything in the world. That is not what it is designed to do, but that is what they are doing. It is a cosmetic thing. I had one that said, "We want you to patch some potholes." We said, "Well, okay, we'll patch them." They said, "Oh, no, that's not enough. You have to cover the whole thing."

Well, you mentally sit down and discuss it. "If I am going to sit down here and file an objection to it, and then get the State to say, 'Well, go out there and tell them exactly what to market out--'" I am not going to come up with anything in those four months. In some cases, I can't do it-- I can't meet with the inspector before the 14-day period -- the contestable period -- is over, so what do I do? Do I go to the guy or do I contest it first and then get somebody mad at me?

Those are the things that we find. Believe me, it is not an easy thing to sit down and say, "Now I am going to contest these things," because, you know-- I'll tell you -- and this is a true story; you are never going to believe it. We had a fire inspector come to look at one of my jobs, a well-to-do municipality in Union County. It is a 27-unit apartment complex; it has four buildings. Two of those buildings have fire separation walls in them. He said, "Well, that is six buildings, so you owe me \$50 a building for my fire inspection -- or \$300." I said, "No, there are only four buildings -- one, two, three, four -- and I owe you \$200."

Well, he said, "No, you can't do that." I said, "But that is what the law is. A fire separation wall does not create a new wall." Well, he went to my supervisor and he said, "Well, I am going to get my \$100 one way or another." Well, what do I do, appeal it? It is \$100. I gave him the

\$100, and I walked away. I am not going to antagonize this guy, because he is going to come back here and say, "You didn't put a label on that can over there," and he will fine me \$100. And that is the practice, so you just don't know what to do.

Even though you know -- and I as a lawyer know -- that I can really fight some of these things, there is only one way to fight them -- anonymously -- because you just can't go up to them and say that -- "I complain."

Let me give you another example that just occurred two days ago: Under the process, because I had to put in fireman's recall in a couple of high-rises I have down in Camden County -- a luxury apartment complex -- we said, "Let's not even bother fiddling around with retooling." We rebuilt the whole elevator: all new controllers, electric glide door openers, all that good stuff. We brought it up to ADA -- New Jersey ADA, which is tougher than the Federal ADA requirements. We gave the job out. We went in, asked for his permit, and he pretty much started to work almost simultaneously.

Five months later he finally got his approval from the DCA, which the local locality could not handle. Five months later he got his approval; the fee was \$1150. He had to submit that fee in four different checks that had to be sent back to him. He said, "Why do I even have to submit any of these things? I am going to do it to code. Go out there and check it. If I didn't do it to code, make me redo the whole thing." They pretty much agreed with him. But before I got involved in it, they said, "Because your elevator cab is too small" -- by about six inches in each direction -- "you have to get a variance." I called up because he was getting nowhere. A variance, they told him, is going to cost \$500, which I, of course, had to pay, and then my tenants would have to pay.

I called up and I said, "Why do we need the variance?" They said, "Well, it doesn't meet the requirements." I said, "But I am not trying to do anything."

You get a variance because you want to do something and you are deviating. This is there. I can't do anything about it. I am exempt." And that is the ruling that finally came down: "Yes, you are exempt. You don't even have to worry about it," and they gave us a building permit that it was exempt.

The elevator company told me that this was the second one they had done in the State of New Jersey under the new program. In Cherry Hill, where I have a lot of high-rises, apparently he went in and he did the exact same application. It took him three days. I don't know what the fee was, but it took him three days; in the other case, four-and-a-half to five.

ASSEMBLYMAN CORODEMUS: And they had the inspector in Cherry Hill?

MR. LEGOW: They had the inspector in Cherry Hill? Well, no, they didn't. Cherry Hill hired an independent contractor -- and independent inspector -- and they just turned it over to him. He said, "Yes, that's okay." Boom, done. Five months in the State of New Jersey.

Was that symptomatic? I'll tell you why I don't like to go to the State of New Jersey to do anything. I have had my fill for a good many years. I know when I go international, I talk to my friends in places like Atlanta and Phoenix, places like that. I ask them, "How long does it take to start a garden apartment from the time you buy a piece of property to the time you start the shovel going into the ground?" They said, "Well, sometimes it takes me nine months." So you can understand why there is a general reluctance to start working here. I know of no place that is less than three-and-a-half months.

I was involved here in Wall township. I was involved because I own a place in Brielle. A zoning application went through Wall Township. It was to my benefit; I can't complain. But this poor guy who was put through the wringer-- It took him anywhere from eight-and-a-half, nine months to a

year-and-a-half to get his rejection from the Planning Board until he appealed it. Okay? He wrote out an appeal. It was appealed again and it was rejected. That is the possibility.

Let me just add one other thing, because I know I have taken a lot of time. I don't know whether Jacque raised this question. I pay, in three different municipalities, at least \$15 per year. In one case that amounts to \$9000 for the privilege of having an apartment building in town, another \$1500 just to register the fact that I am there, and I give them a list of all of the tenants and the rents the people are paying.

These are some of the problems that we are running into. One of the other fees we are talking about is -- and you can ask Jacque-- We told you we have the fire, the five-year cyclical, the municipal when vacating. We even have a storage fee of \$50 a year for keeping an acetylene tank on our premises. I told the superintendent to take it off. He said it was too much trouble, so we paid the \$50 a year for him to leave it in the basement. These things just never ever end, and you don't know when they are going to pop up again.

I would be glad to answer any questions you might have. I appreciate the opportunity for me to speak. I want you to understand that I am representing an awful lot of apartment owners in the State of New Jersey through the New Jersey Apartment Association. I am just giving you the benefit of some of my experiences and some of the ones that have been passed on to me through the members of the Association.

ASSEMBLYMAN CORODEMUS: Thank you very much. If you leave your card with my aide here, we will be able to put you on our mailing list.

MR. LEGOW: Okay. Thank you.

ASSEMBLYMAN CORODEMUS: We are going to jump back to Jay Patack. Is Jay here? (affirmative response from audience)

J A Y P A T A C K: Rather than come in the back, I am going to come up front because there are a number of people with me who are going to precede me, if that is all right.

I am Jay Patack, from the Patack Construction Company. I am President of the Patack Construction Company. I am here representing the Eastern Monmouth County Chamber of Commerce; the Red Bank RiverCenter, which is, in our experience, one of the special food districts in Red Bank; and the Monmouth and Ocean County Building Contractors Association. I am here to speak on two particular issues.

ASSEMBLYMAN CORODEMUS: Excuse me. You will have to sit down and speak right into the microphone so the recorder can pick it up.

MR. PATACK: It's working now?

ASSEMBLYMAN CORODEMUS: Well, that is not a PA microphone. It is for the recording and the transcript.

MR. PATACK: Okay. Thank you.

At this particular stage, I am going to ask Mr. Spitz -- Charlie Spitz -- to lead off our discussion today. Charlie, you've got the hot seat.

C H A R L E S S P I T Z: Mr. Chairman, members of the panel, good morning. My name is Charles Spitz. I am an architect by profession. However, my area of expertise happens to be building and construction code faults in New Jersey, and nationally. I am really here today to bring to your attention a section of the regulations that poses some difficulties to those building owners who have buildings primarily within the urban centers of the State of New Jersey. That section of the regulations is N.J.A.C. 5:23-2.4, which in our profession is commonly called the "25/50% rule."

To give you some historical perspective, the 25/50% rule basically says that the 25 percent threshold and under, when doing renovations to a building-- I need to comply with current code standards at the discretion of the local

officials, and I will jump to that threshold above 50 percent. That threshold requires the building owner to comply with the requirements of the current code in total, when I am doing renovations that are at 50 percent or greater of the physical value of the existing structure. Between 25 percent and 50 percent, the compliance level is for those elements that I am installing. They must comply with current code requirements.

That threshold limit is based upon what we call the "physical value." It is determined based upon a building valuation table that is promulgated by BOCA International. I need to tell you that in 1992 and prior, that building valuation table was based upon perspective costs, and the purpose of the table as promulgated by BOCA was not to establish the 25/50% rule as New Jersey has it, but, rather, it was intended to establish a methodology for permit fees.

In late 1992, that building valuation table became a unit multiplier. Instead of a dollars and cents value, rather it was a specific number. Again, its whole purpose is to determine what the fees for permits are in certain municipalities. It is not used in the State of New Jersey. We are more than a year since BOCA has published a table that is on a dollars and cents perspective. Therefore, one of the questions that needs to be addressed -- and I am bringing it to you rhetorically -- is: How do we establish the physical value of the building when we no longer have a methodology to use?

The intent of that particular regulation was to say to the building owner that the cost of construction -- and I want to emphasize the word "construction" -- is to be used as the equater to that building valuation table. I am currently involved, as an expert, in a fire-damaged building in Burlington County. That building totals 996,000 square feet. The fire-damaged area -- and literally damaged to the extent that there was nothing left-- A part of the building totaled only 39,000 square feet. Quick math says to you, "That is

about 5 percent of the building." Our estimates of the costs of renovations are approximately \$4.2 million. However, the construction official has taken it upon himself to say, "I don't believe your numbers, and the entire building shall comply with the current codes in effect in New Jersey. That has cost my client in excess of \$15 million, because someone does not know how to equate simple math -- 49,000 square foot over 996,000 square foot.

Yes, we can go to court. My opinion is that we can win in court. However, the economic loss to the business owners in this particular building would cause us to probably go into 1994 before this lawsuit is heard. Therefore, they would be paying that \$15 million. Construction costs should not include -- and this is what this particular construction official has included in his opinion of construction costs -- the professional figures: building demolition costs due to the fire; cleanup costs due to the fire; cartage fees. We all know that cartage fees today are increasing because of our landfill costs. This should not be part of the "construction costs."

General condition costs: In the architectural and building professions, general condition costs include insurance, site construction offices, security costs, and things of that nature. They have absolutely no bearing whatsoever on the costs of construction.

Another item that needs to be taken into consideration when we look at this particular avenue is, if I want to install-- Let me use a faucet for a sink as an example. If I want to install a standard everyday faucet that will meet the code, I can do that. If, on the other hand, I have the money to afford one that is gold-plated, why should I be penalized for that additional construction cost? It may be \$300 or \$400 more for that single item. That is part of my construction costs. The 25/50% rule, in my opinion, is a little bit

archaic, and they need to look at something a little bit different.

We have that. I am not coming to you with a problem, not having a solution. I have the solution for you. In the previous edition of the BOCA National Building Code, we have a little chapter that is called Article 32, and in 1993, because of the recodification process, that is Article 34. They basically say the same thing. We just have a different way of doing it. Article 34 evaluates an existing structure. It evaluates it on three different criteria: fire safety, means egress, and general safety. I think those are the three elements that we will all agree are necessary in any existing building, and in any building we are going into in the future.

That evaluation process looks at -- and I will give you some examples, clearly not all of them -- the building height; the building area; the heating, ventilation, and air-conditioning systems; whether or not there is an automatic detection system; the exit and capacity of the building; the exit and travel distance; and whether or not there is a fire sprinkler system in the building. What it does in each one of those criteria is assign a point value system on which we evaluate the building. Then there is a magic threshold that you must meet within that criteria in order to say, "I have met the requirements of Article 34."

We should be looking at that type of a methodology in order to look at our existing structures in the urban centers of New Jersey, so that we do not have to go through, in some cases, that lengthy, expensive process of the 25/50% rule. In some other cases -- and let me link it to the Uniform Fire Code, because in some cases we may have a building that will meet the litmus test of Article 34 yet-- Because of provisions in the New Jersey Uniform Fire Code, we have to add something else to it. I think we need to get into the 20th century --

we are approaching the 21st century -- looking at something that is current, and not outdated.

You have heard some comments about some other areas also. Some of you addressed fire sprinkler systems. Let me digress a minute and go to some rural areas. Certain building classifications under the Uniform Fire Code require sprinklers. If I am in Sussex County, if I am in Burlington County, in an area that does not have a domestic water system, I cannot put a sprinkler system in a building and have it work effectively without having some type of an elaborate water-storage system. People who own restaurants and bars in some of the rural areas can't afford that type of an elaborate system. Some water companies in the State of New Jersey continue to charge water standby costs for sprinkler systems in certain buildings. Again, that becomes a very expensive item. That needs to be addressed, and, in my opinion, is not necessary.

We need to also look at credits for existing life and fire safety helmets within the Uniform Fire Code. They are not there. This is retroactive; you must do it without looking at the life/safety provisions that may already exist in that particular building.

Building codes are interpretive, just like the laws. If you give a law to an attorney, you may get one interpretation; you give it to another one, you may get another interpretation. Well, the same thing is true in the building code. No two people interpret the code the same way. That is one of the problems we have. We need to have a newer, realistic system by which codes are interpreted in New Jersey.

One of the comments also dealt with the classification of building inspectors in New Jersey. My particular opinion is that a municipality has Class 1 buildings; they should be forced and required to have a Class 1 inspector. What that will in fact do, then, is reduce that time waiting period that

everybody is talking about within the Department of Community Affairs. It has been my experience that if I can deal with the local official on a one-to-one basis, I can get my set of drawings in and out of his office in a week-to-two-week period. Clearly, that same luxury does not exist with most architects, most builders, most building owners, when they deal with the Department of Community Affairs.

Thank you for the opportunity to speak to you. Clearly, I am open to any questions.

ASSEMBLYMAN KELLY: Are there any questions from the members of the panel? (no response) Do you have some more people with you, Mr. Spitz?

MR. SPITZ: Yes. I would like to take this opportunity now to introduce to you Mr. John Bowers. John is President of the Red Bank Special Improvement District. He will give you a perspective from that.

ASSEMBLYMAN KELLY: We are not going to have a lunch break. There are only three more speakers; that is why there will be no lunch break. So, please be patient.

J O H N B O W E R S: Thank you. My name is John Bowers. I am President of the Red Bank Special Improvement District. The Special Improvement District is a self-taxing entity in Red Bank where we are trying to make the downtown the best that we can make it.

We formed an Economic Committee in the Special Improvement District, and then we formed an Intergovernmental Code Committee from that. It soon became very clear to us that all the property owners with buildings that were built prior to 1977 were having the same problem. It is just not economical to bring them up to code. We have a very good code man in Red Bank. He enforces the code extremely -- especially the Fire Code -- extremely well.

We found Article 32. It is not operative in the State of New Jersey; it is in Ohio. We think this would be a way to

help investment in the downtowns, because in two case studies we have -- which we will give you -- we found that it saved 25 percent to 30 percent to bring a building up to code. Again, BOCA wrote it, so we are not trying to cheat in any way.

Article 32, as Charlie said, gives credits to certain things in the local buildings. If a building has a sprinkler, you get credit for that. A building may have an operable window; you get credit for that. In the 25 percent/50 percent rule it is the building inspector's and BOCA's way or the highway. You have to bring it up all the way or you do not get it, so we would hope that this Committee would give some thought to that.

Secondly, since we're here, one of the things that we feel is a problem all the time in the older buildings is, we get a set of plans approved by the building inspector; we start to build it out; we get finished; and the building inspector comes in and says, "Oh, by the way, I forgot to tell you to do this." Then we have to do it. We don't think that is fair. We think if we comply with the plans and the building inspector has approved the plans, we ought to at least get three to five years the way it was built, because it just costs money, on top of money, on top of money.

That is all I really have to say. Thank you.

ASSEMBLYMAN KELLY: Any questions of Mr. Bowers from the panel? (no response) No?

MR. BOWERS: With that, I would like to have one more minute to bring on Bud Natelson.

ASSEMBLYMAN KELLY: Bud, come on up.

BUD NATELSON: Thank you, John.

Mr. Chairman, members of the Task Force: My name is Bud Natelson. I own two buildings in Red Bank. I am a consultant to the retail industry, but I am here as a Committee Chairman of the Red Bank RiverCenter, the group that we now call our SID.

As a small owner of buildings in an urban setting in Red Bank, we think we have problems that are common to a lot of other communities besides Red Bank in this State, but are not shared by developers of new buildings. By its very nature the rule of 25 percent or 50 percent would not apply to new construction; it would apply to existing construction, which is the kind of building stock we have. As John mentioned, the practice of some code officials using the final inspection as an opportunity to add on requirements due to existing conditions in the building is, again, unique to the existing building, as opposed to a building that is built according to plans from scratch.

We feel Article 32 -- which I understand is now designated Article 34 -- was written specifically to address problems of existing buildings. We think that if adopted it would help the owners of all the buildings. If it were adopted in New Jersey it would help us to keep these buildings safe and useful. The change also would attract other investors to develop older properties because the cost would be less onerous for needed improvements.

It is our understanding that the State wants to encourage -- according to the Master Plan -- healthy urban centers and preserve some open space in this State, as opposed to fostering -- albeit without intending to -- decaying urban centers and sprawling suburban development. So we think that this type of program would be helpful, and we hope you will consider it.

I would like to ask Jay (sic) to say a few words in conclusion. Jay is a major builder in our area. He has a special affection for Red Bank. He is the past-President of our Chamber of Commerce, an organizer of a bank in our area, and has many civic affiliations. He has done a lot of jobs for my own firm, some of which he might not have done if it were solely for economic incentive. But he is familiar with the

problems of all the buildings like mine, as well as new construction.

Thank you for the opportunity to speak.

MR. PATACK: Good afternoon.

I would like to take the opportunity to conclude on the issue of Article 34 as we have been talking about here, as well as one other issue subsequent to that.

Article 34 is, as Charlie Spitz mentioned, part of the current BOCA code and is available for implementation. From the developer's and/or contractor's standpoint right now, it has been mentioned that it is cheaper for me to go out in the country, buy a new piece of land, and build a new building, than it is to go into an urban area, purchase an older building, and reconstruct it. This is particularly true in the case of the 25/50% rule which was mentioned.

Article 34 is something that gives an alternative to the current regulations for older building owners to upgrade their buildings, to release their buildings, re-rent their buildings, and put them back on the tax rolls, in many cases. The overall technical aspects of it tend to be a little bit too complicated maybe to go into, in a forum of this nature, but we would like to urge this panel to look into it in a little more depth, as we are, over the course of events, and consider its adoption.

The second thing I want to talk about briefly -- and this is more as a building contractor -- is the issue that has been preached about by several different people so far; that is, both the cost and the length of time it takes plans to get through the Department of Community Affairs. The costs, I think, have been belabored by many previous speakers, and I will not speak to them other than to agree that the length of time -- and I think there was a discussion by a couple of different people -- it takes to get projects through the DCA, in many cases, is not only costly, but unfair.

One point: I think there was a question answered as to how long it takes at this stage in time to bring a project through. I have recently been involved in two projects where it has taken an aggregate of six months, in both cases, to bring projects through. I can also go back to the late '80s where I had as much as a year for approval from DCA. I can speak in a particular instance to a project not a half a mile from here in Ocean Township, which was a school. We fought for DCA approval to coincide with the Certificate of Occupancy so they could open the school on time. We made it with one day to spare.

It wasn't mentioned, but DCA is under a time constraint with the approval of applications, so we feel that they did process-- According to code, they have a 20-day period of time to review and return your plans. However, as any developer, contractor, or owner will tell you, if you choose to fight or argue the 20-day period of time, you will find your application very quickly is either deemed incomplete or it is sent back with a minor revision, which again would not allow you to proceed. This is a definite problem, and a very, very expensive problem.

There is an answer to this: Five or six years ago, the alternative to DCA-- There were private firms within the State of New Jersey where a developer, architect, or owner could take a set of plans, and for an additional fee have their plans reviewed in a more timely fashion. That was done away with, for whatever reasons, in that period of time. Reinstating the privatization of planned review on a competitive basis potentially with DCA would not only hurry up this process, but over the course of events would cut down on the fee structure, I believe. It would certainly give developers an opportunity to look at their alternatives of costs.

Thank you. I would be happy to answer any questions anyone may have.

ASSEMBLYMAN CORODEMUS: Thank you very much.

We have three registered speakers left. In light of the hour, I ask that you keep your comments brief. I appreciate your patience thus far, and I do not want to cut you off. If you feel that some of the testimony will be repetitious, you know, we will be glad to take written testimony.

MR. CATTANO: Actually, John, a question on Article 34: Is the intent that it applies to existing structures which are planned for renovation or repair, and also for existing structures which are not intended for renovation or repair?

MR. BOWERS: (speaking from audience) My feeling, Andy, is that it can apply to both.

MR. CATTANO: To both. So I guess what you are shooting for is perhaps an option to Subchapter 4 of the Uniform Fire Code; that is, the Fire Safety Code retrofit coded -- which several people testified about today -- and also an alternative to the 25/50% rule in the UCC.

MR. BOWERS: That is a valid observation.

ASSEMBLYMAN CORODEMUS: Okay. Ed Kelly; then Nick Bozine; then Norm Sanders. Mr. Kelly?

EDWARD KELLY: Good afternoon. I'm Edward Kelly. I am the President of the New Jersey State Council Electrical Contractors. I was asked to come today by our Executive Director, Mark Husik, who had a previous appointment.

We just have a few things, and I promise to make it very short. I don't know if it has anything to do with this, after sitting here all morning listening to what is going on, but we represent approximately 1200 licensed electrical contractors. The concerns we have with DCA, the municipalities, and stuff like that, are with the part-time inspectors. The inspectors show up at 8:00 at night, 9:00 at night to do rough inspections on houses with no lights. They ask the customer, "Do you have temporary lighting set up? We need lights," and stuff like that. To go file permits in some

municipalities, we have to come in at 8:00 on a certain day of the week. All this takes time; all this takes money.

I am from Ocean County -- Jackson. I applied for a job. I had to wait three days. They called me up and said, "It is 'X' amount of dollars." I went back and paid the check; gave them the check for it. Three days later I had to go back and pick up my permit. All this takes time, takes money, and what do I do? I have to pass it on to the consumer, who has to offset the cost here, which is now adding on to the price of the initial job. That is one thing.

Another thing that is a concern is the fact that we would like to see the possibility of getting a Certificate of Approval for the job we do. Okay? They do issue COs. I come in and put an outlet in your house. I don't know if it is approved or disapproved. I didn't receive a letter that it wasn't approved; I didn't know it was approved. Now, all of a sudden, God forbid there is a fire; it goes to that outlet. Who's right, who's wrong? I never got that certificate that said it was approved. It was filed, but there is no record of it.

Another thing I would like to bring to your attention is the fact that-- Say I go into a commercial building and I put in exit lights and emergency lights. An inspector comes in and finds out that the panel is in violation. All right? He holds that against my job, because that panel is in violation. That has nothing to do with me. That should be taken up between the inspector, the municipality, and the owner of the property, not me. I just came in and did a job and made \$50, and now I am stuck with a panel that is in violation. I, as a professional, already brought it to the attention of the commercial owner, saying, "That is a Federal panel. It is no good no more. That should be upgraded or replaced." Now the inspector says, "I want it out," and I am stuck in the middle because now my job isn't going to be approved.

Basically, it seems to be a hassle lately for a contractor with all the above-mentioned, because of the fact of the way the economy is today. I come in and have to file for a permit, "Do this." Legally I have to do it being an electrical contractor. A lot of people are out of work here today. They are doing it on the side, not taking out permits and everything. It just seems as though something has to be done. How, I haven't got the answer, but it has to be looked into, because there is a lot of moonlighting going around. It is going to hurt the consumer in the long run, because I have to do it legally, take permits out, and stuff like that. I have to put another \$50 on it, where John Doe can do it for 25 bucks. It is not right.

MR. CIPO: May I just address one item?

MR. KELLY: John?

MR. CIPO: Your concern about your being held in violation on a panel on a small job-- Our policy is not to violate the contract if it did the particular job. We would okay that particular job, but we do have an obligation to bring it to the notice of the owner and the municipality if there is a violation in a building. That does not condemn your job.

MR. KELLY: Okay. Well, we have had them in the past -- and there is one going right now-- A gentleman is taking it to court because it is a basic principle right now that his job is approved, but the inspector does not like the way that somebody did something else, and he is making them pay for it.

MS. DAUB: The inspector, by law, must only inspect the items that are listed on the technical section with which he arrives at the job. He can approve what is on that technical section. If he is going beyond that, then you have an argument, but then you have to take it to the municipality.

MR. CIPO: That does not mean that what the inspector is saying is that the panel is in violation. Someone must be

notified that a violation exists, but it should not hold up your approval.

MR. KELLY: Right, but the way it has been going on, they are making us the heavyweight. Now, you're right; they are only supposed to come in and inspect what I applied for. But now if I mention that to them and say, "You know, you can't do this. My job is good," then the next thing you know the next permit you are applying for takes 72 hours to get it inspected or, you know, rough it.

There is something that has to be done. If you put pressure there, they are putting the pressure on us. Now, in turn, the builders are putting it back on us because we are not getting our inspections.

MR. CIPO: But I think you have to realize that if you have compounded a violation that exists, then you are partially responsible for that violation.

MR. KELLY: Yes, right.

MR. CIPO: But as long as you have nothing to do with the violation, then it is not your obligation. But we do have a responsibility to report that violation to the owner and to the municipality.

MR. KELLY: The major thing, though, is the fact that after-hours inspections, because they are part-time inspectors-- We find out that part-time inspectors are working full-time for another township. They are picking up a few extra dollars to do it someplace else. Also, applying for permits after hours-- I think it is Stanhope and Fanwood where you have to show up either Saturday mornings or 8:00 at night for a permit, and that is only Mondays and Wednesdays -- or, that one is Saturday. There is another one that is only Mondays and Wednesdays, so then you have to wait until the following week to get approvals or, you know, go back and pick up your permits.

I have with me Fred Dirla, who is also one of the officers. Fred?

F R E D D I R L A: My comments will be very brief. I am finding a lot of difficulties with inspectors because I am running into, not inspectors, but personalities. There is so much personality conflict out in the field right now with inspectors that I find it very difficult to deal with them. I don't know what can be done, but I wanted to bring it to the Task Force for your opinion.

I just want to bring up one example: I have been a licensed electrician for 23 years. I had a senior citizen come to me and ask for the service of one outlet to be put in a bedroom so she could watch television; she is bedridden. I gave her a price of \$25. That is a lowball price, really. I said, "I have to file a permit for it." I went to Bridgewater Township, and their minimum fee was \$75 for one outlet. I had to turn around and charge a senior citizen \$100 for a convenience outlet. I don't think that is fair either.

There should be some rate difference between one outlet and 50 outlets. Your basics go-- I think the minimum fee goes up to 50 outlets in a drawing.

ASSEMBLYMAN CORODEMUS: So we are talking about some reasonableness for the fees -- how they can explain that to you.

MR. DUFFIELD: Even the State charge would only be \$36 for one to 50 outlets.

MR. HARTMAN: No, it would be \$46 minimum.

MR. DUFFIELD: Thirty-six.

MR. HARTMAN: Yeah, 36, but he would still have to pay the expense of something else. (Mr. Duffield's response here indiscernible; both members speaking at once)

MR. DIRLA: Well, the minimum fee for Bridgewater is \$75, which I think is outrageous.

MR. DUFFIELD: That is a municipality problem.

ASSEMBLYMAN CORODEMUS: Thank you, gentlemen.

MR. DIRLA: Thank you.

ASSEMBLYMAN CORODEMUS: Nick, are you still with us? Nick's gone? (affirmative response) Norm? Thank you for your patience, Norm. You have our captured attention now because you are our last witness here, so make it--

NORMAN SANDERS: Nick could not make it today.

My comments will be very much in line with Larry Wiessmann's. Larry gave testimony earlier. I am in the fire protection installation business -- sprinkler systems. I am representing today the American Fire Sprinkler Association.

I have submitted written testimony, and I will briefly just go to the high points of it. Really, our concern is with the impending regulations for certification of installers in the field. The fees of \$1650 for a company and \$250 for each certified technician, frankly, is very impressive. Electricians and these fellows can probably verify it. I believe their annual fee is \$75.

UNIDENTIFIED SPEAKER FROM AUDIENCE: Right.

MR. SANDERS: If I have 20 people in the field at \$250, that is a lot of registration fees, and you have to remember we are only screwing pipe together. It is not brain surgery.

I think it is just, perhaps, a way for the administration of the regulations to pick up a \$300,000 annual fee to administer their regulations.

ASSEMBLYMAN CORODEMUS: I appreciate that. We will take your written testimony into consideration.

MR. SANDERS: I think that is a lot of money to make sure that the pipe gets put in correctly.

ASSEMBLYMAN CORODEMUS: Thank you very much.

MR. SANDERS: You're welcome.

ASSEMBLYMAN CORODEMUS: I would like to thank everybody for their patience. I would like to thank Chairman

Kelly for coming down. It was a great honor to have you down here in my district, Chairman Kelly. I thank all the Task Force members for all their work thus far. We have a little bit more work to do. At the conclusion of this meeting we are going to have a real quick meeting to go over some things, and to lay some groundwork for our next installment in this process.

(MEETING CONCLUDED)

Kelly for coming down. It was a great honor to have you down here in my district, Chairman Kelly. I thank all the task force members for all their work this far. We have a little bit more work to do. At the conclusion of this meeting we are going to have a real quick meeting to go over some things and to lay some groundwork for the next installment in this process.

(MEETING CONCLUDED)

APPENDIX

APPENDIX



New Jersey Association of Children's Residential Facilities
590 Highland Avenue, Ridgewood, N.J. 07450, Telephone: (201) 652-5539

Julie Turner
Executive Director
(201) 652-5539
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TESTIMONY, JULY 20
TASK FORCE ON UNIFORM CONSTRUCTION CODE, FIRE SAFETY
AND HOUSING CODE ENFORCEMENT AND FEES

I am Julie Turner, Executive Director of the New Jersey Association of Children's Facilities. NJACRF represents eighty private programs serving abused, neglected and emotionally disturbed children and adolescents requiring out-of-home treatment in group homes, residential treatment centers, and shelters. These children are placed by the New Jersey Department of Human Services. The majority of children requiring out-of-home residential treatment are served by the private sector rather than by costly state-run programs. The brochure provides additional information on the Association, the programs, and the children served.

I appreciate having an opportunity to appear before you to discuss the impact of the New Jersey Uniform Fire Code on the private children's residential treatment system. Not only are we heavily regulated, we are also inadequately and inequitably funded. Years of minimal cost of living adjustments inadequate to meet increased costs combined with increasingly stringent requirements and additional regulations continue to undermine the quality of care and, indeed, the continued existence of some programs; a rate setting consultant, hired by the Department of Human Services, noted that many agencies are in "extremely precarious fiscal shape". The Uniform Fire Code requirements place additional fiscal burdens on an already underfunded system. While the Division of Youth and Family Services worked with the Department of Community Affairs to develop a "Plain Language Summary Guide" and conducted an informational workshop on the myriad requirements, they were generally unable to offer anything but sympathy to deal with the additional costs.

The code's "Retrofit Requirements" for small (serving 6-12 children) group homes, with DYFS estimates (compiled for Capital Bond) of average costs, include:

Fire alarm system	\$10,000
Emergency lighting	\$2,000
Illuminated exit signs	\$1,000
Fire proof bedroom doors	\$2,500
Second means of egress	\$10,000
Stove suppression system	\$5,000
Fire doors	\$2,500
Interior finish	?
Stair handrails	?

This does not include ongoing costs. In addition, some residential treatment centers were required to install sprinklers. For one facility, for example, the sprinkler cost of \$80,000 was well over 15% of their annual operating budget.

While the actual additional costs varied by facility, one-time costs of between \$10,000-\$20,000 were not uncommon for small not-for-profit group homes with an average annual reimbursement from the state of \$250,000 in 1989. To place in perspective the burden of the additional cost of \$10,000 to \$20,000 for group homes, the recent COLA's of 3% for half a year resulted in group homes receiving a total average increase of only \$5,000 annually to cover all additional expenses. Given such limited funding, many programs could not afford to meet the retrofit requirements. The Uniform Fire Code also imposed additional and costly requirements for new programs, or for established programs relocating to a new facility. While not opposing requirements which improve life safety for our children, we would ask that you consider the following issues:

1. STATE MANDATE; STATE PAY: "State Mandate, State Pay" has been a strong thrust of the legislature as it applies to state requirements for counties and municipalities; however, we would urge that a similar philosophy apply to new regulations that add to the costs of the programs serving the State's clients. Whenever any new regulations are developed by the Department of Human Services or by other Departments of State Government, the state should analyze and be prepared to fund fully those regulations it deems necessary.

2. CAPITAL BOND: The requirements and timing of the Human Services Capital Bond, approved by the voters in November, 1989, meshed poorly with the Uniform Fire Code requirements; group homes and shelters were required to be in compliance by June 16, 1989; residential treatment centers were required to be in compliance before October 1988 (before the issuance of the Plain Language Summary Guide). According to the policies and procedures governing Capital Bond, a facility is not eligible to receive funding if any part of the project has been started, even for required or emergency projects; no retroactive funding is permissible. Thus, any program which met the Uniform Fire Code requirements within the time frames was penalized by being denied any help in meeting the costs. The residential treatment center mentioned earlier was forced to invade their meager endowment fund to cover the \$80,000 cost of the sprinkler. Some programs were forced to take out loans; others were in non-compliance while waiting for funds from the Capital Bond. Current providers now moving from inadequate facilities are faced with significant additional costs (sprinklers, etc.) for which there may only be limited funding available through the Human Services Capital Bond. With the bulk of the DYFS Capital Bond money being planned for new programs (for which there is not now operating money), there is limited funding available to meet the Uniform Fire Code requirements.

FAMILY-LIKE, COMMUNITY-BASED: Some of the Uniform Fire Code requirements appear to be contrary to the philosophy of the Department of Human Services to establish community-based group homes which are "family-like". The significant additional costs required to bring a family home into compliance with the fire code requirements, may dissuade providers from locating in existing family homes, while large bright red "Exit Signs" over the front and back doors of a home can only be described as institutional.

I appreciate having this opportunity to bring these issues to your attention and would be prepared to answer any questions.

Eateries to get refunds on fire inspection fee

By ROBERT SCHWANEBERG

Hundreds of small diners and restaurants that erroneously were charged a \$110 fire inspection fee because of a bureaucratic mixup will be getting refunds.

Officials of the state Department of Community Affairs (DCA) admitted that because of a misinterpretation of a new regulation, some 200 to 300 restaurants with fewer than 50 seats were required to register and pay the fire inspection fee.

DCA officials owned up to the mistake last week at a hearing before the Assembly Policy and Rules Committee, which is looking into state regulation and the problems it causes.

William Connolly, director of DCA's Divisions of Codes and Standards, said the confusion occurred because DCA proposed a two-part regulation that would have raised fire inspection fees and expanded the number of facilities required to be inspected.

The increase in fees was adopted, but after getting numerous objections from owners of small eateries, DCA pulled back from expanding the list of facilities subject to inspections, Connolly said.

But when the new fees were published, the only thing to show that small restaurants were not subject to them was a pair of brackets. DCA spokesman Jay Johnston said some people did not know the brackets indicated material that had been dropped and thought small restaurants were covered.

"It was human error," Johnston said. "There was miscommunication and mistakes made both here and at the local level."

About 200 to 300 small eateries were erroneously charged the \$110 fee by us or local code enforcement agencies," Johnston said. "They're going to get the money back."

Among the 5,000 or so establishments that DCA had planned to subject to annual fire inspections were hardware stores and home improvement centers, which often stock flammable materials; factories of more than 12,000 square feet, large warehouses that store combustibles, funeral homes, junkyards, and restaurants with fewer than 50 seats.

Connolly said DCA has decided to drop junkyards and funeral homes and will make "drastic" changes if it does extend inspection requirements to small eateries. He said some takeout food establishments are of concern because they have extensive grilling and frying operations that pose a risk of fire.

Connolly said fire inspection fees have been increased for the past two years because of a requirement in the state budget to fund the entire cost of the fire prevention program—including fringe benefits—out of fees. He said this year's increase of 30 percent comes on top of a 15 percent increase the year before.

He said the DCA may be required to increase fees again next year to cover "indirect" costs associated with the department's fire protection program, such as support services provid-

ed by the state treasurer's office. It will be required to use fees to cover a portion of the rent for the DCA's building, he said.

"A number of the costs that are in our program are not directly related to the inspection of buildings," Connolly said.

Assemblyman Robert Shinn (R-Burlington) questioned the practice of using fees to cover such indirect ex-

penses.

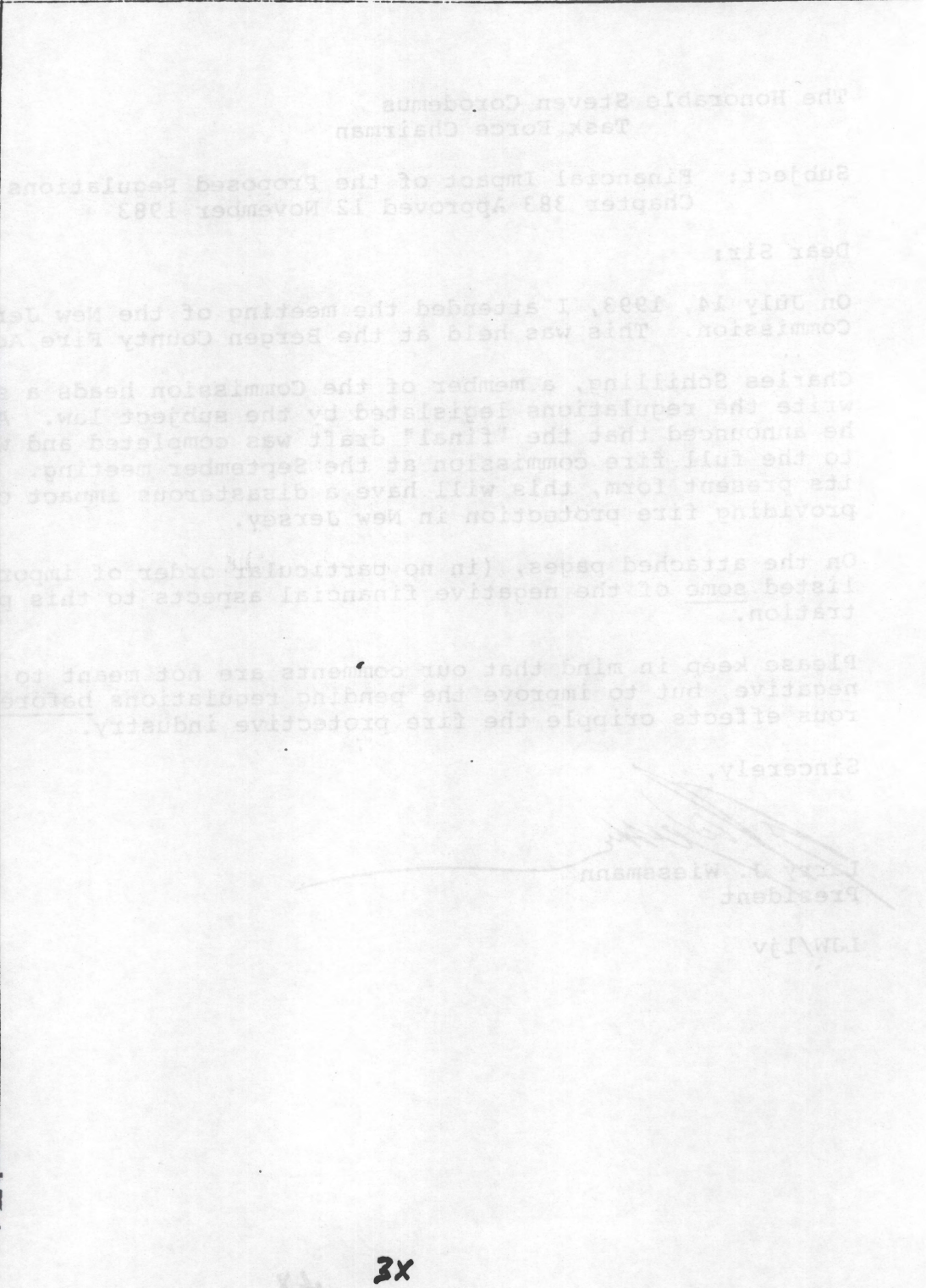
"When a fee goes beyond covering the services provided, that to me translates into a tax," said Shinn.

He asked, "Where do we stop in this acceleration of fees?"

Johnston said the DCA is "sympathetic" to the argument that inspection fees should cover just the cost of the inspection, and no more. He added that

If DCA finds local governments "diverting" inspection fees to other uses, "we come down on them like a ton of bricks."

But Johnston said DCA is "handcuffed by what the Legislature tells us to do." In this case, he said, the state budget required fire inspection fees to cover all the costs of DCA's fire prevention program.





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(201) 838-6260

New Jersey Association
of
Fire Equipment Distributors, Inc.

July 15, 1993

The Honorable Steven Corodemus
Task Force Chairman

Subject: Financial Impact of the Proposed Regulations of PL1983
Chapter 383 Approved 12 November 1983

Dear Sir:

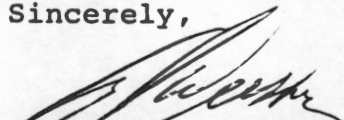
On July 14, 1993, I attended the meeting of the New Jersey Fire Safety Commission. This was held at the Bergen County Fire Academy.

Charles Schilling, a member of the Commission heads a subcommittee to write the regulations legislated by the subject law. At this meeting he announced that the "final" draft was completed and will be presented to the full fire commission at the September meeting. If approved in its present form, this will have a disastrous impact on the cost of providing fire protection in New Jersey.

On the attached pages, (in no particular order of importance) I have listed some of the negative financial aspects to this proposed registration.

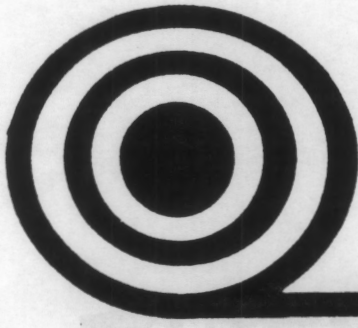
Please keep in mind that our comments are not meant to be totally negative, but to improve the pending regulations before their disastrous effects cripple the fire protective industry.

Sincerely,



Larry J. Wiessmann
President

LJW/ljv

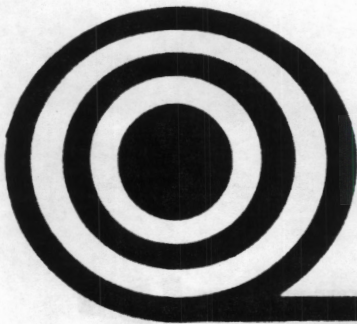


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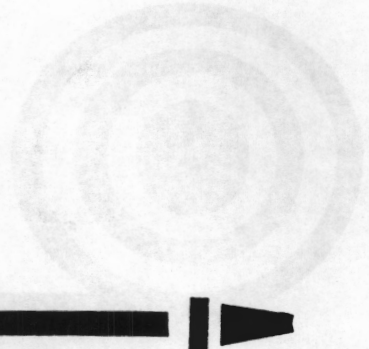
New Jersey Association
of
Fire Equipment Distributors, Inc.

NEGATIVE FINANCIAL IMPACTS CAUSED BY EXCESSIVE STATE REGULATIONS

1. FEES - This draft recommends a fee of \$1,650.00 per Company and \$250.00 for each fully trained technician. For a Company with twenty-five employees that would amount to \$7,900.00. These prices are way out of line with registration fees for other trades. An electrical contractor no matter how large, only pays \$75.00 per year for the entire Company. Plumbers and other similiar trades have similiar fee structures.
2. FINANCIAL IMPACT - The financial impact is not only to the registering companies, since some of these fees will be passed along to the consumer market. In case of the fire protection industry all aspects of our society will be financially impacted, including all local, county, and state government facilities. We do not believe fire protection should only be available to the wealthy. Further, it appears that the only justification for these unconsonable fees is to establish and fund a new mini-buracracy within the state government.
3. LOSS OF JOBS - Most technicians will not qualify under the regulation and will be let go causing increased unemployment.
4. LACK OF QUALIFIED REPLACEMENTS - Will create an artificial shortage of labor which will not be subject to normal free market forces. Cost of labor will escalate.
5. FEATHERBEDDING - Loss of productivity because in many cases it will take two men to do one man's job. This is because employees who are qualified by ability will not be qualified by time, and will have to be accompanied by someone who qualifies by time who doesn't have the ability.
6. SLOWER RESPONSE TIME - The lack of licensed technicians will mean there will not be enough to go around. Industries and businesses will have excessive downtime after fires because the fire protection industry will not be able to recharge systems.
7. LACK OF COMPETITIVENESS - New Jersey has already lost a lot of manufacturing. The artificially high cost of fire protection services will make all New Jersey industry a little less competitive.
8. BUSINESSES WILL CLOSE - Many of our members will be forced to shut down because not one single employee will qualify under the regulation.



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 Fire Equipment Distributors, Inc.

Page 2

9. **BENEFITS** - Excess fees will force a reduction in voluntary employee health care benefits. Further taxing the State to provide for uncovered employees.
10. **WARRANTY PROGRAM** - This particular registration also includes a warranty program. The details of the costs to the registrants is left open. This is done presumedly to help slide this program through without letting anyone effected by the registration know their costs. In an industry that already pays millions of dollars for liability insurance this added burden will certainly bankrupt many companies.



A DOWNTOWN ALLIANCE

July 20, 1993

Assemblyman Steve Corodemus
Chairman
Task Force on Uniform Construction Code,
Fire Safety and Housing Code Enforcement and Fees
Assembly Housing Committee
State of New Jersey

Dear Mr. Corodemus,

Red Bank RiverCenter is the two year old Special Improvement District representing Downtown businesses in the Borough of Red Bank. Since starting the SID, we have considered construction and fire code issues to be among our top priorities. Specifically, we have established a Code Committee composed of property owners and architects. From discussions with Committee members and numerous other property owners (and would-be property owners), we are convinced that it is becoming prohibitively expensive to own and operate older buildings in Downtowns throughout the State.

We decided to investigate whether or not Article 32 of the BOCA National Code offers an alternative to the extremely high costs of code compliance, while at the same time preserving the objectives of public health and safety. Although Article 32 is included in the BOCA National Code, it is not in effect in New Jersey. We retained experts to assist us in understanding if Article 32 would affect the cost of bringing older buildings into code compliance. The conclusion of our March, 1993 report (copy attached) is that the use of Article 32 would definitely result in significant cost savings.

We appreciate the opportunity you have given us to introduce the Red Bank Report to your Task Force. We believe our findings, based on expert analysis of two actual properties, will give Task Force members and others an excellent introduction to the discussion of why Article 32 should be made available in New Jersey as an option for building owners.

Sincerely,

John Bowers
President

7X

**OLDER BUILDINGS: THE COST OF CODE COMPLIANCE
BOCA's "ARTICLE 32" OPTION**

A Cost Comparison Analysis

**Red Bank RiverCenter
A Downtown Development Alliance
March, 1993**

Introduction

In order to comply with fire and construction codes, owners of older buildings sometimes face major cost decisions. A group of New Jersey businessmen decided to think through, as a working group, just what the code requirements and related costs would be if an investor decided to purchase either of two existing buildings. They sought advice from a code compliance expert and from a construction cost estimator. Their first step was to ask what specific work would be required for full fire and construction code compliance on each of the two buildings. Then they asked: If Article 32 of the BOCA National Code was in effect in New Jersey, would the costs be higher or lower? [For a copy of Article 32 and an expert's summary, see the accompanying attachment.] The code compliance expert advised on which specific improvements would be required for each building in order to receive a "passing grade" under the Article 32 rating system. What follows is a summary of the reports prepared by each of the experts.

Cost Estimates

The following pages include cost estimates for "Building One" and "Building Two". In each case, two alternative cost estimate approaches are presented:

1. Costs required to meet Uniform Fire and Uniform Construction Codes as interpreted according to the BOCA National Code.
2. Costs required to achieve a passing grade within the evaluation system offered by BOCA's Article 32 option. This option is currently not available in New Jersey.

Cost Estimator's Qualifying Comments

The following estimates are based on the assumption that an existing condition of default in one area of the building also exists throughout the building in a generally equal manner. An example of this is the above-ceiling work, where it was possible to make only random checks of conditions, as opposed to detailed checking of all areas on all floors.

Another assumption was that the existing water and electric services to the evaluated buildings were adequate to handle full building occupancy. Should this not be the case, substantial cost increases would be required.

All estimates assume free and unrestricted access through the buildings during the construction process. No provision has been made for off-hours or overtime work or for extra protection of existing facilities.

The most economical method for solving a problem has been taken throughout the estimates. No consideration has been given to aesthetics or decor.

Estimates are for hard construction costs only. This excludes design costs, general overhead items, permits, fees, etc.

Cost estimates have been prepared only for those items indicated by the code compliance expert. No attempt has been made to determine whether additional code requirements might apply.

Summary of Alternative Cost Estimates

ESTIMATED COSTS FOR CODE COMPLIANCE			
Fire Code Requirements	Construction Code Requirements	Total Fire & Const.	BOCA Art. 32 Option
<u>Building One</u>			
\$124,800	\$192,500	\$317,300	\$225,700
<u>Building Two</u>			
\$90,000	\$158,800	\$248,800	\$165,200

Cost Savings Achieved by Using BOCA Article 32 Option

<u>Building One</u>	
\$91,600	29 percent
<u>Building Two</u>	
\$83,600	34 percent

TWO ALTERNATIVE COST ESTIMATES FOR MEETING CODE REQUIREMENTS

	Fire Code	Construction Code	Fire/Const. Total	BOCA Art. 32 Option
BUILDING ONE				
Install 1 hr. fire-rated floor/ceiling assembly				
Fire-rated tile	--	--	--	39,200
Sheetrock @ corridor penetrations	--	--	--	21,000
Misc. mech. @ ducts	--	--	--	5,000
Install fire-rated hollow metal doors & frames @ corridor openings	--	27,000	27,000	27,000
Fire-rated sheetrock all corridors to ceiling height. Paint both sides of wall.	--	30,000	30,000	30,000
Fire-rated doors to main stairwell on all levels, incl. creation of a rated "lobby"	45,000	--	45,000	45,000
Automatic fire detection system with central tie-in	--	--	--	24,000
Manual fire alarm system	*7,500	--	7,500	7,500
Elevator recall	*21,000	--	21,000	21,000
Emergency lighting/battery pack exit devices	*6,000	--	6,000	6,000
Fire sprinkler system in bsmt.	10,800	--	10,800	--
Rear exterior emergency stair incl. 3 x 7 floor exit @ each level	*24,000	--	24,000	--
Rear basement exit	7,000	--	7,000	--
Change direction of exit doors	2,000	--	2,000	--
Additional signage	*1,500	--	1,500	--
Interior finish requirements	--	--	--	--
Sprinkler system throughout bldg.	--	72,000	72,000	--
Enclose elev. shaft in 2 hr. asbly.	--	9,000	9,000	--
Eliminate windows on N. & S. sides of bldg. (painted sheetrock interior assumed)	--	25,000	25,000	--
1 hr. floor/ceiling assembly in basement	--	13,500	13,500	--
Provide fire/draft stopping	--	16,000	16,000	--
Totals:	124,800	192,500	317,300	225,700

Notes: 1. Construction Code column (N.J.U.C.C. upgrade) does not include provisions or costs regarding compliance with 2 hour exterior load-bearing wall requirements.

2. Asterisked items (*) are required by both Fire and Construction Codes but are listed only under the Fire Code.

TWO ALTERNATIVE COST ESTIMATES FOR MEETING CODE REQUIREMENTS

	Fire Code	Construction Code	Fire/Const. Total	BOCA Art. 32 Option
Building Two				
Install 1 hr. fire-rated floor/ceiling assembly				44,000
Fire-rated tile	---	---	---	15,600
Sheetrock @ corridor penetrations	---	---	---	5,000
Misc. mech. @ ducts	---	---	---	17,800
Extend partition sheetrock to underside floor above	---	---	---	15,800
Fire-rated doors & frames @ corridor openings		15,800	15,800	15,800
Fire-rated sheetrock in all corridors to ceiling height. Paint both sides of wall.	---	---	---	21,600
Fire-rated doors to main exit stairwell @ 2 levels, incl. "lobby" enclosure	---	18,000	18,000	18,000
Automatic fire detection system with central tie-in				18,500
Manual fire alarm	*5,200	---	5,200	5,200
Emergency lighting system	*3,700	---	3,700	3,700
Enclose exit stairways with fire-rated assembly (interior only)	18,600	---	18,600	---
Install exit signs	*1,500	---	1,500	---
Modify emergency egress facilities from rear of building to meet code	*41,000	---	41,000	---
Compliance with interior finish requirements. (Note: Owner's aesthetic needs not known; therefore broad est.)	20,000	---	20,000	---
Sprinkler system throughout bldg.	---	65,000	65,000	---
Enclose elevator shaft in fire-rated assembly	---	6,000	6,000	---
Fire separations between 1st & 2nd floor (usage difference)	---	24,000	24,000	---
Same @ basement to 1st floor	---	18,000	18,000	---
Provide fire/draft stopping	---	12,000	12,000	---
Totals:	90,000	158,800	248,800	165,200

Notes: 1. Construction Code column (N.J.U.C.C. upgrade) does not include provisions for elimination of dead-end corridors, compliance with 2 hour exterior load-bearing requirements or requirements for the atrium. While these items will add substantially to the cost, the scope of work must be adequately defined in order to provide realistic pricing.

2. Asterisked items (*) are required by both Fire and Construction Codes but are listed only under the Fire Code.

BOCA ARTICLE 32 AND NEW JERSEY'S DOWNTOWNS

If BOCA Article 32 could be used in New Jersey, would this be a plus for the states older cities? In answering this question one must first evaluate the options available to the building owner when renovations or alterations are contemplated for the older buildings located in our urban centers.

Presently, when alterations or renovations are proposed for a building, the extent to which a building is required to comply is dependent upon the value of the proposed work. For example, if the renovations are less than 25% of the physical value of the building, then the extent to which the renovations are required to comply with the requirements of the Construction Code is left to the discretion of the Construction Official. In situations where the value of the renovations is between 25% and 50% of the physical value of the building, then the renovations are required to comply with the provisions of the construction Code. When renovations exceed 50% of the physical value of the building, then the entire building is required to conform to the provisions of the Construction Code.

There is no system of credits for life safety or fire safety elements that are installed in existing buildings included in the Uniform Construction Code. A complete automatic fire alarm system could be installed in an existing building that would not require that system under the provisions of the Uniform Construction Code, yet there would be no credits extended when the building is renovated.

Using the provisions of the Uniform Construction Code, an existing building with a complete fire sprinkler system would still be required to conform to the requirements of the code when the renovations exceed 50% of the physical value of the building. Suppose the current provisions of the code do not require a sprinkler system, the building receives no credit for the installation of the sprinkler system. Yes, there are trade-offs that can be taken for the installation of the sprinkler system, but those trade-offs do not eliminate the requirement that the building comply with the provisions of the Code when the renovations exceed 50% of the physical value.

Article 32 of the BOCA National Building Code provides a methodology that evaluates the components of an existing building. By using a system of credits and debits, each of the life safety and fire safety components of an existing building are evaluated and then assigned a score. The scores for all of the components are totaled to determine if the building complies with the minimum threshold scores for life and fire safety.

By using Article 32 as a tool to determine how safe a building is, an assumption is being made that there is some degree of protection afforded the occupants. The requirements of the New Jersey Uniform Fire Code on the other hand do not provide credits for existing life or fire safety components, rather, the requirements of the Fire Code are mandatory for many existing buildings.

Why should Article 32 be used? By evaluating an existing building using a system of credits and debits in a matrix format, one can compare the deficient areas to the areas that reasonably comply with the requirements, and then decide the extent of work that will be accomplished to meet the minimum safety scores. This evaluation can compare the costs of accomplishing each task to the benefits derived for that task. If the safety score of a particular building did not meet the minimum thresholds, then the building owner can decide which components to address that will meet the minimum safety scores. The 25/50% rule in the Uniform Construction Code overlooks many of the safety features in an existing building. Article 32 is a systematic approach to accomplish a minimum degree of life and fire safety, and evaluates each of the life and fire safety features in the building

An Article 32 evaluation will not always result in a score that satisfies the minimum safety scores, but the evaluation will indicate the deficient areas. Article 32 is good for use in the urban centers of New Jersey because it offers a systematic approach to improving life and fire safety, and does not make any specific component of a building mandatory. Each building and each component are evaluated on its merits against a predetermined scale. The building owner, not the building code, then decides how best to meet a minimum degree of life and fire safety.

If a portion of the building is changed to a new use group classification, and that portion is not separated from the remainder of the building with vertical and horizontal fire separation assemblies having a fireresistance rating corresponding to the highest fire grading prescribed in Table 902 for the separate uses, or with approved compliance alternatives, the provisions of this article applying to each use shall apply to the entire building. If there are conflicting provisions, those requirements which secure the greater public safety shall apply to the entire building or structure.

3202.1.3 Additions: Additions to existing buildings shall comply with all requirements of this code for new construction. The combined height and area of the existing building and new addition shall not exceed the height and area allowed by Sections 501.0 and 502.0. Where a fire wall complying with Section 908.0 is provided between the addition and the existing building, the addition shall be considered a separate building.

3202.1.4 Alterations and repairs: An existing building, or portion thereof, which does not comply with the requirements of this code for new construction shall not be altered or repaired in a manner that results in the building being less safe or sanitary than it is currently. If, in the alteration or repair, the current level of safety or sanitation is to be reduced, the portion altered or repaired shall conform to the requirements of Articles 2 through 30.

3202.1.5 Handicapped requirements: All portions of the buildings proposed for change in use shall conform to the provisions of Section 512.0 as required by Section 512.1.

* SECTION 3203.0 IMPLEMENTATION

3203.1 Investigation and evaluation: For all proposed work covered by this article, the building owner shall cause the existing building to be investigated and evaluated in accordance with the provisions of this article.

3203.1.1 Structural analysis: The owner shall have a structural analysis of the existing building made to determine adequacy of all structural systems for the proposed alteration, addition or change of use. The existing building shall be capable of supporting the minimum required loads.

3203.2 Submittal: The results of the investigation and evaluation required in Section 3203.1, along with all proposed compliance alternatives, shall be submitted to the code official.

3203.3 Determination of compliance: The code official shall determine whether the existing building, with the proposed additions, alterations or change of use, complies with the provisions of this article in accordance with the evaluation process in Sections 3204.1 through 3204.2.16.

SECTION 3204.0 FIRE SAFETY EVALUATION

3204.1 General: The fire safety evaluation shall be comprised of three categories: fire safety, means of egress and general safety as defined in Sections 3204.1.1 through 3204.1.3.

3204.1.1 Fire safety: Included within the fire safety category are the structural fire-resistance, detection, alarm and extinguishing system features of the facility.

3204.1.2 Means of egress: Included within the means of egress category are the configuration, characteristics and support features for means of egress in the facility.

3204.1.3 General safety: Included within the general safety category are the fire safety parameters and the means of egress parameters.

3204.2 Evaluation process: The evaluation process specified herein shall be followed in its entirety to evaluate existing buildings. Table 3205 shall be used for tabulation of the results of the evaluation. References to other sections of this code indicate that compliance with those sections is required in order to gain credit in the evaluation herein outlined. When applying this article to mixed uses in existing buildings, Section 313.0 shall be utilized. Where different uses are not separated as required in Sections 313.1.2 or 313.1.3, the lower score achieved in each section of the evaluation process shall be used for the entire building. Where mixed uses are separated as required in Sections 313.1.2 or 313.1.3, the score for each use shall apply to each portion of the structure which is properly separated. Where the separation between mixed uses only conforms to Section 313.1.2, the more restrictive height and area score shall apply to the entire building.

3204.2.1 Building height: The value for building height shall be determined by the formula in Section 3204.2.1.1. Section 501.0 shall be used to determine the allowable height of the building, including allowable increases due to fire suppression provided for in Section 502.3. Subtract the actual building height from the allowable and divide by 12½ feet. Enter the height value and its sign (positive or negative) in Table 3205 under safety parameter 3204.2.1, building height, for fire safety, means of egress and general safety. In determining the height value, the following conditions shall apply:

1. Round the value off to the nearest whole number.
2. The maximum score for an unlimited height building is 10.
3. If a fire suppression system and standpipe are not provided when required in Section 602.0, 1002.0 or 1012.0, the maximum score is 5.

3204.2.1.1 Height formula: The following formula shall be used in computing building height value.

$$\text{Height value} = \frac{(AH) - (EBH)}{12.5} \times CF$$

AH = Allowable Height from Table 501

EBH = Existing Building Height

CF = 1 if (AH) - (EBH) is positive

CF = Type of construction factor shown in Table 3204.2.6.3 if (AH) - (EBH) is negative.

3204.2.2 Building area: The value for building area shall be determined by the formula in Section 3204.2.2.2. Section 501.0 and the formula in Section

3204.2.2.1 shall be used to determine the allowable area of the building. This shall include any allowable increases due to open perimeter, fire suppression, and reductions to the area due to height as provided for in Sections 502.2, 502.3 and 501.4. Subtract the actual building area from the allowable area and divide by 1,200 square feet. Enter the area value and its sign (positive or negative) in Table 3205 under safety parameter 3204.2.2, building area, for fire safety, means of egress and general safety. In determining the area value, the following conditions shall apply:

1. Round the value off to the next whole number.
2. The maximum permitted positive value for area is 50 percent of the fire safety score as listed in Table 3206, Mandatory Safety Scores.

3204.2.2.1 Allowable area formula: The following formula shall be used in computing allowable area.

$$AA = \frac{(SP + OP - HR + 100) \times (\text{area in Table 501})}{100}$$

- AA = Allowable area
- SP = Percent increase for sprinklers (Section 502.3)
- OP = Percent increase for open perimeter (Section 502.2)
- HR = Percent reduction for excess height (Section 501.4)

3204.2.2.2 Area formula: The following formula shall be used in computing the area value.

$$\text{Area value} = \frac{\text{Allowable area} - \text{Actual area}}{1,200 \text{ square feet}}$$

3204.2.3 Fire area: Evaluate the fire areas created by fire resistance rated enclosures which comply with Sections 602.3.2.3 and 602.3.2.4 and which are exclusive of wall elements considered under Sections 3204.2.4 and 3204.2.5. Conforming fire areas shall be figured as the net area and do not include shafts, chases, stairways, walls or columns. Under the categories and use groups in Table 3204.2.3, determine the appropriate value and enter that value into Table 3205 under safety parameter 3204.2.3, fire area, for fire safety, means of egress and general safety.

3204.2.3.1 Categories: The categories for fire area are:

- a. Greater than 15,000 square feet (1395 m²).
- b. 10,001 (930 m²) to 15,000 square feet (1395 m²).
- c. 7,501 (698 m²) to 10,000 square feet (930 m²).
- d. 7,500 square feet (698 m²) or less.

Table 3204.2.3
FIRE AREA VALUES

Use groups	Categories			
	a	b	c	d
A-1, A-3	-8	-2	2	3
A-2	-12	-6	-2	-1
A-4, B, E, S-2	-6	-1	4	5
F, M, R, S-1	-4	0	6	8

3204.2.4 Space division: Evaluate the subdivision of a fire area by partitions which are not included in the evaluation under Sections 3204.2.3 and 3204.2.5. Under the categories and use groups in Table 3204.2.4, determine the appropriate value and enter that value into Table 3205 under safety parameter 3204.2.4, space division, for fire safety, means of egress and general safety.

Exception: If the partitions being evaluated do not provide any protection to the occupants from the spread of smoke and/or flames, Category a shall be entered into Table 3205.

3204.2.4.1 Categories: The categories for space division are:

- No partitions, or partial partitions.
- Fixed partitions to ceilings, with self-closing doors.
- Floor-to-deck partitions with doors that are not self-closing.
- Floor-to-deck partitions with self-closing doors.

Table 3204.2.4
SPACE DIVISION VALUES

Use groups	Categories			
	a	b	c	d
A-1	0	0	0	0
A-2	-6	-4	-1	0
A-3, A-4, E, B, F, M, R, S-1	0	1	4	6
S-2	1	4	6	8

3204.2.5 Corridor walls: Evaluate the fire-resistance rating and degree of completeness of partitions or walls which separate corridors from other spaces on the floor in accordance with Section 810.0 This evaluation shall not include wall elements considered under Sections 3204.2.3 and 3204.2.4. Under the categories and use groups in Table 3204.2.5, determine the appropriate value and enter that value into Table 3205 under safety parameter 3204.2.5, corridor walls, for fire safety, means of egress and general safety.

3204.2.5.1 Categories: The categories for corridor walls are:

- No partitions, incomplete partitions, no doors, or doors not self-closing.
- Less than 1 hour (or not floor-to-deck).
- One to less than 2-hour rated partitions with doors conforming to Section 810.4.2 or without corridor as required by Section 810.4.
- Two-hour or greater rated partitions with doors conforming to Section 810.4.2.

Table 3204.2.5
CORRIDOR WALL VALUES

Use groups	Categories			
	a	b	c	d
A-1	-10	-4	0	2
A-2	-30	-12	0	2
A-3, F, M, R, S-1	-7	-3	0	2
A-4, B, E, S-2	-5	-2	0	5

3204.2.6 Vertical openings: Evaluate the fire-resistance rating of vertical exit enclosures, hoistways, escalator openings, and other shaft enclosures within the building, and all openings between two or more floors. Table 3204.2.6.2 contains the appropriate protection values. Multiply that value by the construction type factor found in Table 3204.2.6.3. Enter the vertical opening value and its sign (positive or negative) in Table 3205 under safety parameter 3204.2.6, vertical openings, for fire safety, means of egress and general safety. If the structure is a one-story building, enter a value of 2. Unenclosed vertical openings conforming to the requirements of Section 606.0 or 816.8 shall not be considered in the evaluation of vertical openings. The vertical opening value shall be rounded off to the next whole number.

3204.2.6.1 Vertical opening formula: The following formula shall be used in computing vertical opening value.

$$VO = PV \times CF$$

VO = Vertical opening value

PV = Protection value (Table 3204.2.6.2)

CF = Construction type factor (Table 3204.2.6.3)

Table 3204.2.6.2
VERTICAL OPENING PROTECTION VALUE

Protection	Value
None (unprotected opening)	-10
Less than 1-hour	-5
1- to 2-hour	1
2-hour or more	2

Table 3204.2.6.3
CONSTRUCTION TYPE FACTOR

Factor	Type of construction (refer to Section 401.0)									
	1A	1B	2A	2B	2C	3A	3B	4	5A	5B
	1	1.2	1.5	2.2	3.5	2.5	3.5	2.3	3.3	7

3204.2.7 HVAC systems: Evaluate the number of floors served by an individual HVAC system. Under the categories and use groups in Table 3204.2.7, determine the appropriate value and enter that value into Table 3205 under safety parameter 3204.2.7, HVAC systems, for fire safety, means of egress and general safety.

Table 3204.2.7
HVAC SYSTEM VALUES

Use groups	Categories			
	a	b	c	d
A-1, A-4, B, E, S-2	0	2	5	7
A-2	-10	-5	0	2
A-3, F, M, R, S-1	-5	0	2	5

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3204.2.7.1 Categories: The categories for HVAC systems are:

- a. Greater than 5 floors or, combustible materials are located in air plenums or, corridors are used as air plenums.
- b. Three to five floors.
- c. Two floors.
- d. One floor or central boiler/chiller system is used without ductwork connecting two or more floors.

3204.2.8 Automatic alarms: Evaluate the smoke detection capability based on the location and operation of automatic alarms in accordance with Section 1018.0 and Section M-307.0 of the mechanical code listed in Appendix A. Under the categories and use groups in Table 3204.2.8, determine the appropriate value and enter that value into Table 3205 under safety parameter 3204.2.8, automatic alarms, for fire safety, means of egress and general safety.

3204.2.8.1 Categories: The categories for automatic alarms are:

- a. None.
- b. HVAC return only.
- c. Elevator lobby only.
- d. Elevator lobbies (if there are elevators) and in duct returns and single station units in residential uses.
- e. All corridors including elevator lobby.
- f. Total space.

**Table 3204.2.8
AUTOMATIC ALARM VALUES**

Use groups	Categories					
	a	b	c	d	e	f
A-1, A-3, F, M, R, S-1	-10	-5	0	2	4	6
A-2	-30	-10	-5	0	2	4
A-4, B, E, S-2	0	2	4	6	8	12

3204.2.9 Communications: When an alarm system is provided, evaluate the capability of the system in accordance with Sections 602.5, 602.6 and 1017.0. Under the categories and use groups in Table 3204.2.9, determine the appropriate value and enter that value into the Table 3205, under safety parameter 3204.2.9, communications, for fire safety, means of egress and general safety.

**Table 3204.2.9
COMMUNICATION VALUES**

Use groups	Categories			
	a	b	c	d
A-1, A-2, A-3, A-4, E	-10	-5	0	5
B, M, R	-5	0	5	10
F, S	0	5	10	15

3204.2.9.1 Categories: The categories for communications are:

- a. None.
- b. Manual fire alarms conforming with Section 1017.0.

19X

- c. Manual fire alarms and a voice alarm or manual fire alarms and a public address system conforming with Sections 602.5 and 1017.0.
- d. Central control station conforming with Section 602.6.

3204.2.10 Smoke control: Evaluate the ability of a natural or mechanical venting, exhaust or pressurization system to control the movement of smoke from a fire. Under the categories and use groups in Table 3204.2.10, determine the appropriate value and enter that value into Table 3205 under safety parameter 3204.2.10, smoke control, for means of egress and general safety.

3204.2.10.1 Categories: The categories for smoke control are:

- a. None.
- b. Operable windows throughout the building which are operable without special keys or tools.
- c. One smokeproof enclosure and building having operable windows.
- d. One stair having operable exterior windows and building having operable windows.
- e. Smoke control systems designed to exhaust the fire area in accordance with Section 1019.2.2
- f. Smokeproof enclosures in accordance with Section 818.0 and/or pressurized stairs (all stairs) in accordance with Section 602.3.1.4.6 and/or all stairs having operable exterior windows.

**Table 3204.2.10
SMOKE CONTROL VALUES**

Use groups	Categories					
	a	b	c	d	e	f
A-1, A-2, A-3	-6	-5	-4	-3	0	0
A-4, E	-3	-3	-3	-2	0	2 ^a
B, M, R	0	2 ^a	3 ^a	3 ^a	3 ^a	4 ^a
F, S	0	2 ^a	2 ^a	3 ^a	3 ^a	3 ^a

Note a. This value shall be considered 0 if compliance with categories d, e or f in Table 3204.2.8 has not been obtained.

3204.2.11 Exit capacity: Evaluate the capacity of and the number of exit routes available to the building occupants. Article 8 shall be used to determine the adequacy of the means of egress routes leading to a safe area. In applying this section, exits are required to conform with Section 804.2, Unsafe Means of Egress; Section 806.0, Occupant Load; Section 807.0, Types and Locations of Means of Egress (except Section 807.5); Section 808.0, Capacity of Exits; and Section 809.0, Number of Exits. Under the categories and use groups in Table 3204.2.11, determine the appropriate value and enter that value into Table 3205 under safety parameter 3204.2.11, exit capacity, for means of egress and general safety.

3204.2.11.1 Categories: The categories for exit capacity are:

- a. Minimum number of exits are provided as required in Section 809.0.
- b. Exit capacity exceeds the requirements of Section 808.0.
- c. Horizontal exits are provided in conformance with Section 814.0.
- d. Number of exits exceed the requirements of Section 809.0.

Table 3204.2.11
EXIT CAPACITY VALUES

Use groups	Categories			
	a	b	c	d
A-1, A-2, A-3, A-4, E, R	0	5	10	20
B, M	0	2	5	10
F, S	5	10	20	30

3204.2.12 Dead ends: Evaluate the length of the exit access travel path in which the building occupants are confined to a single path of travel. Under the categories and use groups in Table 3204.2.12, determine the appropriate value and enter that value into Table 3205 under safety parameter 3204.2.12, dead ends, for means of egress and general safety.

3204.2.12.1 Categories: The categories for dead ends are:

- a. Dead end more than 20 feet (6096 mm) and not exceeding 50 feet (15240 mm).
- b. Dead end 20 feet (6096 mm) or less.

Table 3204.2.12
DEAD END VALUES

Use groups	Categories	
	a	b
A-1, A-3, A-4, E, R	-5	0
A-2	-10	0
B, F, M, S	0	5

3204.2.13 Maximum travel distance to an exit: Evaluate the length of exit access travel to an approved exit. Under the categories and use groups in Table 3204.2.13, determine the appropriate value and enter that value into Table 3205 under safety parameter 3204.2.13, maximum travel distance, for means of egress and general safety.

3204.2.13.1 Categories: The categories for maximum exit access travel distance to an exit are:

- a. Exceeds the limits of Table 807.
- b. Complies with the limits of Table 807.
- c. Is less than half the limits of Table 807.

Table 3204.2.13
MAXIMUM EXIT ACCESS TRAVEL DISTANCE VALUES

Use groups	Categories		
	a	b	c
A-1, A-2, A-3, A-4, E, R	-10	0	5
B, F, M, S	-5	0	10

3204.2.14 Elevator control: Evaluate the elevator equipment and controls that are available to the fire department to rescue building occupants from upper floors during a fire when such equipment is installed in accordance with ASME A17.1 listed in Appendix A. Under the categories and use groups in Table 3204.2.14, determine the appropriate value and enter that value into Table 3205 under safety parameter 3204.2.14, elevator control, for fire safety, means of egress and general safety.

3204.2.14.1 Categories: The categories for elevator controls are:

- a. Controls are not provided or an elevator is not present in buildings of four stories or more in height.
- b. Fire department control is provided or an elevator is not present in buildings less than four stories in height.
- c. Automatic recall.
- d. Fire department control and automatic recall is provided, or the building is only one story in height.

Table 3204.2.14
ELEVATOR CONTROL VALUES

Use groups	Categories			
	a	b	c	d
A-1, A-2	0	3	6	9
A-3, A-4, B, E, F, M, R	-7	0	3	6
S	-10	-7	0	3

3204.2.15 Means of egress lighting: Evaluate the presence of and reliability of emergency means of egress lighting. Under the categories and use groups in Table 3204.2.15, determine the appropriate value and enter that value into Table 3205 under safety parameter 3204.2.15, means of egress lighting, for means of egress and general safety.

3204.2.15.1 Categories: The categories for emergency means of egress lighting are:

- a. None.
- b. Lighting provided in compliance with Section 824.0 but without emergency power.
- c. Lighting provided in full compliance with Section 824.0.

Table 3204.2.15
MEANS OF EGRESS LIGHTING VALUES

Use groups	Categories		
	a	b	c
A-1, A-2, A-3, A-4, E	-20	-10	0
B, M, R	-10	0	2
F, S-1	-5	0	2
S-2	0	2	7

3204.2.16 Mixed uses: When a building is occupied for two or more uses, not included in the same use group, the evaluation of this section shall be based on

22X

REPAIR, ALTERATION, ADDITION TO, AND CHANGE OF USE OF EXISTING BUILDINGS

conformance with the provisions of Section 313.0. Under the categories and the use groups in Table 3204.2.16, determine the appropriate value and enter that value into Table 3205 under safety parameter 3204.2.16, mixed use, for fire safety and general safety.

3204.2.16.1 Categories: The categories for mixed use are:

- a. Not in compliance with Section 313.0.
- b. In compliance with Section 313.0.

Table 3204.2.16
MIXED USE VALUES

Use groups	Categories	
	a	b
A-1, A-2, R	-10	0
A-3, A-4, B, E, F, M, S	-5	0

SECTION 3205.0 BUILDING SCORE

3205.1 General: After determining the appropriate data from Section 3204.0, enter that data in Table 3205 and total the building score.

Table 3205
SUMMARY SHEET - BUILDING SCORE

Existing use _____	Proposed use _____
Year building was constructed _____	No. of stories _____ Height in ft. _____
Type of construction _____	Area per floor _____
Percentage of open perimeter _____ %	Percentage of height reduction _____ %
Completely suppressed: Yes ___ No ___	Corridor wall rating _____
Compartmentation: Yes ___ No ___	Required door closers: Yes ___ No ___
Fireresistance rating of vertical opening enclosures _____	
Type of HVAC System _____	_____ serving number of floors _____
Automatic alarms: Yes ___ No ___	_____ type and location _____
Communication systems: Yes ___ No ___	_____ type _____
Smoke control: Yes ___ No ___	_____ type _____
Adequate exit routes: Yes ___ No ___	Dead ends: Yes ___ No ___
Maximum exit access travel dist. _____	Elevator controls: Yes ___ No ___
Emergency lighting: Yes ___ No ___	Mixed uses: Yes ___ No ___

THE BOCA NATIONAL BUILDING CODE/1987

Table 3205 (cont'd.)
SUMMARY SHEET - BUILDING SCORE

Safety parameters	Fire safety (FS)	Means of egress (ME)	General safety (GS)
3204.2.1 Building height			
3204.2.2 Building area			
3204.2.3 Compartment area			
3204.2.4 Space division			
3204.2.5 Corridor walls			
3204.2.6 Vertical openings			
3204.2.7 HVAC systems			
3204.2.8 Automatic alarms			
3204.2.9 Communications			
3204.2.10 Smoke control	••••		
3204.2.11 Exit capacity	••••		
3204.2.12 Dead ends	••••		
3204.2.13 Max. exit access travel dist.	••••		
3204.2.14 Elevator control			
3204.2.15 Egress lighting	••••		
3204.2.16 Mixed uses		••••	
Building score - total value			

•••• = No applicable value to be inserted.

SECTION 3206.0 SAFETY SCORES

3206.1 General: The values in Table 3206 are the required mandatory safety scores for the evaluation process listed in Section 3204.2.

Table 3206
MANDATORY SAFETY SCORES

Use groups	Fire safety (MFS)	Means of egress (MME)	General safety (MGS)
A-1	10	24	24
A-2	5	19	19
A-3	9	21	21
A-4, E	17	29	29
B	28	40	40
F, S-1	26	53	53
M, R	23	35	35
S-2	38	65	65

24X

SECTION 3207.0 EVALUATION OF BUILDING SAFETY

3207.1 **General:** The mandatory safety score in Table 3206 shall be subtracted from the building score in Table 3205 for each category. If the final score for any category equals zero or more, the building is in compliance with the requirements of this article for that category. If the final score for any category is less than zero, the building is not in compliance with the requirements of this article.

Table 3207
EVALUATION FORMULAS

Formula	Table 3205	Table 3206	Score	Pass	Fail
FS-MFS \geq 0	_____ (FS)	- _____ (MFS)	= _____	_____	_____
ME-MME \geq 0	_____ (ME)	- _____ (MME)	= _____	_____	_____
GS-MGS \geq 0	_____ (GS)	- _____ (MGS)	= _____	_____	_____

FS = Fire Safety
ME = Means of Egress
GS = General Safety

MFS = Mandatory Fire Safety
MME = Mandatory Means of Egress
MGS = Mandatory General Safety

3207.2 **Mixed Uses:** For mixed uses, the following provisions shall apply:

1. If the uses are not separated by a separation as required by Section 313.1.2 or 313.1.3, the mandatory safety scores for the use with the lowest general safety score in Table 3206 shall be used.
2. If the uses are separated as required by Section 313.1.2, the mandatory safety scores for each use shall be placed against the evaluation scores for the appropriate use and the most restrictive height and area limitations in this code shall be used in the calculation of the height value in Section 3204.2.1 and the area value in Section 3204.2.2 and the values so determined shall apply to both uses.
3. If the uses are separated as required by Section 313.1.3, the mandatory safety scores for each use shall be placed against the evaluation scores for the appropriate use.

**TESTIMONY TO THE
TASK FORCE ON UNIFORM CONSTRUCTION CODE,
FIRE SAFETY AND
HOUSING CODE ENFORCEMENT AND FEES**

PRESENTED JULY 20, 1993

My name is Norman Sanders. I am president of A. S. Barlin Associates, Inc., which is a business specializing in the installation of fire suppression systems. I am also representing the interests of the many sprinkler fitter contractors, fire suppression equipment manufacturers, systems designers, and insurance interests connected with the New Jersey chapter of the American Fire Sprinkler Association (AFSA). Richard E. Basta, Executive Vice President of NJ AFSA, is unable to participate with testimony today due to a previously scheduled commitment but he stands ready to provide whatever information or input which might be needed by this task force.

Following up the New Jersey Codes Advisory Council Meeting held in Lawrenceville, NJ on June 18, 1993, Richard Basta summarized the consensus of the representatives attending that meeting in letters to Assemblyman John Kelly and Bureau of Fire Safety Chief Jim Dolan. Copies of these letters commenting on the proposed regulations for the Fire Suppression System Installer Registration, Certification and Warranty will be submitted with my prepared testimony.

Every member of the New Jersey Assembly has recently received a letter from Steve Muncy, President of the American Fire Sprinkler Association, urging that the proposed fee schedule for the licensing and certification of fire protection contractors be reviewed most carefully to gauge the impact of such fees before they are finalized.

The AFSA position is quite clear: there should be licensing of fire suppression system contractors and there should be at least one certified service technician required for each licensed contractor (not requiring a certified service technician on each jobsite).

It is my understanding that the fee schedule for licensing that the Bureau of Fire Safety has proposed is based on the fact that \$300,000 is needed annually to fund the Bureau staff required to administer the regulations. Furthermore, these proposed fees do not follow the normal fee structures set up under the Department of Law and Public Safety for other craft trade licensing such as plumbers and electricians.

Governor Florio has never been in favor of expanding licensing or registration due to the adverse impact it might have on the competitiveness of businesses operating in New Jersey compared to surrounding states. We have been in contact with the Department of Commerce and have received a most interested reception from Linda Furlong. Ms. Furlong has indicated the Department of Commerce is most interested in this matter.

Before the State of New Jersey establishes a separate administrative framework for the Bureau of Fire Safety to better help to save lives and property by fire suppression installation contractors becoming more efficient. I would like to ask why this is needed. All contractors dislike increases in fees and other mandated costs of doing business. Several critical points must be resolved before setting new fees. First, if the competitiveness of open (merit) shop contractors could be ensured by providing guaranteed access to all approved apprenticeship training, certified service technician certification and future contractor licensing beyond the grandfathering stage. Second, when new fire protection regulations are enacted that open (merit) shop contractors are both given the opportunity to participate in such a decision making process and are given equal opportunity to install those sprinkler systems and, Third, a level playing field for all contractors to compete on is maintained to create a greater public awareness of the success of fire sprinklers in saving lives and property.

It is my understanding that the most recent draft of the regulations recommends a contractor licensing annual fee of \$1650. In addition to this high fee it would cost \$250 annually to register each certified service technician. Such a high annual cost, which must be passed on to both private and public consumers, would definitely cause a financial strain. These costs can be compared to an electrical contractor who would pay a \$75 annual fee through the Department of Law and Public Safety covering the company and all of its employees.

I would respectfully request that this Task Force carefully review this proposal to implement a fee structure which expands the bureaucratic controls of state government, increases the cost of doing business in New Jersey, and does not increase the likelihood of saving more lives or property due to better installation of fire suppression equipment or special hazard systems.

I would to commend both Assemblyman Steve Corodemus for his efforts as Task Force Chairman and Assemblyman John Kelly for his leadership role with the New Jersey Bureau of Fire Safety.

Thank you for the opportunity to make these comments.



NEW JERSEY BUSINESS & INDUSTRY ASSOCIATION

STATEMENT

OF THE

NEW JERSEY BUSINESS & INDUSTRY ASSOCIATION

BEFORE THE

**ASSEMBLY TASK FORCE ON
UNIFORM CONSTRUCTION CODE, FIRE SAFETY &
HOUSING CODE ENFORCEMENT**

July 20, 1993

**Jeffrey N. Stoller
Vice President**

The New Jersey Business & Industry Association has argued for changes in the Uniform Fire Code since 1983. Although no one disputes the need to reduce fire deaths and injuries in New Jersey, many employers believe the Fire Code places an unfair burden on commercial and industrial facilities.

Ten years after it was signed into law, the Uniform Fire Safety Act remains a problem for businesses in our State. NJBIA's criticisms of the regulations today are similar to the ones we voiced when the Fire Code rules first appeared in 1984:

* **The Fire Code does not focus on the real source of fire casualties.** From the start, the original legislation exempted one- and two-family dwellings where more than 90% of fire deaths and injuries occur. Local officials were left to regulate offices, business facilities and hospitals -- many with outstanding records for fire safety.

* **Fire Code fees are excessive.** The annual permit fees and registration fees were supposed to generate adequate revenues for local enforcement of the new fire standards. Instead, the fee schedule was set excessively high in the mid-1980's and has been increased ever since. Employers suspect fees for designated "life hazard" activities are much higher than the actual cost of regular on-site inspection.

*** The Uniform Fire Code is not uniformly enforced. Local fire officials enjoy excessive discretion in enforcing the regulations. Employers believe a facility found in violation of the Fire Code in one municipality may or may not be considered in violation in an adjacent community. Sometimes the decisions go in favor of an employer; often they do not.**

Because of these problems, NJBIA believes employers are unfairly regulated under the Fire Code and are paying an unfair share of the cost of enforcement.

I. UNFAIR FOCUS ON BUSINESS

In 1982, the year before the Uniform Fire Safety Act (N.J.S.A. 52:27D-192 et seq.) was enacted, the New Jersey Department of Health reported 164 fire deaths: 156 in the home; 8 in public places other than the workplace. Even so, several tragic fires prompted the Legislature to act and when it did it came down heavily on employers.

Regulation of some facilities made sense. After all, people asleep in an unfamiliar hotel or patients confined to bed in a nursing home require special protection in a fire emergency. In contrast, employees in the workplace are generally awake and familiar with exit routes. A different standard of what is *reasonable* protection should apply.

The NJ Department of Community Affairs (DCA), which houses the state Bureau of Fire Safety, claimed industry had "many opportunities" to comment on the new code when the State Fire Commission held its public hearings throughout 1984. In fact, these sessions were general discussions on the goals of the Fire Code. Specific regulations were not released for comment until December 1984.

Despite short notice over the Christmas holiday, NJBIA offered testimony at a public hearing by the State Fire Commission on January 9, 1985. Our remarks were denounced as "last minute nitpicking" by Senator John Caulfield, the Commission chairman, even though this was the first opportunity to speak on the proposed rules.

The Fire Commission's anti-business stance was no surprise. The overwhelming majority of its members were firefighters and code officials. An advisory board created to help prepare the rules had less than five members tied to industry in any way. When NJBIA complained about the lack of meaningful business input, DCA identified Harold Baker, a fire specialist with AT&T, as industry's chief representative. Mr. Baker, one of the most strident *anti*-industry voices on the Advisory Board, later said he had served as a private citizen and took many positions on the code that were "contrary to the interests of AT&T." (An NJBIA nominee to the board was eventually accepted in October 1986).

NJBIA believes this initial hostility toward business affected Fire Code enforcement for many years. When members of the Association's Regulatory Code Committee proposed more general standards to encourage industry compliance, DCA told them the changes were "inadequate" or would "up the body count".

II. EXCESSIVE FEES.

Since the Uniform Fire Code does not regulate structures where most fire casualties take place (residences), its main purpose is to generate fee and fine income for state and local fire enforcement. Employers of all kinds are liable for annual permit fees as well as registration fees for special hazards known as Life Hazards. Up to the present day, the fee schedule has steadily increased and new categories of hazards have been added to bring more business structures into the "system." (The initial schedule ranged from \$75 to \$1,200),

The State's focus on revenue was reflected in the Bureau of Fire Safety's own newsletter for fire officials in June 1985. An article there, entitled "Why Identify Life Hazard Uses?", made clear the main motivation for identifying "hazards" at the local level was to get an 80% share of fees. (see attachment)

NJBIA continues to believe the fee schedules should be no higher than the actual cost of conducting inspections and monitoring genuine hazards.

III. INCONSISTENT ENFORCEMENT

The Fire Code claimed to establish *uniform* fire standards, but allowed local enforcement agencies to amend the Code's Subchapters 3 and 4 (Section 5:18A-2.3(b) 10). Local discretion and interpretation were particularly confusing for employers attempting to comply with subchapter 4's retroactive standards for buildings built before implementation of the Uniform Construction Code in 1977.

The early years of the Uniform Fire Code were a nightmare for many businesses, as local fire officials attempted to sort through the new standards:

- * A furniture factory in Newark was forced to measure every chair leg and table top on site when an inspector insisted the wood supply exceeded to total board feet allowed by a Life Hazard standard designed for lumberyards.

- * A new office in Middlesex County was cited for \$3,000 worth of violations for failing to "place insulation under the Mr. Coffee machine" and to "install a smoke detector in the broom closet" (where a "flammable" bottle of Mr. Clean was stored).

- * A Bergen County employer was told to comply with a list of changes or be fined at the next inspection for "hazardous" papers on messy desktops.

* DCA rejected modified language for corridor smoke barriers when engineers at New Jersey's leading research and development facilities argued the Fire Code guidelines were in *direct contradiction* of federal safety standards for laboratories.

* The State's telecommunications companies fought to keep their switching stations from being forced to have sprinklers. They believed the chance of a fire in these 1-story exchange buildings was far less than the possibility of an accidental discharge of water that would knock out phone service in the region.

* A graphics firm in Trenton was told to make \$122,400 in renovations to its building, which was valued at barely \$100,000.

* A Morris County company was forced to remove its files from a 16-foot wide office foyer when an inspector called the space a "blocked corridor".

* A small business owner spent weeks trying to prove that his store had fewer square feet than the local inspector said he had, in order to avoid a Life Hazard designation.

Any employer seeking to appeal such "violations" ran straight into DCA's appeals process. The procedure in 1986 forced every company with a complaint to hire an attorney, admit its "guilt" *before* applying for a later compliance deadline and forfeit its right to further appeal (attached). If this system is still in place today, it deserves a second look.

V. CONCLUSION

The private sector was not alone in facing steep costs for Fire Code compliance in the 1980's. One report to DCA from its fellow state agencies said that it would cost their facilities \$70 million just to comply with the Code's sprinklering and fire equipment requirements as written. (The State House and Annex also faced an estimated \$27 million in repairs to address violations of all types of building codes).

Today, there is a need to determine the *true* costs of enforcing the Uniform Fire Code and to assure that inspection/registration fees reflect them. There also should be a serious review to learn if New Jersey is regulating entire categories of buildings as if they are inherently "hazardous." NJBIA would be glad to cooperate with the Task Force in any way.

BUREAU OF FIRE SAFETY NEWSLETTER
JUNE 1985

WHY IDENTIFY LIFE HAZARD USES?

*not for safety
but for \$*

The Bureau of Fire Safety urges local code enforcing agencies not to delay in identifying life hazard use locations within their jurisdiction. Why should fire departments try to identify locations, complete the life hazard use target group form and mail this form back to the Bureau of Fire Safety? Quite simply, local code enforcing agencies will receive 80% of the registration fees collected.

Any delay in identifying life hazard uses will result in a delay in the registration billing and fee collection process by the State. Once the State collects registration fees, the funds will be distributed to the municipalities for transfer into local code enforcement agency accounts.

As of May 28, 1985, the Bureau of Fire Safety has sent registration applications to three groups of life hazard use properties. A total of approximately 7,800 applications have been sent to service stations, public assemblies, amusement parks and membership, sports and recreational clubs.

37X

LOCAL ASSISTANCE REPRESENTATIVES

Local assistance representatives are available to answer questions and assist any municipal code enforcing agency concerning the New Jersey Uniform Fire Code. For more information on this program or to arrange a field visit, please call (609) 984-6000 and ask for your local representative. The local representative for your county is:

- Frank Donovan - Essex, Hudson, Middlesex, Union
- Robert Hart - Atlantic, Cape May, Cumberland, Ocean
- David Holt - Hunterdon, Morris, Somerset, Warren
- Rolf Maris - Mercer, Monmouth
- William Scheufele - Burlington, Camden, Gloucester, Salem
- Eli Verasco - Bergen, Passaic, Sussex

ADMINISTRATIVE APPEAL RIGHTS

YOU MAY CONTEST THESE ORDERS AT AN Administrative Hearing. The request for a hearing must be made in writing within 15 days after receipt of this order and addressed to:

Hearing Coordinator
Division of Housing and Development
Department of Community Affairs
CN 804
Trenton, NJ 08625

In accordance with the rules promulgated under the Administrative Procedure Act (N.J.S.A. 52:14B-1 et. seq. and 52:14F-1 et. seq.), an appeal request must sufficiently identify the decision or action you wish to appeal and the specific reasons forming the basis for your dispute, in order that a decision may be made as to whether your appeal constitutes a contested case.

You are advised that only matters deemed to be **CONTESTED CASES**, as defined by the Administrative Procedures Act, will be scheduled for a Hearing. If a hearing is scheduled, you will be notified in advance of the time and place.

At a hearing, a corporation may be represented only by a licensed attorney, unless approval is given by the office of Administrative Law.

EXTENSIONS

If a specified time has been given to abate a violation, YOU MAY REQUEST AN EXTENSION OF TIME by submitting a written request to the Bureau of Fire Safety. To be considered, the request must be made before the compliance date specified and must set forth the work accomplished, the work remaining, the reason why an extension of time is necessary and the date by which all work will be completed.

TAKE NOTICE THAT, pursuant to NJAC 5:18-2.9e, an application for an extension constitutes an admission that the violation notice is factually and procedurally correct and that the violations do or did exist. In addition, the request for an extension constitutes a waiver of the right to a hearing as to those violations for which an extension is applied.

PENALTIES:

Violation of the Code is punishable by monetary penalties of not more than \$5,000 per day for each violation. Each day a violation continues is an additional, separate violation except while an appeal is pending. Specific penalties are as follows:

- a. Failure to install required protection equipment after having been given written notice of the requirement to do so—a maximum of \$1,000 per violation per day.
- b. Failure to abate any violation after having been given notice of the violation—a maximum of \$500 per violation per day.
- c. Storage of any material in violation of this Code or the conduct of any process in violation of the Code—a maximum of \$500 per violation per day that this violation continues.
- d. Blocking, locking or obstructing required exits.
 - i. In a place of public assembly—a maximum of \$5,000 per occurrence
 - ii. In any other place—a maximum of \$1,000 per occurrence.
- e. Disabling or vandalizing any fire suppression or alarm device or system.
 - i. In a place of public assembly—a maximum of \$5,000 per occurrence.
 - ii. In any other place—a maximum of \$1,000 per occurrence.
- f. Failure to obey a notice of imminent hazard and order to vacate—a maximum of \$5,000 per day the failure continues.
- g. Failure to obey an order to close for a fixed period of time issued pursuant to this Subsection—a maximum of \$5,000 per day that the failure continues.
- h. Obstructing the entry of an authorized inspector into a premises—a maximum of \$500 for each occurrence.
 - i. Any willfully false application for a permit or registration—a maximum of \$1,000 for each occurrence.
 - j. Any other act or omission prohibited by the Act or the Regulations but not enumerated in this subsection—a maximum of \$5,000 per violation per day.

Claims arising out of penalty assessments can be compromised or settled if it shall be likely to result in compliance. Moreover, no such disposition can be finalized while the violation continues to exist.

Any penalties assessed are in addition to others previously assessed. Penalties must be paid in full within 30 days after an order to pay. If full payment is not made within 30 days, the matter will be referred to the Office of the Attorney General for summary collection pursuant to the Penalty Enforcement Law (N.J.S.A. 2A:58-1 et. seq.)

NOTICE:

If you require guidance or advice concerning your legal rights, obligations or the course of action you should follow, consult your own advisor.

Business, tourism, other groups boil over state's fire safety proposals

By RICHARDS S. REMINGTON

Groups ranging from AT&T Communications to Victorian guesthouse operators in Cape May yesterday criticized as "overkill" a code of fire safety regulations proposed by the state that would require many buildings to undergo structural changes and installation of water sprinkler systems.

Firefighters, however, said the regulations, drafted by the state Fire Safety Commission, do not go far enough. Several suggested they be expanded to cover single-family homes and duplexes and that sprinkler systems be made mandatory in high-rise office buildings and apartment towers.

The comments were offered during a public hearing the commission held in Trenton. The commission has 60 days to review the comments and finalize the fire safety code, which would impose regulations on all high-occupancy buildings in the state constructed before 1977. Regulations for structures built after 1977, when the state enacted the Uniform Construction Code, have already been adopted.

The proposed regulations would require numerous structures built before 1977 to be fitted with sprinkler systems, automatic fire alarms and exits. Among the buildings covered would be schools, apartment complexes, restaurants, theaters, department stores, jails, day-care centers, libraries and a host of other structures.

A separate extensive list of regulations was drafted for amusement

parks in the wake of last year's fatal fire at Great Adventure.

Excluded from the list, however, are single- and two-family homes, where the majority of fatal fires occur.

Representatives of business, education, housing construction, historical groups and the lodging industry said the intent of the regulations was laudable, but that implementing the required changes would be more costly than actual fire safety improvement. In addition, they said, fire safety improvements should be directed toward homes, where most fatal fires occur.

AT&T Communications studied the 150 buildings it owns, leases or shares in New Jersey and determined that compliance with the proposed regulations would cost \$10 million while producing "no measurable benefit."

The study concluded that "All of New Jersey's businesses will have to spend tens of millions of dollars to meet the new fire code, when the thrust of the code should be aimed at other environments where the hazards have been proven by statistics to be greater than those in business and industry."

The AT&T study was presented by Jeffrey Stoller of the New Jersey Business and Industry Association. Stoller said the commission has failed to convince employers that "their facilities represent genuine safety hazards and (that) substantial investment in renovation will have a meaningful impact on fire deaths and injuries."

Princeton University surveyed the floor plans of every building on its

campus and estimated the cost of complying with the fire safety regulations at \$20 million, according to Robert Durkee, the school's vice president for public affairs.

"These proposed regulations would require significant modifications in almost every one of the more than 180 buildings at Princeton University," Durkee said. "They would entail enormous cost both in dollars and in infringements on the historical character of the campus, but with little corresponding improvement in fire safety."

The regulations would impose costs "that we could not justify for reasons of safety" and should be revised to concentrate on high-hazard buildings, he said.

The New Jersey School Boards Association estimated that two-thirds of the 2,388 school buildings in the state would have to be fitted with automatic fire alarms to comply with the standards, at a cost of \$20,000 to \$30,000 per school and \$36 million statewide. Charles Robinson, representing the association, said the school boards believe "the primary benefit of the extra alarming devices would be to property and would not significantly increase the safety of students."

Dana Wells, representing the Cape May County Chamber of Commerce, called the proposed regulations "massive overkill" and a "solution to a problem that doesn't exist." Wells said 30 of 50 guesthouses registered in Cape May City are in restored historic buildings whose appeal could be damaged by en-



William Connolly, left, director of the state Division of Housing Development, confers with Sen. John Caufield (D-Essex) on the proposed new fire safety code

closing stairways, installing fire doors on guest rooms and making other changes as required under the proposed regulations.

"Their selling point is you're going to someone's home," Wells said. "These guesthouses avoid anything smacking of commercialism."

William Connolly, representing the Department of Community Affairs, said the state has provisions in place that automatically give historic homes special consideration and that a more flexible set of regulations, based on procedures used in Ohio, is to be adopted.

Firefighters who appeared at the hearing urged that the regulations be

broadened to require greater use of automatic sprinkler systems. Pat Townsend, representing the New Jersey State Fire Prevention and Protection Association, called for legislation that would require owners of single-family homes to install smoke alarms.

Sen. John Caufield (D-Essex), the commission chairman and Newark fire director, said experts agreed that "the most effective way to minimize deaths and (property) losses is through the use of both automatic sprinklers and smoke detectors."

Princeton University: Fire code revamp would cost school \$20M

PRINCETON (UPI) — Proposed state fire regulations will cost Princeton University more than \$20 million in renovations, and have an enormous impact on the character of the campus and other buildings forced to comply, a Princeton University official says.

But state officials disagree, saying the regulations are necessary, and much less expensive than the figures cited by Princeton and other building officials.

Under revisions to the state fire code proposed by the state Fire Safety Commission, high-occupancy buildings such as schools, restaurants, night-clubs, apartment complexes and libraries would have to update their fire prevention systems.

Buildings built before 1977 would be required to have more sprinklers, new doors, and updated water supplies for

sprinklers and firefighting equipment.

Those proposed required renovations would be unnecessary, expensive, and harm the stately appearance of landmark buildings such as those in Princeton, Princeton University spokesman Robert Durkee said this week.

"IF YOU ARE an institution with many old buildings, the cost would be absolutely staggering. We have estimated this would cost us in excess of \$20 million and require us to make alterations in almost all of our buildings," Durkee said.

Durkee also made comments at a Wednesday hearing on the proposed rules, saying state officials have not adequately considered the effect their proposed regulations will have.

John Caufield, chairman of the Fire

Safety Commission, and Newark's fire chief, said that changes will be made both at a July 30 Advisory Council meeting, and at an Aug. 14 meeting of the whole commission.

CAUFIELD SAID that Durkee's figures for the increased cost and alteration to buildings built before 1977 were based on misunderstandings.

"The figures that the proposed regulations would cost Princeton \$20 million are suspect," Caufield said. "The state itself has 3,500 buildings and we estimate all of those will cost \$20 million for new sprinklers, doors, and water supplies for the sprinklers."

"We hope to meet with Princeton officials and others to see if there's not a misunderstanding of the code. It's hard to conceive it could cost that much," Caufield said.

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Revised Fire Code Assailed

—Third School Alarm 'Excessive': NJSBA—

Tighter enforcement of existing laws and regulations makes required installation of a third fire alarm system in schools "excessive," NJSBA Executive Director Octavius T. Reid, Jr. told the code advisory committee to the New Jersey Fire Safety Commission this month.

The panel is considering a revised fire safety code that would require retrofitting of a second automatic fire alarm in all school buildings constructed before 1979. During a hearing in July, NJSBA warned that the safety benefits of the additional alarm would not outweigh the potential costs to school districts. (See July 25 SRN.) According to Association estimates, the retrofitting required by the proposed code could cost school districts from \$20,000 to \$30,000 per building or approximately \$36 million statewide.

Under the proposal, buildings would be required to have a fixed-temperature fire alarm or a smoke detector installed in schools. At present, school buildings constructed before adoption of enhancements to the Uniform Construction Code in 1979 must have one automatic alarm system (in most cases a pneumatic rate-of-rise alarm) and a manual back-up system.

"Local district experience with smoke detectors has not been good; they are too sensitive to carelessness and pranks, leading to numerous false alarms... Thus, the only viable option [if the code were adopted] is the fixed temperature alarm," said NJSBA's Reid on September 4.

NJSBA Research. According to Reid, NJSBA has concluded that fixed-temperature units "only marginally" improve fire detection "since normal operation of [fixed temperature and rate-of-rise alarms] can be hampered by the use of accelerants or by broken windows."

Moreover, "most school fires are detected by staff or students, and the manual pull box is the most common method of alerting both to the presence of fire," he testified. The findings resulted from research by NJSBA staff including visits to school fire sites and consultation with fire officials, architects, alarm manufacturers and community affairs department staff.

Terming the cost for retrofitting the system in an estimated 65 percent of all schools in New Jersey "prohibitive" and "staggering," Reid pointed to the public schools' safety record.

"There are no known cases of any student being killed in a public school fire in New Jersey," he commented. "The fact that public schools enjoy an outstanding safety record is not the product of luck but is attributable to [several] factors."

As examples, Reid noted major renovations to schools since 1960, installation of panic hardware, firewalls, smoke doors and additional exits from classrooms, and the upgrading of substandard facilities, required to obtain certification from the Department of Education. In addition, he cited the emphasis placed on speedy removal of students from buildings.

Marginal Utility. Concluded Reid: "NJSBA supports installation of alarms which incorporate the rate-of-rise and fixed temperature detection in the same unit for

new school construction, but opposes the immediate retrofitting of fixed-temperature alarms or smoke alarms. "Too much else can be done with the \$36 million to improve the educational adequacy and fire safety of schools than to put it into one item of marginal utility."

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