

PUBLIC HEARING
before
COMMISSION TO STUDY GOVERNMENTAL LAWS AND REGULATIONS
RELATING TO FIRE SAFETY STANDARDS

Held:
August 18, 1981
Student Center
Seton Hall University
South Orange, New Jersey

MEMBERS OF COMMISSION PRESENT:

Senator John P. Caufield, Chairman
John W. Dries, Vice-Chairman
Senator Barry T. Parker
Assemblyman Anthony M. Villane
Assemblyman Thomas F. Cowan
William T. Kosakowski
Donald M. O'Brien
Wilbur H. Lind
Robert M. Brody
John L. Jablonsky
Phyllis Salowe-Kaye
Catherine Aratow-Harding
Charles Schilling
Stephen Szczepaniak
Bruce Scott, representing Alfred Pouzenc

New Jersey State Library

ALSO:

Geraldine K. Van Horn, Research Assistant
Office of Legislative Services
Secretary to the Commission to Study Governmental Laws and Regulations
Relating to Fire Safety Standards

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SENATOR JOHN P. CAUFIELD (Chairman): Good morning, ladies and gentlemen. First of all, I want to welcome you to our first public hearing. Thank you for your attendance and I hope you have a very fruitful morning.

I would like to introduce everybody who is here. I will have the members of the Commission introduce themselves. First of all, I am Senator John Caufield, Chairman of this Commission. Jerry, will you start the introductions?

MS. VAN HORN: I am Jerry Van Horn. I am secretary to the Commission.

ASSEMBLYMAN VILLANE: I am Assemblyman Anthony Villane and I represent parts of Monmouth and Ocean Counties and I am on the Commission.

MR. DRIES: I am John W. Dries, Vice Chairman of the Commission. I am President of the New Jersey Fire Prevention Association and Chief of the Morris Township Fire Department.

MR. JABLONSKY: I am John L. Jablonsky, Vice President of the Engineering and Safety Service of the American Insurance Association.

MR. SCOTT: I am Bruce Scott, First Vice President of the New Jersey Fire Chiefs Association.

MS. SALOWE-KAYE: I am Phyllis Salowe-Kaye. I am President of the New Jersey Tenants Organization.

MR. SZCZEPANIAK: I am Stephen Szczepaniak, Business Manager of the Sprinklers, Fitters, and Apprentices of Local Union 696.

MR. KOSAKOWSKI: I am William J. Kosakowski, President of the New Jersey State Firemen's Mutual Benevolent Association.

MS. ARATOW-HARDING: I am Catherine Aratow-Harding, Secretary of the New Jersey Builders Association.

MR. BRODY: I am Robert M. Brody, Executive Vice President of Murray Construction Company, a developer and builder.

MR. LIND: I am Wilbur H. Lind, Past President of BOCA and Chief Building Inspector, Hackensack, New Jersey.

MR. SCHILLING: I am Charles Schilling, Chief of the Livingston New Jersey Fire Department.

ASSEMBLYMAN COWAN: I am Assemblyman Thomas Cowan from Hudson County.

SENATOR CAUFIELD: Okay. Thank you. I think before we start I would like to have someone from Seton Hall speak. We are very thankful to Dr. D'Alessio and his staff who have been very nice in arranging the setup for this morning. I think it is ideal for this type of hearing. I do want to thank them first of all and call upon the assistant to the President, Ralph Villanova, to say a word of welcome.

MR. VILLANOVA: On behalf of the President, Dr. D'Alessio, and the entire staff and administrators of the university, I do want to welcome the Safety Commission this morning to our facility. We anticipate this Commission will come out with some good findings and we are glad to play some small part in this.

SENATOR CAUFIELD: Thank you very much, Ralph. Again, we appreciate your presence and your very fine effort.

Before we call our first witness, I would like to say a couple of things. First of all, as soon as we finish the hearing today I would like to ask all the members of the Commission to stay here for a few minutes. We have a little something we would like to work out together. Following the hearing, if you would just stay in this room, we will explain what we are talking about.

I think we ought to take notice of the fact that John Jablonsky was

recently named a Fellow in the Society of Fire Protection Engineers and, of course, he is a very important member of this Commission and I think that just gives a little more prestige to all of us. So we are going to take advantage of that, John.

MR. JABLONSKY: Thank you, Senator.

SENATOR CAUFIELD: We will take credit for that - congratulations.

Again, I think it points to the calibre of the people that we have on this Commission.

At our last meeting of the Commission, we did set up five subcommittees and I will just say now for the benefit of everybody who is here, in case you have some things you want to refer specifically, after today's meeting or even at today's meeting, to them, these are the subcommittees that have been set up and you can communicate with them by contacting Jerry Van Horn, the Secretary of the Commission, State House, Trenton. Is there anything more than that necessary to communicate with you?

MS. VAN HORN: Not really.

SENATOR CAUFIELD: The Fire Safety Study Commission, care of Jerry Van Horn, State House, Trenton.

The subcommittees are as follows:

Wilbur Lind is the chairman of the subcommittee to study the adequacy and enforcement of the uniform construction code. Other members are: Chief Theodore Primas, Catherine Aratow-Harding and Robert Brody.

The second is the subcommittee to study fire prevention codes in the counties and municipalities and the need for a statewide fire prevention code. That is chaired by John Dries. The other members are Senator Barry Parker, Chief Alfred Pouzenc and myself.

The third subcommittee is to study State and federal fire safety regulations and pending legislation. That is chaired by Assemblyman Villane. Phyllis Salowe-Kaye and John Jablonsky are also members.

The fourth subcommittee is to study the availability of statewide statistics on fires and the need for a central office in the State to deal with these statistics. That is chaired by Assemblyman Cowan. Bill Kosakowski and John Dries are also members of that subcommittee.

The last subcommittee is to study economic incentives for improving fire safety. That is chaired by Donald O'Brien. Charles Schilling and Stephen Szczepaniak are also members of that subcommittee.

Just keep those in mind. I am sure you didn't get down all those names, but we will make those available to you. You have a general idea of what they are and if you have any questions on them, all you have to do, again, is contact Jerry Van Horn, Fire Safety Study Commission, State House, Trenton, and you will have no problem in getting responses.

If any of you are chiefs, responsible fire officials or code officials in your town and you did not receive our questionnaire - and we have mailed how many questionnaires, Jerry?

MS. VAN HORN: Lots.

SENATOR CAUFIELD: Jerry said lots. There were probably seven or eight hundred. When you receive them, will you please take them very seriously and see that they are filled out properly and sent back as expeditiously as possible. They are very important to one of our subcommittees, and, therefore, to the entire Commission. We certainly would appreciate that.

Our first person to testify today is John Fay, The Ombudsman for the Institutionalized Elderly.

J O H N F A Y: Thank you, Senator and members of the Commission.

The reports that our office has been doing in relation to the major tragedies that have occurred in our State in the last few years dealing with boarding homes, and the report that we have submitted to the Governor and to Commissioner LeFante as recently as a few weeks ago are leaving to the experts the matter of fire codes, themselves.

What we are trying to break through in the concept of fire safety is the type of people we are dealing with. It is not enough to talk about fire conditions unless we recognize that there is a particular group of people in our State, and in fact in our nation, who are absolutely vulnerable to death by fire.

New Jersey happens to have some of the major incidents of these types of fires in the last few years. Sixty four people have already died in boarding homes, some in the licensed category and some in the unlicensed category. We have to recognize that some of these places were obviously not dangerous places by code. Our office has been in existence for three years. These were not the serious offenders. The fire in Bradley Beach showed that most of the people who died were retarded. The great majority of the people who died in the Keansburg fire were former mental patients. But the people who died in the Mount Pleasant fire were not former mental patients nor were they retarded. They were just very old people who had nowhere else to live. So, there is a large and growing population in our State in in our nation that is particularly vulnerable and particularly defenseless in the matter of death by fire.

In our early reports and in our current reports, we make the very, very strong recommendation that we feel sprinklers are absolutely needed. We feel that it must be recognized these are very old, frail people in this category. Some of them are heavily tranquilized people and most of these fires occur at night when they are sleeping.

Three weeks ago I was called to Washington. Boarding home fires have finally become a matter in which the Federal government realizes they have a responsibility. This is something many of us have been saying from the beginning. Many of the people we are talking about are on social security. Most of them are living under SSI -- Federal money.

The fact is, these types of fires we are talking about are not unique to New Jersey. The high percentage of death we are talking about is true also in Pennsylvania, in Missouri, in the nation's Capitol, and in Texas. We are having these kinds of fires right across the nation.

It is very important for this Commission to keep in mind that you just can't look at bricks and mortar. You have to look at the buildings themselves. Whether boarding homes are handled by the Department of Health or whether they are handled by the Department of Community Affairs, under our new law we will be one of the few states in the nation with a boarding home law, and I think that is significant. We are starting from this point with a new fire code and a new boarding home law. I think this should be a national model.

We have to keep repeating how vulnerable these people are. These homes are not all over the State. In New Jersey they are mostly along the Jersey shore. They are mostly in the inner cities. Asbury Park, Long Branch

and East Orange have a high percentage of this kind of housing. The houses are old; they are mostly wooden; and they were never built for residential care. In fact, one of the greatest misnomers is to call some of these boarding homes residential health care facilities. There is no nurse there. There is no LPN there. And, there are no nurses aides there. Again, it is not just bricks, mortar, and fire codes that concern us. The law and the rules and the regulations as they stand now, 23 persons or less in a boarding home and one person on duty -- that person can sleep. That means 150 in a boarding home in Asbury Park. That means 24 people in another home. So, after you go into this in detail, and I am hoping that this Commission does do that, the fire safety experts, both on the State, county, and local level, will give you their expertise and then there has to be a recognition that where we have had most of the tragedies, we have to look at the staffing. You have to look at the support for these people. They would not be getting SSI if they were not considered disabled.

I have seen thousands, approximately, out there that are yet to be licensed. In my three years of office experience, we have yet to go into an unlicensed boarding home where we didn't find people who needed a higher level of care, and we have seen boarding homes that bordered on tragedy.

Not too many weeks ago, we found two old men and two old ladies nailed up on the third floor. A year ago, we found nine old, retarded men nailed in the attic in Sussex County. So, what we have documented out there is frightening, not just the tragedies we know of but the possible tragedies, God forbid, that are yet to come.

I am hoping that when the Federal government starts having regional hearings in January or February that New Jersey will be ready to report to the Federal government as to their codes and their standards for this particular type of housing.

So, in summation, I hope and pray that some good can come out of what we have gone through in the last few years and I think this Commission is a perfect example of how broad the mandate is. I am hoping that major recommendations on fire safety and life safety that can come about, and I am sure will come about, will come from this Commission. Thank you very much.

SENATOR CAUFIELD: There are just a few questions. First of all, do you see this situation getting better or worse?

MR. FAY: I think it is getting better. I think that we have a new law, number one. I think this has been recognized by the State officials and by the public. These were usually people who where invisible. These were usually people who fell through the cracks. It is true throughout the country and deinstitutionalization is part of the problem. There is now a push to put the retarded people in the community and also the growing elderly population, meaning the 60 year old to 90 year old people, who have outlived their friends and family. They are mixing this population together.

A good deal of the housing we are talking about is almost beyond help. One of the recommendations in the report is new housing and low interest mortgages for new housing, which would appeal to the non-profit groups, especially the religious groups who are doing this to a lesser degree, in order to try to motivate them into the area. I do know how complex and serious it is, and I also know that to stay with the status quo is unconscionable.

SENATOR CAUFIELD: With the deinstitutionalization there are going to be a lot more people out in the community.

MR. FAY: Yes, there are. That population is growing and the elderly population is growing.

SENATOR CAUFIELD: I think I speak for the entire Commission when I say there is a need to build in New Jersey better fire protected homes for people who can't take care of themselves.

MR. FAY: Absolutely. Some of these homes would be safe for you and I but they are unsafe for the population I am talking about.

ASSEMBLYMAN VILLANE: By way of explanation, I would like to say that John is probably the spokesman for those people that are so unfortunate and retarded or disabled. John spends a great amount of his time researching the needs of these people. I last saw John on a freezing cold day in February in Point Pleasant.

MR. FAY: Yes.

ASSEMBLYMAN VILLANE: I would like to ask you a question. It is almost a planted question. Tell us about the need to change the laws to make these things safer for these people. Tell us how quickly you need this Commission to react to those particular needs.

MR. FAY: In this particular area I think it should have the highest priority and I think it has that now. Washington ignored us for three years and I think from those congressional hearings in Keansburg and the fact you have a Federal Task Force on Boarding Home Safety is significant. What frightens me to death is the fact that there are still some people in such a dangerous situation.

ASSEMBLYMAN VILLANE: As I pointed out to our Commission, winter is coming and that is when we have our worst tragedies because of the old buildings and the heating systems in them.

MR. FAY: Yes.

ASSEMBLYMAN VILLANE: One other question I would like to ask you, John, is, do you think we need a sorting out of laws and a more definitive explanation of how houses can become safe, and not have different rules for the Department of Community Affairs and different rules for the Department of Health? Do we need to put together a comprehensive legislative set of rules and regulations to make these homes safe?

MR. FAY: I think this kind of housing, the sheltered care facilities - and this is only my personal opinion - should be under the Department of Community Affairs. They should have all of the boarding homes and there should be one set of codes and one set of standards.

I think the Department of Health could, and should, concentrate on the nursing homes, while the Department of Community Affairs could, and should, concentrate on all of the boarding homes. There is really a very thin line between a residential sheltered boarding home under Health and a very limited boarding home under DCA. It is almost the same type population of elderly and disabled, and the mixture, I think, could be, and should be, an eventual breakthrough.

MR. DRIES: You talk about licensed and unlicensed facilities, could you clarify that for us?

MR. FAY: Before the new boarding home law, there were two major categories of boarding homes. One was the licensed boarding home, under the

Department of Health. All of the others fell into the unlicensed category; that is, they were not licensed as boarding homes but in fact were boarding homes with the same population.

The new boarding home law that went into effect a year ago will now do away with that category. By next year - by this time next year - there should be no such thing in New Jersey as an unlicensed boarding home.

I think that I should point out that we will be one of the few states in the Union that will have that kind of a law and that kind of a structure. There will be three major categories of facilities: (A) rooming only; (B), room and board; and (C), the major category and the one I think almost all of the people in this room will be concerned with, the licensed boarding home -- room, board, and some services, meaning that they do need this.

Most of these people live on SSI -- most of the people, not all of them. The low rate for SSI is \$280 a month. The high rate is \$380 a month. There are people in boarding homes paying six or seven hundred dollars a month, and they are all in the same building.

MR. DRIES: Do you know how many boarding homes we have in the State? Do you have any idea?

MR. FAY: No, we don't. That was the major purpose of the new boarding home law, to find them so we know exactly how many there are and just who is in those boarding homes. There hasn't been one unlicensed boarding home we have been in where we didn't find people who should have been in a nursing home to begin with, or who needed a higher level of care.

MR. DRIES: You have no idea how many boarding homes we have and no idea of the population, etc.?

MR. FAY: There are approximately forty thousand people.

MR. DRIES: Thank you, John.

SENATOR CAUFIELD: I think part of the problem, John, is that there are those who do not register and we are going to have to determine who they are.

MR. FAY: This is where local government is going to come in and better local awareness is going to come in. This is where the Federal government can help us, with their SSI check mailing. They are going to have to tell us where they are sending them. It would require us to go to Washington and find out if they are being mailed to a post office box. You don't have to be J. Edgar Hoover to find out there is something wrong between social security and state records telling us how many checks are being mailed out. With one good strong check on them through Human Services, they can tell us in any one year if there are five checks being mailed or if there are fifty-five checks being mailed. Again, you are going to see boarding homes as small as four and as large as fifty.

MR. O'BRIEN: Mr. Fay, you mentioned low interest mortgages. That means to me there has to be some form of subsidy. Are you aware of any successful legislation in this state, any other state, or on the federal level?

MR. FAY: Not in the western world am I aware of any at this moment. What I am saying in my report is that you cannot stay with 70 or 80 years old wooden buildings and put disabled people in them or even put sprinkler systems in them. Some of the buildings can't take sprinkler systems because they are so old and decrepit. But, the nursing homes in the State are relatively safe because most of them are fireproof, most of them are one level, and most of

them are properly staffed.

I am saying if a nursing home is relatively safe a boarding home is relatively dangerous. Even if they try to stay with the current housing and with all of the new fire codes and fire safety, there are still very vulnerable people living in them. There are people on the third floor, people who are in a wheelchair or who need a walker. Many of them in Keansburg, if not most of them, for example were heavily tranquilized. At the hearing the most eloquent testimony came from the service organizations.

SENATOR CAUFIELD: Is that report you speak about finished?

MR. FAY: Yes.

SENATOR CAUFIELD: Can we get copies?

MR. FAY: Everything that we have we have done on boarding homes and will be presented to this Commission.

SENATOR CAUFIELD: Could you make 20 or 25 of those available to Jerry?

MR. FAY: Yes.

ASSEMBLYMAN VILLANE: When we implemented the new law, one of our problems was the delay in the bill being signed. As you recall, it took almost a year before the bill passed both houses and went to the Governor for signature. One of the problems we had was the funding and the financing of the new law. It was a recommendation at that time that we look at the funding and financing of the new boarding home and rooming house regulations through the casino fund. I spoke with the people in the front office and I said that I thought we could do that because most of the people were elderly or disabled that would benefit from the use of those casino funds. Would you endorse that kind of an idea, John?

MR. FAY: I would endorse the funds coming from any direction. I would like to say this, Assemblyman: Last year and the year before they did fund -- I think Commissioner LeFante did get the money he asked for to staff this new law. As I recall, and Bill Connolly can speak further on this, I think we do have enough money now to fully staff the boarding home division in Community Affairs.

ASSEMBLYMAN VILLANE: Inspections too?

MR. FAY: Yes.

SENATOR CAUFIELD: Bob Brody.

MR. BRODY: Presently when you license one of these nursing homes -- or, not nursing homes but homes for the elderly, excuse me -- aren't there any laws now on the books that require warning devices or some type of equipment?

MR. FAY: Yes. They are going in with the new rules and regulations. With the new boarding home law is also coming, hand and hand, the new regulations. The Department of Community Affairs' standards are in many ways higher than Health. We are trying to bring both of them together and that is why I believe eventually, within a year or two, Community Affairs would be so geared up that they could take all the boarding homes.

But, the standards now, as I said, even as they stand-- And this worries me very much, they are very vulnerable because of their physical and mental state and the lack of staffing which wouldn't relate to a fire code necessarily unless you knew that these people do need that kind of staffing. There is no training at all. In some of these boarding homes it is one of the residents who is the staff person at night.

SENATOR CAUFIELD: Bill Lind.

MR. LIND: You mentioned, Mr. Fay, about the building and the people -- either the residents or the people who take care of them. Do you know of any study or anything that has ever been done on the use of the furniture and the fixtures within the buildings that also add quite a bit to the fire hazard?

MR. FAY: As they say in government, "I'm glad you asked that question." Part of our report does deal with the bedding and the furniture in boarding homes. Yes, sir, I do have that in my report. There is a section on the need for fireproofing, the bedding in particular. All these people, being tranquilized, can or might fall asleep smoking and the building being so old, you do have to recognize that this makes it dangerous. The furniture and the bedding is a factor and it is in the report.

MR. LIND: That makes a lot of sense.

SENATOR CAUFIELD: Mr. Schilling.

MR. SCHILLING: John, one question. We are talking about existing structures, old buildings, frame structures, and so forth, and there is no question that this problem of economics is going to play a big part in the picture.

MR. FAY: It has already.

MR. SCHILLING: I am wondering, when we are talking about upgrading and suppression systems, and so forth, is this a lucrative business to a degree, where we can say: "Hey, let's upgrade this building in three years or in five years"? What is your opinion on the economics as far as the people who own these structures and own these homes are concerned?

MR. FAY: Well, Chief, again it is a broad industry and some people run very good homes. They are very humane people and they try and make them as safe as humanly possible. Then there is the other extreme, where you have vultures out there. The financial accounting will be one of the factors. There was no financial accounting here. I don't know of any who have gone out of business. I don't know of any who had to have testimonials for them to get through the next year. So, the financial accounting is part of the making an objective the sprinkler systems and the five year type of loans, etc. There is an Administration bill coming down that some of us have some questions about. I can't see rewarding everyone, the good, the mediocre, and the bad, with the same stroke of the pen. This is what licensing is doing, by the way. There are some people who will not - and properly - get a license in New Jersey to be responsible and to have power over other human beings.

So, I think at this point proper auditing is going to be part of evaluating the industry, and an industry it is.

MR. SCHILLING: Thank you.

SENATOR CAUFIELD: Are there any other questions? (no questions)
If not, John, thank you very kindly.

MR. FAY: Thank you, Senator.

SENATOR CAUFIELD: Before we call our next speaker, I would just like to indicate that we have two people from DCA here today: Bill Connolly and Charlie Decker. Any time you two gentlemen would like to jump in, we would appreciate it because we know you have a lot of expertise and you have been very cooperative. Any time you want to jump in, just jump in, okay?

Our next speaker is Ken Lehn.

K E N N E T H L E H N: Mr. name is Kenneth Lehn. I am Regional Executive Coordinator with the National Automatic Sprinkler and Fire Control Association, which is the trade association that represents better than 95% of the manufacturing side of the sprinklering industry, and about 80% of sprinklers that are being installed today in the United States are installed by our members.

I represent the industry in five states, New York City, and the District of Columbia. I am also a resident of New Jersey.

I would like to go into about eight different categories and I will try not to be too wordy. I have given you literature and that of course is my testimony. I would like to enlarge just a little upon it.

Sprinklers have been around for 107 years and their effectiveness has been well documented. I would like to make the point that all of the figures that are published on the effectiveness of sprinklers do not come from the sprinkler industry. We do not have access to the records. We do not have personnel. We do not have the money to maintain those records. So, any effectiveness ratings that you hear or read about come from outside of the sprinkler industry, and are maintained primarily by the insurance industry and to some extent the fire services. There has never been a multiple loss of life due to fire in a fully sprinklered building, and insurance interpretation of multiple means more than two.

I would like to point to another document. I only have one copy. I will give it to the secretary. It is a study on the city of Fresno. It is called the Fresno Chronicle. It is put together by our association and the City of Fresno, and I will be brief with this. It is over one-half inch thick and I will only take a minute or two on it. Back in 1955 Fresno made a decision to try and cope with some of the problems facing the City, and between the Building Department and the Fire Department they decided to go to a heavy sprinklerization program. This report covers the area, or the period, of 1955 to 1977.

Let me just cite one advantage to sprinklers in municipal planning. The City of Fresno covered about 24 square miles. Let me get those numbers -- about 21 square miles in 1955 and in 1977 it covered 56 square miles. In 1955 it was 113,000 population and in 1977 there was 200,000 in population. One of the results of the sprinklerization was that the fire department was not enlarged. In 1955 there were 68 firemen on fire duty, that is around the clock putting out fires, not inspecting buildings, not typing or anything like that, just putting out fires. In 1977 with this great increase in the City of Fresno, the number of firemen on duty still remained at 68. The hours they worked were reduced from 66 to 56 hours a week. The cost to the taxpayer was considerable and in addition the fire department was more professional, was better trained, had better equipment, and was better paid. I do think this is a role of sprinklers that has pretty much not been appreciated, I might say. It is difficult to put it into effect and the fact that it worked in Fresno does not mean that it is going to work in every other place. But, the concept is there.

Another big advantage of sprinklerization again is from outside the sprinkler industry, it is from the insurance rating organizations in laying out municipal water supplies. One of the primary requirements to meet is the fire flow requirements, and, for instance, in Fresno, the ISO, which is the Insurance Service Organization - a rating organization - reduced the fire flow requirements by 50% because of sprinklerization and another 25% because of

what they considered good construction. So, just taking numbers of let's say 10,000 gallons per minute, that was reduced to 2500 gallons per minute. So, this means smaller mains were put in, fewer pumping stations were required, and that means that smaller bond authorizations were required, there were less interest charges, and all these were passed on to the customer and to the taxpayer. So, I think this is a concept that should be looked into somewhere down the line. I will leave this one copy with the secretary.

One of the areas we as an association and an industry are concerned about is maintaining the quality of our industry. We are proud of our record. The National Fire Protection Association, for instance, has kept records from 1925 to 1970. They stopped in 1970. They cover over 84,000 fires that involve sprinklers, and their performance table, which is out of print but is still available, indicates that over that period of time - 45 years and 84,000 fires - that sprinklers were effective 96.2% of the time. In their table they show twelve different categories for the reasons for failure. So, we are proud of that record, but we do want to improve it and the one thing we have done, and I will try to be brief, is, we have, on our own, started a design certification program so that those people who desire sprinklers will be certified and hopefully will be recognized in the various codes.

Another item that we are for now and that we were opposed to traditionally was licensing of sprinkler contractors. We would like to see that done because we know in certain isolated areas there are problems of quality and we do want to keep the quality up. Certainly, as a trade association we are not trying to limit competition. That's against the law. We are not trying to keep anybody out of the sprinkler industry, but we do call now for licensing of sprinkler contractors. One of the points that is little understood about a sprinkler contractor is, he is not a plumber. A plumber does not design a plumbing system. He does not draw up the blueprints. He reads the blueprints and installs the plumbing. The sprinkler contractor designs the system, draws up the blueprints, and he also installs it. Sprinkler contractors are not licensed, and we do call for that. I realize the political climate is such that that may be difficult, but we think that may be a factor.

I have an article. I believe it was sent in the mail to your office. It is on the cost of sprinklers. Yes, sprinklers do cost money, but I think if one looks at it closely, there are justifications involved. One point that is generally overlooked, and I am not casting stones in any direction or towards any group, but part of this is due to ignorance and the sprinkler trade-offs that are encouraged, in the BOCA Code particularly. If you put a sprinkler in a building-- Again, we are talking about a very complex thing, but I will give you the concept. For instance, if you put a sprinkler in a building, you can possibly reduce the fire rating from three hours to one hour or two hours. That means less material goes into the building and less labor, so there is a tradeoff. You have the cost of the sprinkler on the one side and you have a reduction in the components that go into the building on the other side. In fact, in the literature I have given you there are instances cited where the actual cost of the building is reduced because of sprinklerization. It doesn't always work exactly that way, but it can and does in many cases.

Another point, to get back to the quality of sprinkler systems, and another thing I am calling for or asking for-- Incidentally, I did work in the New York City Fire Department for 23 years prior to going with the association,

and in New York City they have a very thorough and a very effective maintenance and inspection program for sprinklers and I thought that was throughout the United States. When I got this job I was shocked to find that throughout the United States, with a few exceptions, sprinklers are installed and then forgotten about. Occasionally an insurance company will inspect them and maybe a fire inspector will once in a while, but generally there is no call for inspection and maintenance of sprinkler systems throughout the United States. Memphis, Tennessee corrected that, their fire department did, a few years ago, and they have an excellent program. Philadelphia, about eight years ago, corrected that, and they today have an excellent program. It is computerized and it is really working well. So, this is an area that I think should get attention.

Again, this would increase the effectiveness of sprinklers, as effective as they have been. The point I want to make is, if you do put a sprinkler in a building and reduce the requirements for that building under the code, then that sprinkler system is ineffective. What you will actually have is a substandard building, according to the code. So, I think there has to be a tremendous emphasis on the quality and the effectiveness of sprinkler systems if we are going to use them as tradeoffs. So, I think that is a key point that is not fully appreciated and we do want to address ourselves to that.

In a sense, money talks, right? We know insurance companies are very careful with their money. Yet, in most cases when you put in a sprinkler system, the insurance company will voluntarily, in most cases - again, this is very complex but in most cases - reduce the insurance premium on the building. The average is around 50%. It can be less. Occasionally, because of the occupancy and the construction, they won't reduce it at all. That is the exception. Sometimes it is as high as 85% and 90% reduction in fire insurance premium. Again, this is something to take into consideration when you consider the cost of the sprinkler system.

Now I want to hit on something that is potentially a very controversial subject. When we talk about this we are going to hit against the power structure, and that is water standby charges on sprinklers. One of the pieces of literature you have is on that.

The sprinkler system has proven it protects property and lives and the insurance companies give a reduction on their insurance premiums because of it, and what happens? Probably about 70% of the time the water company comes along and because a businessman puts in a sprinkler, they add an additional charge, a water standby charge, for the sprinkler system. It is often very exorbitant. Let me give you two examples. They are from conversations I have had, but I can give you added facts on these two situations if you want them. One entails a building in Paterson, New Jersey. The contractor told me he installed a system and then the owner of the building found out that he had to pay to a water company a thousand dollars a quarter, four thousand dollars a year, because he put in a sprinkler system. The owner of the building disconnected the sprinkler system. He couldn't take it out, but he shut off the water to it. A year later he had a major fire. The building was destroyed and people lost jobs. That was in Paterson.

In another town a fire chief told me he used his own persuasive powers on a builder who was putting up a small professional building, two stories high. He was building it for himself as an investment and the fire chief - he did not use a sprinkler system - used his art of persuasion and persuaded

the builder to put in a sprinkler system, and that builder as the owner of the building was hit for \$1500 a year for standby charges because he put in a sprinkler system.

Now, what does a sprinkler do? We know there is a water shortage and even though we have had some rain lately, for the rest of the century, let's face it, we will be short of water. Sprinkler systems conserve water. Instead of using maybe 50,000 gallons for the fire department to put out a fire in a building, it puts the fire out when it starts and maybe they will use 1,000 or 2,000 gallons. That's why in Fresno, for instance, ISO said, "Well, because you are heavily sprinklered your mains can be smaller and you need fewer pumps," and so on. Yet, the water companies are penalizing people for putting in sprinkler systems, and to me this just doesn't make sense.

There is one town in the United States - there may be more, but I will cite Oakbrook, Illinois - where they do it the right way. They look at a building and say, "how much water will it take to put out the most likely fire in that building"? And, they will look at a wood frame building without a sprinkler and they will say, "Okay, that is the one that will be charged for the water because that is the building that is going to take the water to put out a fire." If you have a brick building that is not sprinklered, okay, they will pay less; they will pay, but it will be a little less because the chances of a serious fire are a little less than the wood frame building. Then if you take a sprinklered building, again we get complex on this too. If you take a sprinklered building, whether it is frame or brick it all goes into a formula and that building pays either nothing or a very minimal amount because it has a sprinkler system. It seems to me that is the way to do it. Most communities do it topsy-turvy.

In New Jersey you can be in one town and the owner of a building with a sprinkler will pay a heavy standby water charge. The town right next to it won't have any charge at all. So, it is quite a complex issue and I respectfully request that you go to the water companies and the Public Utility Commission and take a look at these numbers. I think it is a real disincentive to saving property and saving lives.

Then, lastly, I would like to touch on legislation. Last year there was legislation in Alaska that passed the Alaska Legislature; it was House Bill 648, signed by the Governor of Alaska and it went into effect this year. It calls for the reduction in the assessed valuation of property that is either sprinklered or that has a smoke detection system -- that sort of thing -- and it reduces that assessed valuation by two percent. It also calls for the reduction, or elimination, of water standby charges and it provides for the funding of fire protection systems.

Another piece of legislation that is outside the state, but I think I should touch on as an example, is in Pennsylvania. It is House Bill 1400. It was just introduced and it calls for the elimination of the 6% sales tax in Pennsylvania on fire prevention systems, whether they be smoke detection or sprinklers, and so on.

The Federal government - I believe it is the first time with this type of bill - has had legislation introduced in the Senate by Senator Howard Cannon of Nevada. It is Senate Bill 878, and in that bill it defined 14 different fire protection systems or devices, such as sprinklers, smoke detectors, fire doors, and so forth and so on. For sprinklers, that bill calls for a 20% tax investment

credit and for the other 13 categories, a 10% tax investment credit. Co-sponsors of the bill are Senator Laxalt of Nevada and Senator Williams of New Jersey. There will be hearings, I believe, in the Fall on that.

In New Jersey we have Assemblywoman Marie Muhler who has introduced four bills, one a funding bill and three bills, one each for nursing homes, boarding homes and residential health care facilities, to sprinkler existing and new construction. I think that is a point that has been ignored over the years too. When a code change has gone into effect, usually it would concern itself with new construction. Today, I think that people understand that if something is good for new buildings, it is possible it is also good for an old building. That is one of the things the Muhler bills address.

That is my testimony for today. I want to thank the Senator and the members of the Commission for allowing me to be here. Again, I am available, and the whole office is available. I would think this may be just the beginning. If I can be of further help, I would be happy to. Thank you.

SENATOR CAUFIELD: Okay. Just a few questions, Ken. First of all, we do hope you are going to make yourself available to us through the life of this Commission.

MR. LEHN: Certainly.

SENATOR CAUFIELD: If I heard correctly, what you are saying is, given the proper quality and so forth upon being installed, the problem after that is making sure that it is operational.

MR. LEHN: Absolutely.

SENATOR CAUFIELD: I understand from your statistics - I have heard them many times - that it is 96.2% effective. I understand in Australia it is 99% effective, and that is attributable to the fact that a contract is required for maintenance in Australia. How do you account for that small fraction of a different we have, that 3.8% where it is not effective? Why is that?

MR. LEHN: Okay. In part, the way we record fire statistics - and again this study went back to the year I was born, 1925; forty-five years back from 1970, not from this date - there is not, has not been, and there still is not consistency in the recordkeeping and I think there is a certain margin of error there. That would be part of the answer. The other is, for instance, in some ways sprinklers can be complex - the design, and so on - but sometimes the answers are simple too. For instance, just the simple fact of closing control valves, like turning off a faucet-- Thirty percent of the reason for failure - thirty percent of that three percent - is because the control valves were turned off, it is as simple as that. Sometimes it is done maliciously, but most times it is done just through carelessness and oversight. So, just by making a superficial inspection and checking to see that the control valves are kept open, you will reduce that to a great extent.

Another point I wanted to make is, some of the most effective jobs that sprinklers do are never reported. I can't prove this statistically, but I know in my own mind, and you can ask fire service people and certain businessmen who have experienced it, that the sprinkler system is designed to put out an incipient fire and normally one or two heads will go off. When that happens, the fire is put out, the damage is minimal, there is a deductible clause in the fire insurance policy, and it just not worth the businessman going through the rigamarole of the telephone calls and paperwork to try to get a claim which will be denied anyway because the damage is so light. In addition, the

businessman does not like people from the insurance company or the fire department snooping around his building - and if you can, keep that to a minimum - so he doesn't bother to put in a claim for many of the small fires where the sprinkler works perfectly, and it is never reported.

So, I think if we take all of those factors into consideration -- and by the way, Australia does have a superior type recording system of these statistics and I think that is one reason they are 99% -- I think you will find in this country the actual figure is pretty close to 99% also.

SENATOR CAUFIELD: You know, I sense from our conversations in this Commission that the water standby charge ought to be met head on, and I think we are going to be doing that as a part of this Commission at the proper time. Certainly, something has to be done about it. It doesn't make any sense at all to be penalizing the people who are doing something to help themselves.

Are there any further questions from the other members of the Commission? John?

MR. JABLONSKY: The insurance industry well recognizes the value of sprinkler systems, as you have mentioned, by reducing rates on many of the properties. I think it is important, however, to caution the Commission on the one item and the one trap that many fire safety groups fall into, and that is the matter of incentives. When a building is being constructed, in my experience I have had very little call for incentives for the installation of items of convenience and comfort. When you are speaking of the installation of an elevator in a building or an air conditioning system or carpeting in a building, you never hear anybody say: "Where is the incentive to put it in?" However, when it comes to saving lives, the first comment that seems to be made is: "Well, why should we put in it? What is the incentive?" Now, all too often we hear that the only incentive is a reduction in insurance premiums, or on occasion there is legislation to give tax incentives. This is all well and good, and for many years this is what has caused the installation of sprinkler systems. However, I don't think that should be the prime reason for the installation of the sprinkler system. We are still talking about the safety of life and the safety of property.

All too often what happens in a discussion of the installation of sprinkler systems is that when the incentives fall below the point the building owner feels is good for him, the sprinkler system is then omitted, and to me this seems to be wrong -- compromising safety on an incentive cost. So, although you mention incentives, and they are an important part of this entire discussion, I will caution the Commission that there has to be more than incentives for the installation of a lifesaving device. I would hope that we would come out in our report and have an owner first look at the reasons for installing the system, making up his mind, and then giving the benefit of the incentives.

SENATOR CAUFIELD: I don't think you are going to find any disagreement here on that, John.

Do any other members of the Commission have any questions? Chief Schilling?

MR. SCHILLING: Ken, I have to stand up for the fire service inspectors. You are talking about inspection in the State of New Jersey, and there is a background for these systems being inspected under DCA under our rates for one thing. However, in addition to that, this is the primary purpose of every fire inspector in the State and we realize we are under a crunch condition.

Our inspectors throughout the State certainly have -- what shall I say? -- not upgraded, but they have kept these sprinkler systems efficient to the degree they are efficient at this point. The average building owner or tenant knows nothing of that sprinkler system in the building. If it wasn't for the fire inspector coming in and explaining what this system did, the greater percentage of these people wouldn't even know the purpose for them. So, in defense of the fire service and our inspectors, and so forth, the men are doing a job; they are trying to do a job, there is no question in my mind about that.

MR. LEHN: Chief, I agree with you. Certainly, that is a big help. There are certain mechanical things that should be done. For instance, in New York City every five years they require that the water really flows and the dry systems are actually tripped, and that does take mechanical knowledge of the sprinkler. This is the kind of thing I was talking about, in addition to what you are saying. It should be actually activated because it is a mechanical device and occasionally repairs are required in that sort of thing. That is the kind of thing I was addressing.

MR. SCHILLING: I'll buy that.

SENATOR CAUFIELD: I think you are both making a very strong case for a uniform fire prevention or maintenance code.

MR. LEHN: Right, sir.

SENATOR CAUFIELD: Are there any other questions? (no questions)
If not, Ken, thank you again for your testimony. Please make yourself available to us.

MR. LEHN: I certainly will. Thank you.

SENATOR CAUFIELD: Our next witness will be Regina Carlson.

R E G I N A C A R L S O N: Senator and members of the Commission, I am the Executive Director of New Jersey GASP, which is a statewide, non-profit, educational organization. New Jersey GASP is a member of the Inter-Agency Council on Smoking and Health in New Jersey. We serve as an advisor on the Governor's Special Project on Smoking and Health. I am the author of a report on smoking in the workplace, published by the American Lung Association for its nationwide affiliate and I have just completed a contract for the State Department of Health, a report called "Smoking or Health in New Jersey."

I have outlines of my testimony and some brochures about our organization. I would like to take one minute to tell you about our organization. Our concern is that three out of four Americans do not smoke and yet tobacco smoking hazards us. When you are in a smoke filled room, whether you are smoking or not, you are getting harmful chemicals in your body. 70% of non-smokers experience eye irritation, sore throat, cough, carbon monoxide builds up in your blood and harmful chemicals are deposited in your lungs. We know that children who live with smoking parents have twice as much respiratory disease and there is more crib death among children with smoking parents. If you work in a smoke filled office for a long period of time you will experience as much damage to your lungs as a smoker of ten cigarettes a day. There is now conflicting evidence that you may be able to get lung cancer from second hand smoke. We know that people with bronchitis and asthma and heart disease are at risk in a smoke filled environment. So, the main concern of my organization has been the health effects of smoking on non-smokers.

However, the effects go beyond this. We are all paying higher insurance rates because of the health effects and the safety effects of smoking. Smoking drivers have two to two and a half more times auto accidents. Smokers are absent from work a third to a half more times than non-smokers. Smoking is a black plague in our society and it touches us when we think about fire safety as well as health, which is why I'm here this morning.

The premise that I'm starting with is listed at the top of my page, which is, every minute 800,000 cigarettes are lit. Every one of those is a potential fire. In fact, about every two and a half minutes in this country, a fire will be started because of smoking. From that premise, the fact that people are lighting up things that are going to smolder and burn for five to seven minutes, which are treated to keep smoldering.

From this, I draw four conclusions about fire safety. Number one, smoking has a strong relationship to fires. We know that there is at least \$150 million in property damage from fires and we know over 120,000 fires started annually in America because of smoking. Smoking is particularly dangerous in some sites. I have listed percentages for you. For instance, in hotels and country clubs, about one third of all the fires there are caused by smoking. In hospitals and homes for the aged, one fifth to one quarter of all fires there are caused by smoking. In public places like theaters and shopping centers and restuarants, ten to twenty percent of the fires there will be caused by smoking. A statistic I did not list here, because I did not think it was within your area of responsibility is that 50% of all residential fires in which there is loss of life are caused by smoking. So, smoking is a major factor in fires.

Smoking, then, also becomes effective in terms of cost of fires. We know that about 25% of all fires are on state or federal property, which is particular concern to state governments and to taxpayers, but, of course, all fires are eventually paid for by all people in the form of insurance rates.

We know that smoking workers cost their employers \$10 a year annually in terms of fires in the workplace. I am happy to hear that you have a sub-committee that is going to look at the economic incentives and I think this is an important area when you talk about smoking. That figure I produced, the \$10 a year for smoking workers is produced by Marvin Cristine, a well respected health economist. He has another figure that is just staggering. The cost of every pack of cigarettes sold in America, when you talk about the health care costs, the increased fires, the lost days of work, is \$1.56. Every pack of cigarettes in America cost twice as much to us, as a society, when we start to clean up the damage and clean up the death and clean up the fires that this causes.

I am going to give you a paper, "Savings and Costs Associated with the Clean Air Indoor Act of 1978." This was proposed legislation in California. This paper was written by a professor of medicine and a professor of health economics at the University of California. They said that in 1976, in California, 13% of the firefighters who were injured were hurt in fires caused by smoking.

We also know that there will be a loss of productivity because people have been killed in fires. There will be loss of productivity because buildings have been burned and the treatment of burn victims is a notoriously costly process. So, the cost of fires started by smoking is monumental.

What I would like to see done about this is I would like to see smoking restricted. The position of our organization is that in a free society, adults should have the right to use a harmful and addictive drug, but we do not believe that they should be using it in ways that are hurting other people and we certainly think that people should be given information, particularly the information that when you start smoking, you probably can't quit. The quit rate for drugs is very low in general and for smoking, it is quite low. So, we take the position that any anti-smoking program is a fire safety program and it is effective to restrict smoking. This paper, again, quotes studies by Meade and Walton done in Britain, by Professor Warner at the University of Michigan and other studies.

Anti-smoking programs and smoking restriction programs, anti-smoking laws have reduced smoking from 18 to 22% in the studies they covered. So, telling people that they can't smoke somewhere does reduce the amount of cigarette smoke and therefore reduces the amount of sources for fire. I also maintain that it follows that if we are restricting smoking, we are also restricting loss of life and loss of property from fire. We know that 30% of fires in some sites and 20% in other sites are caused by smoking. I argue that you as a commission should concern yourselves about restricting smoking.

As a trivial example, Berkeley, California instituted a smoking restriction ordinance banning smoking in stores. In the first year after that was instituted, 60% of Berkeley merchants reported a reduction in burn damage.

So, I am making two requests to this commission. One, there is a paucity of information, I believe, about this. So, I am asking you as a commission, as you gather data on fires and fire safety in New Jersey to concern yourselves with the question of how much of the fire damage is related to smoking.

Second, I am asking you as a commission to make a recommendation to the State Legislature that it adopt regulations limiting smoking. There are a number of bills in the process of legislation right now and there is certainly room for more. You, as people concerned about fire safety, should, I believe, concern yourselves with restricting smoking. When we reduce smoking, we reduce the biggest killer in

America today. 350,000 Americans will die annually because of tobacco smoking. This is the biggest health hazard in America and I suggest to you that it is also a very great fire hazard.

SENATOR CAUFIELD: Thank you, Diane. Any questions of the speaker?

MR. KOSAKOWSKI: I would just like to make a statement. I think it is ironic that we're talking about smoking and there has been legislation introduced to increase the tax on cigarettes to put more policemen on the street while, at the same time, no mention of fire protection or possibly putting a tax on that is heavy enough where it will cut back on some of this smoking thereby eliminating some of the fires that take place. I think that should be noted.

SENATOR CAUFIELD: Any other questions?

MR. BRODY: Just for your information, I believe Campbell Soup Company, as a company policy, does not allow smoking at the desk and restricts smoking to specific areas, at specific times of the day and they claim that their work production per employee is way up. This goes from the executive all the way down to the plant worker.

MS. CARLSON: I am familiar with many workplaces and have experiences with other places where smoking is limited. I felt I must concern myself with fire, but since you have given me an opportunity to do this, smoking is a major inefficiency in the workplace. There are many employers who do not allow employees to smoke. Johns Mansville, of course, limits smoking because it is a co-carcinogen with asbestos which is a dangerous product. In New Jersey, in Clifton, a company did a survey of its smoking employees to find out much they spent smoking, how much time was wasted. In Connecticut, the Robert Miller Consulting Company has also studied smokers. They figured that smoking employees cost the company five to seven hundred dollars more a year just in time wasted. Places that have reduced smoking have reduced fires, have reduced housekeeping, and some of these employers have passed it along to their employees and, in fact, we now have in New Jersey several employers who are refusing to hire smokers. The fire departments in Alexandria for several years and just recently in Wichita have stopped hiring smokers because they found that smoking firefighters were retiring an average 10 to 20 years earlier or were collecting disability payments and they just couldn't afford to support these addicts.

SENATOR CAUFIELD: Thank you very much, Diane. Abe Barrack from the Woodbridge Tenants Association?

A B E B A R R A C K: I am Abe Barrack from the Woodbridge Tenants Association. I want to present these pictures to you now before I start speaking and these are all fire hazards.

I'm going to talk on two items, sir. Multiple dwellings, tremendous fire hazards in the multiple dwellings where I live and throughout the State of New Jersey. These pictures you have, sir, are from the Woodbridge Village Association, Colonial Gardens, and they are all fire hazards. We have a multiple dwelling law that says that every five years the Community Affairs people come and inspect Woodbridge Village after the local inspectors refused to put down the proper violations. In my apartment, plus throughout the Woodbridge Village, we have tremendous violations with tremendous holes, holes in the fire walls, and the local inspectors don't do a thing about it, sir. Mayor DiMarino of Woodbridge refused to do anything about it too until I sent two letters to the Governor to get Community Affairs to come down and inspect this property. They came down and inspected the property with my consultant. My consultant's name is John Garcia, Pheonix Fire Consultants from Jackson, New Jersey.

They came down to inspect this property. They inspected the property on May 7. On July 17, they were supposed to reinspect it. They never came down. I had the Public Advocate's office call them up to reinspect these properties. Two weeks later they were supposed to come down and they still haven't come down. This is the way they work, the Department of Community Affairs. They never do anything properly. This is what happened in Keansburg. It is the same thing with the Keansburg fire. They were supposed to reinspect it in 90 days and they never did that. They keep passing it on. Why inspect 120 apartments or multiple dwellings in one month if you cannot inspect them? Why not inspect just 500 or 300 and reinspect them in the 90 day period? Then we know that those 300 apartments or multiple dwellings are safe for people to live in. I'm 64 years old. We have people in those garden apartments and in the surrounding area who are much older than I am and they live under these boiler rooms and no one does anything about it. Community Affairs doesn't do anything about it; Mr. Connolly doesn't do anything about it. All we get is them saying that they're going to do something about it. When, six months from now, a year from now? Sir, this is our trouble. When you read this report and compare it with the pictures, you will find that this report is a false report because he left out half of the violations that we had in the boiler room, in the washroom. By the way, they had a fire in the washroom the other day and Mr. Connolly says that it's not a fire hazard. The pipes going out had holes. It wasn't sealed tight and the lint got in there. They had a fire last Tuesday. I tried to get the information from Avanel. Number one, they refused to give me the information. How did the fire start and why did the fire start? This multiple dwelling law is a farce. It is the biggest farce in the State of New Jersey because the local inspectors are not worth two pennies. They are protecting, not the tenants, but they are protecting the builders, all the landlords. I don't know. Is it possible that there is a payoff there? I don't know. I want you to find out, sir. What is going on and why do we have to live in conditions like this here?

I can make a suggestion. I went to the Cartaret Gardens the other day. It is out of my district. I found out that they were full of holes, fire hazards. It just happened that I bumped into Inspector Greenberg and he told me that they gave a summons just before I came in there. I say, let's give the fire department, not the housing authority, this power. Their lives are at stake, not the housing authority. They're going to die, not the housing authority. We've got to give it to the fire inspectors to inspect these properties, not the local inspectors, not the mayor, because we have trouble. I don't know if there is a big payoff or not. I want you to find out, sir. I want an investigation from the Attorney General's office to investigate Community Affairs why they don't do their job properly or the local mayor or the local investigator. The housing authority, Mr. Nagro, doesn't do a thing. We have to give power to the local firemen. We need them because I know their lives are at stake and if they know that somebody is taking something there, it's going to come out because they are the ones that are going to die, not the housing authority or Community Affairs or the local inspectors. This is why I say that we have to give them this power.

I'm going to show you something now, sir. I'm going to give you pictures now of the Greenfield Apartments in Edison, New Jersey. These are the worst hazards of 25 multiple dwellings that I ever went into. I think they're about ten years. They must have had a multiple dwelling five year inspection. If they had a multiple dwelling five year inspection and if they passed them without investigating this thing, they should be ashamed. This is a tremendous fire hazard. There are fire walls full

of holes, tremendous holes in the ceiling. There was water on the floor, wires, everything. It was just one big, tremendous fire hazard. I've got to show you these pictures so you can pass them around. This is terrible, really terrible.

I would like to ask Mr. Connolly a question. Mr. Connolly--

SENATOR CAUFIELD: Just a moment, we will run the Commission meeting. We will be very happy to have you testify.

MR. BARRACK: That's about all I have to say, sir.

SENATOR CAUFIELD: Okay, any questions?

MR. DRIES: Mr. Barrack, you talk about local inspectors, but you didn't clarify who you meant by local inspectors.

MR. BARRACK: Local housing inspectors.

MR. DRIES: The fire department in your area, Woodbridge, what type of fire department is it?

MR. BARRACK: The name is Avanel #1. I called them up to come down to inspect and they refused to come down to inspect my apartment and then I told them about the violations in the hole area. He came when I wasn't there. He came in with another inspector and they let them in. They don't want witnesses. Community Affairs doesn't want witnesses. They're afraid of witnesses because they're afraid of the truth, sir.

MR. DRIES: But, what is the make-up of the department? Is it a paid department, part-paid department or all volunteers?

MR. BARRACK: Volunteers.

MR. DRIES: You know, we discussed the issue of codes. That's one issue that will be addressed by the Commission. We realize the code is one thing, but the code enforcement is equally important.

MR. BARRACK: You aren't kidding, sir. And, we haven't got it there. That's the funniest part of it. We've got to have an investigation. I'm serious when I say that, Senator Caufield. The Attorney General has got to investigate this thing because our lives are at stake, not only the fire department's. They're the ones that have to fight these fires, not the housing or building inspectors. These are the people that we've got to give the power to, not the housing authority. If they had it, I guarantee you, sir, when they go into these inspections they're going to do it properly. If not, you're going to hear about it from the vendor. Any other questions?

MR. DRIES: I have no further questions.

SENATOR CAUFIELD: I just have one or two. You have a series of volunteer fire departments in Woodbridge, don't you, six or seven or something like that? But, do you have a fire prevention division in the fire department?

MR. BARRACK: I have no idea.

SENATOR CAUFIELD: So, when you say that the local fire departments should do the inspecting, maybe there is nobody available to do it.

MR. BARRACK: Charlie Mazzaro is the inspector for our Woodbridge area.

SENATOR CAUFIELD: Do you know whether or not Woodbridge has a fire prevention code?

MR. BARRACK: I imagine they have, but I've never checked into it, sir. The mayor don't do anything about it, sir. You know, we have a lot of trouble there. This is why I say that we need an investigation by the Attorney General in this fire business. It's really terrible. I went to town council meetings and I asked the mayor, "Who are you protecting?" He didn't answer me, sir. I asked if there was

a possible payoff. He didn't answer me, sir. This is what I'm trying to bring out, sir. We have got to do something about this, sir.

SENATOR CAUFIELD: You've made some very serious allegations here today.

MR. BARRACK: I'll back them up anytime you want me to, sir.

SENATOR CAUFIELD: Since my name is Caufield and not Zazzali, we'll make certain that a transcript of your remarks does go to the Attorney General.

MR. BARRACK: Fine. Thank you very much.

MS. ARATOW-HARDING: I wanted you to clarify for me what you mean by housing inspector. Do you mean a building inspector or a housing inspector?

MR. BARRACK: Well, I think it is the housing inspector that goes around on complaints of this nature. I think they may belong to the building inspector and the planning board. They are under the planning board, which, I think is part of the building inspectors.

MS. ARATOW-HARDING: Do you, in Woodbridge, if the housing inspector is one in the same as the building inspector?

MR. BARRACK: No. The building inspector is different.

MS. ARATOW-HARDING: So, you are really speaking of a housing inspector and not a building inspector.

MR. BARRACK: Right. I've never come across a building inspector doing this work. It is always the local housing inspector. It's not only over here. I've spoken to hundreds and hundreds of firemen; and there's one thing they always show me because they're afraid to say anything else. They always put their hands in the back here. This is what they get. I don't have to say what that means. Everybody knows what it means. This is what they all say and I spoke to two or three hundred of them. I talked to the Keansburg inspectors there. It was the same thing there and if they didn't want to inspect, they should have sent notices to the fire department. These men would have been alive, today, sir. It is the same thing with our Woodbridge Village, sir. No one has come down for six weeks. On those pictures, sir, I would like to get someone to go down and investigate those pictures because that's a tremendous fire hazard. They're terrible.

MR. KOSAKOWSKI: I would just like to say, whether the fire prevention inspectors and the fire service are paid, volunteer or part paid, I find it very hard to believe that they are not doing their job where it has to be done and, also, I know that there is no monkey business going on.

MR. BARRACK: I just said, sir--

MR. KOSAKOWSKI: I would just like to make that very clear that the fire service, traditionally, has been the enforcement of fire prevention law and they do their jobs where they are supposed to. There are certain places where we are prohibited to inspect and I just want to make that point very clear.

SENATOR PARKER: On that point, if I can just make a comment, in the Department of Community Affairs, you have the Tenement House Bureau, which has the duty of inspecting multiple family dwellings of four units or more. Who did you contact in that particular department or who came down, if you know because they have inspectors, regardless of complaint, who go routinely around the state making the inspections.

MR. BARRACK: Do you know how hard it is to get one of those inspectors down, sir?

SENATOR PARKER: Well, I want to know who you talked to.

MR. BARRACK: I spoke to Director Connolly, I spoke to Superintendent Conn.

SENATOR PARKER: Who is Director Connolly?

MR. BARRACK: He's under Commissioner LeFante.

SENATOR PARKER: What bureau does he head up?

MR. BARRACK: Community Affairs.

SENATOR PARKER: He's the Assistant Commissioner?

MR. BARRACK: He's right here.

SENATOR PARKER: Who else did you talk to?

MR. BARRACK: The last man I talked to was Flegler, Chief, Bureau of Housing, who made this inspection, sir.

SENATOR PARKER: They did come down and make an inspection?

MR. BARRACK: They made an inspection, but, of course, we had the Public Advocate's office force him to come down. He would never come down by himself. The Public Advocate's office made this man come down, sir. This is what happened and this is not a true report because with those pictures and with what he wrote on this thing here, you will find that there is a false report right over here.

SENATOR PARKER: I just wanted to know who came down. You say they did come down?

MR. BARRACK: Yes.

SENATOR PARKER: And, Mr. Flegler made the inspection?

MR. BARRACK: Yes, sir, but--

SENATOR PARKER: Did you accompany him?

MR. BARRACK: I did and my consultant, John Garcia, came down. He's a fireman.

SENATOR PARKER: Did they make recommendations concerning what had to be done?

MR. BARRACK: No.

SENATOR PARKER: They just made a report?

MR. BARRACK: Yes, and I gave Senator Caufield a copy of the report there.

SENATOR PARKER: And, none of the violations, you indicate, have been cleared up?

MR. BARRACK: Only some have been cleared up, but most haven't been cleared up, sir. The pictures I have the Commission show this. In the boiler room, there are tremendous fire hazards there, holes in the walls, water, and everything else there.

SENATOR PARKER: Let me just ask you one more thing. Did Mr. Garcia make a report?

MR. BARRACK: Yes, you have the report there.

SENATOR PARKER: He made a report also?

MR. BARRACK: Yes. We didn't inspect the whole thing, by the way. He refused to allow us to go through the whole buildings with him, only through seven apartments. The other apartments I asked him to go through, he refused to go through with me. By the way, 2403, next door to me, has a three foot hole in the wall underneath the cellar. I asked Mr. Flegler to go down and see it and he refused to do it. He actually refused to go down there. There's a three foot hole. What happens to this man? In ten minutes, he's dead. Smoke alarms, we still haven't got any smoke alarms. Over a year ago, I asked for smoke alarms and still haven't gotten any smoke alarms.

MS. SALOWE-KAYE: That was my question.

MR. BARRACK: Smoke alarms? Smoke alarms are the hardest thing to get from these builders or from the landlord. This came out, we received this on May 7, the report. Not four months later, he sent away for these fire alarms, not right away when he received the report, but four months later.

MS. SALOWE-KAYE: My question was, do you have smoke alarms yet?

MR. BARRACK: Very few apartments have these. The law states now, if you have two stories, you have to have an electrical alarm in the stairway. None of them have it. Nobody has it in the State of New Jersey. I never seen them and I went to 25 apartments.

SENATOR CAUFIELD: That's very incorrect, what you just said.

MS. SALOWE-KAYE: Sir, as President of the New Jersey Tenants Association, we have many, many apartments. My question was, have individual units smoke alarms in place in the apartment unit, yet?

MR. BARRACK: Very few have them. Not even 10% of our 500 have smoke alarms.

MS. SALOWE-KAYE: It is a 500 unit building?

MR. BARRACK: Yes. By the way, we're supposed to have it down the cellar too. No one has it down the cellar and nobody has a smoke alarm in the stairway. Now, what happens if we have a fire in the stairway? Somebody is going to die. Who are they going to blame it on this time? I wonder who Community Affairs will blame it on this time. Anything else?

SENATOR CAUFIELD: Nothing else. Thank you, sir. Chief Stanley Kossup?

S T A N L E Y K O S S U P: Good morning ladies and gentlemen. I am Stanley Kossup, Chief of the Newark Fire Department. By way of background, I am also the Coordinator of Fire Science at Essex County College and a member of the Board of the Directors of the State Fire College, which is affiliated with the New Jersey State Safety Council.

My statement today is short and supportive. From my point of view, Senate bill 21 is, perhaps, the most important piece of legislation to come out of Trenton in a long time. The goals and the objectives of this Commission, as listed by your Chairman, Senator Caufield, at the July 22, 1981 meeting and again at the beginning of this meeting this morning, are the precise areas that must be concentrated on to make New Jersey and all of our individual communities more fire safe.

Now, these goals are ambitious, to say the least, but in looking at them, they are also realistic and they are achievable. However, they will require, for successful attainment, as I'm sure you will agree, a maximum effort from every member of this Commission in your assigned tasks. You will, however, need the support, obviously, of the public and more particularly, I think, the support of your fire administrators to achieve these goals. And, as Chief of the Newark Fire Department, the largest fire department in our state, I pledge my support, my wholehearted support in any way that I can in the future to assist you in reaching your goals and I again commend all of the Commission members for accepting this challenge. My prayers are with you and it is my hope that the legislation emanating from the efforts that you are making make our state and my city a safer place to live. Thank you for your time.

SENATOR CAUFIELD: Thank you, Chief. Any questions from members of the Commission? If not, will you please get back and take care of the office? Woody Widrow, Shelterforce? I'm not sure what that means. Would you explain that, please?

W O O D Y W I D R O W: Sure. There are two things. One, I work for Shelterforce and we put out a national housing newspaper. Second, I am presently a consultant for East Orange, working on a study on abandonment.

In terms of abandonment, I think most people just think of abandonment as a product, the end of an abandoned building and what we're trying to do in our study is to try to indicate that there is a process of abandonment and what we're trying to do now is systematically look at records and one of the important records we've

gone through is that of the East Orange Fire Department where we've gone through fire records for a two or three year period and to look at the fire records and, at the same time, we're looking at such things as code enforcement, city inspection, tax records, water records and various records and then look at abandoned buildings that are presently in East Orange and then trying to trace back and see if there are any indications that we can come up with. There is a point that is reached, which we call the pre-abandonment stage, on when a building will start going down into abandonment.

There are three types of fires that I think we're looking at. One, I think, is the one that most people talk about and the one that gets all the media attention. That is the arson for profit fire. Every year or ever couple of years, you read about a landlord who has torched his buildings. I know that Kibby Kevelson is listed as the scapegoat and one of the things is that it isn't just one landlord in that situation and we deal with one landlord and there is a distinct avenue called arson for profit and there has been some legislation on this.

But, there is a second type of fire that I think we have to deal with and that deals with buildings that are going down, which we called pre-abandoned. Most people think abandonment is when the building is empty. That's what we call physical abandonment, but there is an economic abandonment stage. And, the economic abandonment stage is when it is less profitable to put money into a building and when it makes more sense to collect the rents and to make minor repairs and the building starts going down and down and down. Well, from a fire standpoint, what happens is that you get more electrical fires, you get boiler fires and at that point in our study, what we're trying to look at is what percentage of fires are due to faulty construction or through lack of code enforcement.

The third one, again, that we're trying to look at is in abandoned buildings, what percentage of them are fires, what percentage of them were due to just allowing the building to be run down. We're also trying to put all this information into a computer to come up with a computer model and look at various buildings and code them and say what procedures should be done in various buildings, the ones that are in sound condition, the ones that are in pre-abandoned condition, the ones that are just about to be abandoned and the buildings that are in the abandoned stage. We're trying to look at them. I don't think, except for maybe certain landlords who are profiting from it, that almost nobody else profits from abandoned buildings. It becomes vacant so that there are less apartments and there is a very emergent situation with regard to apartments. From the fire department point of view, there are increased fires, increased hazards to life of the tenants and the firemen, and from the city standpoint, it is also a lack of tax income. So, our study will be out, probably, in September sometime and since we're not allowed to give out a lot of the facts before this study is released, I would be glad to send the Commission a copy of this.

SENATOR CAUFIELD: What kind of study is it?

MR. WIDROW: It is a study through the City of East Orange through the Community Development Block and I was hired as a consultant.

SENATOR CAUFIELD: It's an early warning program, I assume.

MR. WIDROW: It is pretty much to define two things: Why abandonment is happening and a part of it is or another aspect of it that we want to look at is arson for profit. Is that happening in East Orange? Why is it happening? And, then, there will be policy recommendations both on fire prevention, arson, abandonment and then public policy, what can a city do to turn this around.

SENATOR CAUFIELD: Just one word. You used the word "scapegoat" to describe Kibby Kevelson. I can think of many, many words to describe Kibby Kevelson--none

of which is "scapegoat".

MR. WIDROW: All I meant is that we picked the largest one out of them and prosecuted him. I think there are probably other smaller landlords.

SENATOR CAUFIELD: He's still walking around, by the way. Assemblyman Villane?

ASSEMBLYMAN VILLANE: If I may ask you a question, in the studies that you are doing, what are some of the factors that promote abandonment?

MR. WIDROW: Well, one of the things is that, again, through the tax system, most people think of income, in terms of residential property, as the rents that are collected or what is called the cash flow. But, for the larger landlords, there are tax advantages through such things as depreciation, property taxes, interest on mortgages and what happens is what is now called the "short market" in which there is a low vacancy rate and if an apartment building--what's happening in a lot of the older apartment buildings in the older cities is that they're going down and down and down but, because there is not enough new construction, what's going on is that a landlord is able to collect the rents and not maintain the same amount of services. So, what happens is that a lot of buildings that are going down, the rents are staying at the same level. There is a point that is reached in terms of what is called the difference between physical depreciation and economic depreciation.

ASSEMBLYMAN VILLANE: I understand that. Do you find in your research that there is some correlation between abandonment and unjudicious rent control? Is there some relationship between them?

MR. WIDROW: Well, one of the things that is still being worked on is to see if there is some correlation between things and we are feeding in various indicators that we have been told possibly lead to abandonment and we are feeding it into a computer and possibly come up with a computer model.

ASSEMBLYMAN VILLANE: But, did rent control enter into it at all?

MR. WIDROW: Well, the City of East Orange is under rent control. So, what would happen is--

ASSEMBLYMAN VILLANE: Is rent control one of the factors that encourages abandonment?

MR. WIDROW: You're asking me personally?

ASSEMBLYMAN VILLANE: Yes.

MR. WIDROW: I don't think it does. From all the studies that I've read in terms of rent control--the basic studies that have been done on such cities as Philadelphia, Detroit, Chicago, none of those cities have rent control and they have some of the worst abandonment problems. So, in terms of pure studies that I've read, I would say, no, there is no correlation.

ASSEMBLYMAN VILLANE: That's not part of your study in East Orange?

MR. WIDROW: No.

SENATOR CAUFIELD: During the period of time that these buildings are going through this process, I think you called it pre-abandonment, there is also a failure to pay water bills, taxes, etc.?

MR. WIDROW: Yes. We're looking at the years '79 and '80 and checking those years out for delinquency in taxes, delinquency in water bills and seeing if there is any correlation. We have a list of all the abandoned buildings in '81 and we're seeing if in '81, buildings that are abandoned, if they were behind in their taxes then, whether they were behind in their water, were there a lot of code violations, were there a lot of fires.

SENATOR CAUFIELD: Because, those things had to be part of the early warning system, obviously.

MR. WIDROW: Sure.

SENATOR CAUFIELD: Any other questions? If not, thank you very kindly. The next witness is William Shultz from Highland Park?

W I L L I A M S H U L T Z: Yes, I am the Fire Inspector and Fire Sub-Code Official from the Borough of Highland Park. Today, I am here speaking on behalf of the Middlesex County Fire Prevention Association of which I am the President.

I wish to first thank Senator Caufield for his sincere interest in the fire problems in the State of New Jersey and for the formation of this very, very important commission.

We come here today as an association interested in the prevention of fires and the protection of the occupants of the buildings that do catch on fire. We support certain ideals and concepts regarding fire safety. One of the first and foremost concepts that we support is that of a central fire agency in the State of New Jersey, be it a fire administrator or a state fire marshall.

It is a known fact that New Jersey is the only state in the United States that does not have a central fire agency or a state fire marshall's office. We feel that the citizens of New Jersey are not being protected because of this. We have a mismatch of governmental regulations and so forth in the state because of the fact that we do not have one central agency. We do not feel that the Department of Community Affairs should be this central agency. They do not have the experience, nor do they have the expertise in the fire area.

We also do not feel that this agency should be buried in the Department of State Police, as it is in many other states. We see a lot of things coming out of the state police in the State of New Jersey and we are very concerned about the fact that the State Police are starting to control the fire service and if you delve into that area, you will find that they are into arson, LP gas and things like this.

We do feel that a separate agency should be formed to enforce all fire related matters in the state. We feel that the Department of Community Affairs has made tremendous inroads into the construction of new buildings in the state through the Uniform Construction Code, but what we object to is the mini-max code concept. This is basically what the state has adopted to enforce the uniform construction code.

The mini-max code concept takes a minimum standard building code and makes it the maximum standard building code for the State of New Jersey. By this process of code enforcement, the local enforcement agency is not allowed to determine the level of fire protection that it desires. The State of New Jersey makes all fire protection decisions for each community. The local municipality is not allowed to increase the built-in fire protection requirements in any building. A community is not allowed to amend the building code in any way. Most important, the local fire department loses the ability to master plan for fire protection.

In summary, we support a minimum state uniform construction code with the option to amend it on a local basis. We do support a minimum standard fire prevention code, a maintenance code, with the option, again, to amend it on a local basis. We support the formation of a state agency to implement a statewide fire prevention code, to coordinate the provisions of the New Jersey Uniform Construction Code, and a statewide uniform fire reporting system. If we can be of any further assistance to this commission, please do not hesitate to call on us. We are as interested in the fire problem as you are.

SENATOR CAUFIELD: You've shown that by your actions of the past. Senator Parker?

SENATOR PARKER: I want to get some clarification here. You're referring to the building code that is regulated by the state, the statewide building code, which has fire safety built into it. You're not referring, in any way, to the fire safety code. Each municipality is allowed to adopt its own code and have as stringent requirements as it wants.

MR. SHULTZ: Dealing only with maintenance, we have no input into the building code, other than code changes on a national level.

SENATOR PARKER: Is that true for storage? For instance, if I'm going to put fuel tanks in or whatever, the township can put whatever it wants in there.

MR. SHULTZ: That may deal with zoning.

SENATOR PARKER: Well, you have a zoning problem. You see, when we developed the code, we specifically kept fire prevention or the fire code itself, the municipal fire code itself, out of the statewide building code.

MR. SHULTZ: You're speaking of two things. You're speaking of fire protection and you're speaking of fire prevention. Fire protection has the built-in aspects of the code, the walls, the ceilings, the structure. Fire prevention is the maintenance. We're the people that are stuck coming into the building after it is built to maintain it and make sure everything is operable.

SENATOR PARKER: Well, let me ask you this. If you're going to build a gas station, who do you go to to see where you can build it and what kind of units you can put in the ground and so forth?

MR. SHULTZ: You would have to go to the construction official in your community and he would go through the process of plan review and issuing the permits and so forth. The fire department is involved in that through the Fire Protection Sub-Code, but he really has no control over that. A very good instance here is in my own community, in Highland Park. We had a very strict sprinkler ordinance. Anything over 6000 square feet, anything over six stories was fully sprinkled. About five years ago, we built a senior citizens housing project, six stories in height. The entire building was sprinkled. The entire building had smoke detectors. The entire building is fire protected. At the time, it had automatic elevator recall, just about every fire and safety design that you could put in a building. About three years after it was built, we proved the worthiness of this fire protection. We had a fire in one apartment, in a heat pump. One sprinkler put the fire out and nobody was injured. We have 150 occupants in this building and anybody that thinks senior citizen buildings aren't a step closer to nursing homes is a fool. We see it. You get somebody into a building who is 65 years old and looks into a senior citizens complex, what do you do when they're 75 and they're blind and crippled and incapacitated? Do you take them out of their home, which that is, and put them someplace else? Normally, they stay right in that senior citizens complex, even though everyone tells you it's not supposed to be and so forth. I can take you to one that I have in my community. We have quite a few people who are incapacitated there. They are bed-ridden, they're blind or they're crippled. They can't move in a fire situation and this is what we try to protect against in our community with a local sprinkler ordinance. Ironically enough, today, we could build a building right next door to that, twelve stories, without a sprinkler in it. They just wouldn't have the same protection. So, we wonder sometimes whether we're going forward or we're going backwards.

SENATOR CAUFIELD: I think one of the things that I've heard you express concern about, and also some of the other chiefs before, was the fact that we may put in ideal fire protection, but then we don't maintain it.

MR. SHULTZ: That's one of the problems also. Just one aspect--

SENATOR CAUFIELD: Just one second, Bill. Barry, you know, in this state some of our communities have very good codes, fire codes and maintenance codes. Some have medium ones and some have poor ones and some have none at all. I think that's what we're talking about. No matter how good the protection is that you put in, if you don't make sure that it is maintained--for example, you put the proper means of egress and then you block them off or nail them shut or whatever you do. That's not covered, at the moment, mandatorily in any event. Some cities have excellent codes, again, and some have none.

SENATOR PARKER: My main problem, John, and my main concern--and I thought this is the way it was when we passed it--as far as the fire sub-code or the fire portion of that building code was concerned, a municipality could impose more stringent requirements than the state requirements.

MR. SHULTZ: No way.

SENATOR PARKER: Then, that should certainly be amended. So, it is only the prevention part of the code that was exempted from the statewide building code.

MR. SHULTZ: Right, yes, sir.

SENATOR PARKER: I'm just saying from my recollection, I don't believe that was the understanding of most of the legislators when that passed. That was a fight that we had, but I thought that we were going to allow the municipalities that right not only to inspect, but to make more stringent standards.

MR. BRODY: What you are going to do as a developer is preclude people from going to certain towns to build. Highland Park was an undesirable spot to put up a building. Irvington was an undesirable spot to put up a building. I'm just talking in general. And, what you will do is you will have people seeking to build in areas that don't have as a stringent a code as other areas and therefore, the way it is enforced now, with a uniform code, it makes it the same throughout the state which happens to be the fair way to do it. If you want to upgrade it in one community, then you should upgrade it in the entire State of New Jersey and not do it on an individual basis. There are many, many drawbacks. They could have the best fire code in the world and fire prevention and no one will build there because it will be so detrimental cost-wise.

SENATOR PARKER: Well, that was the original argument that the builders gave for the statewide building code.

MR. BRODY: That's exactly why it has to be uniform and why you have to upgrade and that's what this commission should do, an upgrading for the state, not for an individual town.

MR. SCOTT: That was the situation at Stauffer's Inn over in Westchester. Right next door, they had a very strict building code, fire code. Where Stauffer's was built, there was not.

MR. BRODY: That's what we want to get away from.

SENATOR PARKER: I still think there should be some local discretion, some availability where you have a situation like that. That was my understanding of the way it was going to be. I didn't realize that it wasn't.

MR. SHULTZ: Can I respond to Mr. Brody's statement? My community is probably similar to many communities in the state. We're very densely populated. We're in less than two square miles and we have about 16,000 people. We have a part paid and part volunteer fire department. The community itself should judge how much they want to spend for fire protection and so forth. Now, when we were putting in the built-

in fire protection, we were reducing the cost to the taxpayer for fire protection. I think Mr. Lehn showed that with the sprinkler reports. We have another individual in our organization from East Brunswick Township. They have over 300 sprinkled buildings in their community from a local sprinkler ordinance. They've reduced the burden to the taxpayers for fire service tremendously.

MR. BRODY: I don't say I disagree with you. I disagree on the concept of picking out one town to be more stringent than another and I feel that the commission is here to make a uniform code that everyone in the State of New Jersey and every municipality in the State of New Jersey can live with for just the things that you're saying for Highland Park.

MR. SHULTZ: We do agree with a minimum standard code, but we don't agree with the maximum. Our hands are tied, literally tied as far as fire protection is concerned.

SENATOR CAUFIELD: I think, obviously, that is going to be a point that we're going to be discussing many times in commission meetings.

MR. SCHILLING: Bill, let me say, my own town of Livingston had the same 6000 square foot sprinkler code for many years, maybe as far back as 15 years ago, and we have many, many structures sprinkled in our town. So, you can be sure that I'll be here battling for you.

MR. SHULTZ: Thank you. The example is that we have not had a reduction in building in our community. We've had many buildings modernized under our sprinkler ordinance and sprinkled, automobile dealerships, restaurants, that would not be sprinkled under the state Uniform Construction Code. I can take you in a restaurant in my town, and there are several of them throughout the State of New Jersey. Their building isn't sprinkled. It is a woodframe constructed building. It was an old house, they added a house nextdoor and they added an addition on and another addition. It's mishmash of additions. When they remodeled, under our sprinkler code, we had the entire structure sprinkled. It was a fire disaster. We sat there in the firehouse waiting for the time that restaurant alarm came in because we knew we were going to have multiple life loss and if we didn't lose the civilians in the restaurant, we sure as hell were going to lose the firemen that went in there.

MR. DRIES: Bill, what you are trying to say, then, is that each municipality should elect to master plan, depending upon the fire suppression forces that they have.

MR. SHULTZ: Yes, exactly. It is unfair to a community that has a volunteer fire department to turn around and tell them because of reduced fire protection, they now have to put on a paid fire department for faster response.

MR. DRIES: Who picks up the tab for that?

MR. SHULTZ: The taxpayers.

MR. BRODY: Of which one is the developer of the property.

MR. SHULTZ: Right. We're all taxpayers.

ASSEMBLYMAN VILLANE: One, I agree with you that we do need some updating. In my home town, we have a man down there who is the toughest fire enforcer in Monmouth or Ocean County. He's sitting in the back of the room. But, you have to be careful where some municipalities could use that for exclusionary zoning if, in fact, they required such high standards in an attempt to keep everybody in the low and middle income brackets out of those municipalities by requiring very heavy fire protection codes with additional wiring to fire headquarters, smoke detectors. You could, in effect, eliminate that municipality from the market for people who couldn't houses. That's one danger of it and we'll have to work that out.

There is another think I would like to ask you about and maybe you could expand on it. I've heard a lot of arguments about whether or not we should have a fire marshall in the State of New Jersey. There are some things that are bad about it and some things that are good about it.

MR. SHULTZ: Well, fire marshall is a dirty word in the State of New Jersey. What we're talking about is a fire administrator, one central agency. We feel that other agencies are getting into the fire department and they don't have the expertise nor the experience in that area.

ASSEMBLYMAN VILLANE: Do volunteer firemen agree with you in that position?

MR. SHULTZ: I am only speaking for the Middlesex County Fire Prevention Association. We have members who are volunteer and paid in our association and we all agree on the concept.

MR. DRIES: In defense of the fire service, apparantly it seems that everybody is writing codes and standards, rules and regulations and the codes and standards and rules and regulations appears as confusion as to who is going to enforce it and, in defense of the fire service, that's one of the problems that the fire service has in the State of New Jersey and I think that's what you're talking about with the central focus. We're talking about code enforcement, which is equally important. Now there are about six different state agencies promulgating rules and regulations for fire safety and they determine who is going to enforce them and apparantly in many instances-- and I don't know if it is true or not--they can't enforce them.

MR. SHULTZ: That's very true. There is such a mishmash of fire safety regulations, it is unreal.

MR. DRIES: But, the fire regulations are such a mishmash because there is no code enforcement.

MR. SHULTZ: You have one agency that tells you to put 20 guage steel in a fire door and another agency tells you to put in a regular one hour door with a buck and so forth. How can you win with that?

SENATOR CAUFIELD: Well, hopefully, those are some the things that we're going to be solving with this commission.

MR. SCHILLING: One last question, John. Bill, you don't oppose, basically, a uniform code, do you?

MR. SHULTZ: No. We believe in a minimum standard code with built-in fire protection and fire prevention because we know that before the uniform code many communitie didn't even have a building code.

SENATOR CAUFIELD: Okay, thank you very much, Bill. The next witness will be Samuel Maglione from Orange.

S A M U E L A. M A G L I O N E: Good morning, everyone.

On behalf of the New Jersey State Fire Prevention Association, I wish to extend our gratitude for the opportunity to address this Commission this morning.

Perhaps the most striking aspect of New Jersey's fire problem is the indifference with which our citizens confront the subject. Fire is not perceived by most people as a significant personal threat to themselves. Though they acknowledge the existence of the danger of fire, it is rarely personalized and then only in relation to others. For most persons, fire is too remote a possibility to evoke an actual response, and the resulting apathetic attitude subverts fire prevention education and obstructs the practical application of fire protection knowledge.

The application of fire protection technology to safeguard life and property involves expense, and dollars for safety always come hard. Taking a calculated risk often appears more attractive than the investment of substantial funds in protective facilities, particularly when the penalty of a faulty calculation may be substantially mitigated by insurance. The very uncertainty of fire is an ever-present temptation to risk-taking and the consequent avoidance of expensive fire protection. These facts lead to business decisions which, in many instances, result in substantial losses by fire.

Another variable factor which must be considered is in nature political. Laws are enacted by political bodies to require only that minimum of provision for fire safety of life and property which society demands. Such laws invariably lag far behind the technology of fire safety. Lawmakers, being elected officials, - excuse me, gentlemen - rarely display leadership in the pursuit of safety, an unpopular course, offensive to the property owners affected and likely to lead to retribution at the polls. Hand-wringing and lamentation, though unlikely to avert a recurrence of a fire disaster, is safer political behavior than forthright corrective action. Thus is progress toward the fire-safe environment slowed to a crawl.

This Commission will find that it will be working in a field where statistics are meager, but it will also find that annual costs of fire will rank somewhere between crime and product safety. More importantly, however, several hundred lives are lost each year without so much as a whisper because no State agency has the responsibility to monitor this dreadful toll in human suffering.

Patterns of social movement, brought on by changing economic conditions and an advancing general technology, also have added enlarged facets to our fire problem. Intensive use of land in urban areas means bigger buildings, clogged streets and, in general, a more constant exposure to the perils of fire from a myriad of sources. High-rise buildings, for example, though hallmarks of urban progress, concentrate people in confined areas where they are exposed to fire dangers and elements of risk that only now are beginning to be realized. The most run-down neighborhoods, where dilapidated buildings are tinderboxes, are where the poor are forced to live. Crowded apartment houses and tenement buildings often reflect total indifference to fire safety because landlords see no profit in decent, long-term upkeep of their properties. Discontent and neglect in the ghettos can breed problems for fire departments in the form of riots, set fires, false alarms, and harassment of firefighters. Solutions are not easy and extend beyond control and direction of the fire community. But the conditions exemplify how totally enmeshed in the fabric of the social structure are many of the fire problems.

With the increasing financial plight of local governments, specifically in the large cities, but not necessarily exclusively there, governments are

facing static or declining tax revenues, increased costs, and hence the need to question all city expenditures and to place greater emphasis on the efficient operation of municipal services. Local government is demanding that fire departments operate more efficiently without jeopardizing the public's safety. However, the provision for adequate fire protection requires that governments on all levels provide the commitment to fire protection necessary to assure the safety of the citizens of this State.

This Commission is charged with the responsibility to inquire into all aspects of fire protection including:

1. The need for increased emphasis on fire prevention. Fire departments, many of which confine their roles to putting out fires and rescuing its victims, need to expend more effort to educate children on fire safety, to educate adults through residential inspections, to enforce fire prevention codes and to see that fire safety is designed into buildings. Such efforts need to be continually evaluated so that this State can learn what kinds of measures are most effective in reducing the incidence and destructiveness of fire.

2. The fire services need better training and education. Training for firefighters and officers ranges from excellent in some cities, as in Newark, to almost non-existent in many rural areas. Better training would improve the effectiveness of fire departments and reduce firefighter injuries. Firefighting is and has been consistently classified as this nation's most hazardous profession. Better education provides the key to developing leadership for the fire services.

The Commission must review the adequacy of present manpower practices within the fire departments of this State. This situation has led to an overall reduction in forces of approximately 25 percent in three years. Are municipalities using the CAP law as an excuse to reduce this vital service? Perhaps an answer to this perplexing dilemma lies in the consolidation of smaller fire departments into regional forces.

Each municipality in this State should be required to develop a master plan for fire protection, setting forth the goals and priorities for the fire services designed to meet the changing needs of the community. It should seek to allocate resources for the maximum payoff in fire protection and it should provide for a data system for continuing monitoring of cost effectiveness. This master plan should be incorporated into each municipality's overall master plan for land use development since fire protection is an integral part of any development plan.

3. The fire protection features of buildings need to be improved. The experience of this past year has once again provided powerful evidence of the need to provide automatic extinguishing systems in every high-rise building and in every low-rise building in which many people congregate. Most fire service personnel agree that the present Uniform Construction Code, while providing a reasonable level of uniform protection throughout the State, still falls short of the mark of uniformity since the stability of the Code is subject to change by forces outside of New Jersey. Additionally, many municipalities had more stringent code requirements prior to the enactment of the UCC law, thus diminishing the ability of municipalities to regulate the economic outlay with relation to numbers of men and equipment. In many small towns, ordinances required that automatic fire extinguishing systems be installed in any building exceeding 3,000 or 5,000 square feet. This area was deemed to be the largest fire area that the local fire department could be expected to control an emerging fire. This relationship draws parallels between the size or volume of fire and the number of men needed

to control it. However, with the advent of the UCC law, the State has voided the existing local ordinances, thus allowing areas without fire suppression systems up to 12,000 square feet, or 2 1/2 times the fire area. This increase in fire area impacts directly on the ability of a volunteer fire department to marshal enough fire personnel during the sometimes critical daytime period, when forces are at their lowest ebb, requiring more than double the manpower to combat an emerging fire. The UCC ordinance which was adopted by the State of New Jersey was never intended to be a maximum code and consequently was not so designed. Municipalities should be allowed to amend the code within reasonable parameters in order that they may limit the size of their fire forces.

4. Among the many measures that can be taken to reduce fire losses, perhaps none is more important than educating people about fire. People must be made aware of the magnitude of the fire problem and its threat to them personally. They must know how to minimize the risk of fire in their daily surroundings. They must know how to cope with fire quickly and effectively, once it has started. Public education about fire has the greatest potential to reduce fire losses than any other single activity.

The New Jersey Department of Education should research available curriculum material relating to fire prevention, such as the program offered by the National Fire Protection Association entitled, "Learn Not to Burn Curriculum," and encourage its adoption by school districts on a statewide basis. Educational aid should be offered as an incentive toward such adoption.

5. The boarding home fire record in New Jersey is a national disgrace and is the very reason for the existence of this Commission. If experience is any teacher, then this Commission must look at the record of the nursing home industry. More than a decade ago, the nursing home industry was rocked by a series of devastating fires with the resultant loss of many lives. At that time, automatic fire extinguishing systems were not required in nursing homes. Since those tragedies, however, the standards were revised to require the installation of automatic extinguishing systems and the industry has experienced a dramatic reduction in fire fatalities. Let us not lose this valuable lesson in history lest we be doomed to repeat it.

6. Time and again this Commission will find that the State's involvement in fire protection is nothing more than a patchwork quilt of well meaning State workers without the background in fire protection to bring about meaningful changes in inadequate and antiquated regulations. In one State department a dentist is in charge of fire protection and I ask you: Would you go to a firefighter to have a tooth pulled? This vacuum in fire protection has been brought about by the lack of a centralized State authority specifically concerned with fire. It is interesting to note that New Jersey is only one of two states in the United States, the other being Colorado, which does not have a central state fire authority.

It has been said in some legislative circles that the reason for the rejection of legislation designed to create the office of State Fire Administrator is that the fire service is fragmented and when the fire service gets together, then the Legislature will respond. Consider this thought: just because the fire service has been unable to agree on a particular course is no reason for the Legislature to abandon legislative remedies by ignoring the problem. It is precisely that type of thinking which has led to the present situation.

This Commission must understand that there are no free rides in fire protection. If it is cost which is the main consideration, then it is only a matter of who and when the price for fire protection will be paid. It can be paid by the developer when a building is being constructed to minimize the fire potential by putting into place a fire protection system designed to alert occupants to the presence of a fire as well as extinguishing it. Or, the price can be paid by the municipality by providing adequate numbers of men and equipment necessary to successfully combat a developing fire. Or, the price will ultimately be paid by our citizens in the form of increased injuries and deaths and destruction of property as a result of greater exposure to fire's potential.

Finally, this Commission should harbor no illusions about the amount of public concern over the deaths, injuries, and property losses from our State's destructive fires. That concern is miniscule when compared with the magnitude of the problem. The New Jersey State Fire Prevention Association hopes that this Commission's findings will serve to broaden and invigorate public concern over fire safety. The task to sensitize and educate our citizens to the problems of fire safety, both by government and by private groups, must begin now. Thank you.

SENATOR CAUFIELD: Sam, thank you very much. Yours was a very comprehensive statement. I want to go back to page 2 for just a minute. You said: "Laws are enacted by political bodies to require only that minimum of provision for fire safety of life and property which society demands." That certainly is not the intention of this Commission. None of my colleagues needs any defending. But political leadership is there and there is a concern for fire safety - and this Commission is concerned. The legislative members of this Commission have been volunteers; they are people who are very concerned about this subject and did vote unanimously in both Houses to establish this Commission. If they hadn't, obviously we wouldn't be here today.

MR. MAGLIONE: Senator, that statement was not meant to detract anything from the able-bodied men on this Commission. It was meant specifically for the entire Legislature. Now, because we have four people here today representing the Legislature, is in no way indicative of the feelings of the entire Legislature. I can assure you that is probably more the truth.

SENATOR CAUFIELD: I am not going to comment on that.

Assemblyman Villane wants to know about the fireman pulling the tooth.

ASSEMBLYMAN VILLANE: Just like New Jersey enjoys a bad reputation, but is a wonderful state, dentistry somehow enjoys a bad reputation by references like you make. Let me just point out to you - and I do this in a light vein - that I am a volunteer fireman and I am a dentist. (Laughter) And, in fact, dentists do other things besides treat teeth. They get to be Assemblymen and Senators and Governors. Indeed, a dentist sits on the President's cabinet at the federal level.

MR. MAGLIONE: Mr. Assemblyman, the remark is taken as lightly as you meant it.

SENATOR CAUFIELD: Any other questions.

MR. JOHN JABLONSKY: You are the second witness that testified to the problem that appears to be facing the fire service with the mini-max code. Now, it is understood that many states in the United States are trying to promulgate state codes in an effort to get standardization of construction in an effort to make it more attractive for developers who cross county and regional lines to have

just one set of rules that they have to abide by. This is one of the compromises with the mini-max code. I understand that there are many communities in the State of New Jersey that were taken aback so to speak, when they had to reduce sprinkler requirements that they had worked for many years to incorporate in local ordinances. Sprinklers probably are the primary fire protection device that is incorporated into a building code. It is a building matter because it is installed at the time of the construction, but yet it is very closely related to the fire service and their needs.

Should this Commission and should the various organizations within the State concerned with fire protection see a need to increase the sprinkler requirements in the building code, what is your understanding of the procedure in amending the building code that would have to be followed?

MR. MAGLIONE: At this time, the amendment of the building code could be done one of two ways. It could be done legislatively by an act of the Legislature to amend a specific provision or it can be amended on a national level. Short of those two ---and really I am not the guy to ask about this. Mr. Decker and Mr. Connolly who are with the Department of Community Affairs, certainly are more knowledgeable than I. But my understanding is that basically we have those two remedies. One is legislative and the other is a national code change committee.

MR. JABLONSKY: You say on the national level because the State has adopted the BOCA basic building code and, therefore, you would go through the code changes procedure of a national model code organization.

MR. MAGLIONE: Yes.

MR. JABLONSKY: That is outside the jurisdictional process of the State of New Jersey.

MR. MAGLIONE: Yes, it is.

MR. JABLONSKY: This is going to an outside organization.

MR. MAGLIONE: For example, in 1975, the BOCA basic building code had a provision to limit the size of high-rise buildings to 12 stories, above which all buildings had to be fully sprinkler protected. Today, we have no such requirements. They have lifted the requirement for sprinkler protection in any size building. A building could go up 100 stories without sprinklers in them. Those impact on a local community's ability to be able to deliver a sensible fire protection solution or fire suppression solution once a fire gets out of hand.

Now, I can appreciate the point of the builders. But builders don't go into fires; fire fighters do. Fire fighters are dying. Fire fighters are injured. They are in the nation's most hazardous profession second to none. There is good reason why everybody else is running out of the building. There is a very good reason.

MR. JABLONSKY: Does the New Jersey State Fire Prevention Association have any recommended amendments to the State building code concerning sprinklers that they would like to present to this Commission?

MR. MAGLIONE: I think there should be a provision within the law to allow certain - I am not talking about wided-eyed, pie-in-the-sky remedies --- But there are certain remedies that could be given to the local communities by allowing them to amend the code on a local basis within reasonable parameters.

MR. JABLONSKY: On uniformity, I think that one of the more difficult tasks in any recommendation that a Commission would have to make would be to remove

the uniformity that now exists. However, what I have in mind is: Can we receive from your organization a recommendation that would give us uniformity for the entire State? Do you want to upgrade the sprinkler requirements of your State building code?

MR. MAGLIONE: Yes.

MR. JABLONSKY: Rather than getting into each individual community choosing their own, could you present us with a recommendation that we could perhaps recommend for use by the entire State?

MR. MAGLIONE: The answer to that question is yes. Let me qualify that a little bit better. In a town like, for example, Highland Park or Livingston, which both have square footage requirements for sprinkler systems, the relationship between the two is based upon the municipality's ability to be able to deliver a full fire suppressant force to control a developing fire. They desired to maintain that level of efficiency because that is all the people they could gather during a particular time of the day, that is all the water they could bring to bear to control a fire. Without the provision for sprinkler protection, the fire was going to get away from them and it was going to continue to burn and God knows where it was going to stop. We only have to look to the last century to see --- in fact, just a few years ago in Quincy, Massachusetts, they lost 30 blocks in one fire in 1973 and 18 blocks in another fire. So the potential is still there. But I think that if we were to assume a position --- and I am not prepared to give you what that position is today from our Association. But I would go back to the Association and we would come back with a figure and we would come back with an alternative which would be reasonably accepted by both the building industry and ourselves, because I think that is where the conflict is.

MR. JABLONSKY: We would certainly appreciate it because if the general opinion of the fire professionals in the State is that there should be an increase in the sprinkler requirements in the building code, I think that is something that we certainly should look into and look into doing whatever is necessary to change the code should that be a major problem.

MR. MAGLIONE: You are right.

MR. JABLONSKY: On behalf of the Commission, I would appreciate getting something from your Association.

MR. MAGLIONE: Our Association will take up that responsibility.

SENATOR CAUFIELD: Before we have any more questions, today we are here as the guests of Seton Hall and, through their President, we have been extended every hospitality and cooperation we could possibly have expected - and a whole lot more. I would like to introduce the President of the University who I am sure would like to say a word of welcome to you, Dr. Ed D'Alessio. (Applause.)

D R. E D W A R D D ' A L E S S I O: Thank you, Senator Caufield.

It is my pleasure to welcome you to the campus today, members of the Commission and witnesses. I have testified before several commissions myself while I was in Washington.

I should also indicate that I, personally, have had a long time interest in fire prevention since my brother is Deputy Fire Chief in West Orange and I see members of the West Orange Fire Department here.

SENATOR CAUFIELD: That is what I like about you. (Laughter)

DR. D'ALESSIO: We extend our hospitality to you today. It is fortunate that your hearing is today and not two weeks ago or you wouldn't have been able to find a parking space. Hopefully, when you arrive back at your cars this afternoon, you will not have a ticket. If you do, just disregard it because I don't think you

have to wait for grades. But Seton Hall is at your disposal. Please feel free to wander around our not very well kept grounds. If you care to hold any other meetings here, please feel free to contact us.

I am sure that your meeting will be profitable. We, at Seton Hall, are constantly concerned with our fire safety and fire prevention. Just this year, at considerable cost, we did install a fire detection system in our two dormitories. My only request of this Commission is that whatever it legislates or proposes in terms of regulation, that it be crystal clear as to what our responsibilities are in terms of fire prevention and fire safety because we do have a large resident student body, as well as a large resident priest faculty. And if we are to install a system, please make it crystal clear as to what our responsibilities are because we are very, very safety conscious.

Thank you and feel free to use whatever facilities you see fit.

Thank you, Senator. (Applause.)

SENATOR CAUFIELD: Thank you, Dr. D'Alessio. Doctor is taking good care of the academic things here. But he would appreciate it if anyone knows of a 7' 1" center who can shoot and rebound.

All right. I think, Bob, you are next.

MR. BRODY: This is really not addressed to you, Chief, but to our consultants, so to speak, from the Department of Community Affairs. You made a statement that the only way to appeal the Uniform Construction Code is by having the code amended, I believe, in Chicago where it is written. I don't think there is any other way of doing it.

MR. MAGLIONE: Or legislatively.

MR. BRODY: Or legislatively - that is correct. But isn't there any way other than that in the State to listen to these people and possibly make the minimum a little more maximum?

MR. WILLIAM CONNOLLY: There is and there isn't. Under the Act, I don't have the authority.

SENATOR CAUFIELD: Will you identify yourself, Bill, for the record.

MR. CONNOLLY: I am Bill Connolly. I am the Deputy Director of the Housing Division of the Department of Community Affairs. If it were to be rewritten, it would be me who does it. But we don't have the statutory authority to rewrite the code. We do have to get our changes at the national level. However, we do have a provision in the statute where we go out and conduct public hearings; we seek the advice of local officials; we bring those recommendations back to our Code Advisory Board; and those that are adopted by the Code Advisory Board, we do advance at the national level. The State makes a big effort and we have been successful at the national level in getting the changes that the people in the State feel are necessary. It is an ongoing process. We had hearings in May. This year's changes went before the Code Advisory Board. A number of recommendations came out of the fire service. We submitted them to BOCA by their August 1 deadline. They will be considered in this year's BOCA code change cycle. We will be present at all the public hearings to testify very strongly in behalf of them. We are also fortunate that Chuck Decker happens to be a member of the BOCA Code Change Committee. So he is in a position to influence how BOCA views those particular changes the State has submitted.

MR. BRODY: Is there any restriction within the BOCA Code, itself, that would disallow a State to provide an amendment to the Code for the State, itself?

MR. CONNOLLY: No, the limit on our authority is the function of the State law. I should point out though that the State law is based on the recommendations

of virtually every blue-ribbon commission that has sat at the national level for the last 20 years. We are a favored child nationally. Everybody points to New Jersey and says: Why don't people do things like New Jersey in terms of the building code? The Douglas Commission and the Kaiser Commission and everybody who is anybody has always said it makes a great deal of sense for state governments to adopt in unamended form the model codes of the National Model Code Organization. That is the way we get the benefit of the widest range of expertise. If the opinions of one Fire Inspector are good in terms of what a code should be, then we honestly believe that the opinions of two or three hundred are even better. That is what we get when we work with the national process.

SENATOR CAUFIELD: But we still have the authority, Bill, to modify it if we want to legislatively.

MR. CONNOLLY: We do not.

SENATOR CAUFIELD: Legislatively.

MR. CONNOLLY: You do; we don't.

SENATOR PARKER: On that point, because mine was the same question, it was my understanding when we passed the law that we didn't have to adopt BOCA, we could have adopted on a statewide basis any code we wanted.

MR. CONNOLLY: That is true. We could have adopted another national model.

SENATOR PARKER: I don't recall the legislation saying a national model that we had to adopt. Is that in the legislation?

MR. CONNOLLY: It is pretty explicit.

SENATOR PARKER: I didn't recall that. I had understood, as you did, that it could be done administratively.

MR. MAGLIONE: You have to understand, the politics of the State bureaucracy plays a little part in this too. Each department has its fingers, so to speak, in the pie. For example, one department which is completely and totally exempt from the provisions of this code is the State Department of Education and the only thing that they are required to do is basically a foot in the door - is to submit plans for review by the local official who then reviews the plans, makes recommendations, and those recommendations, according to law, shall be binding. That has not been tested yet. But the State Department of Health is now exempt from the provisions of this code. Where we have fire safety provisions enforced by the office of the eunuch State Fire Marshal - because of the lack of a better word - he no statutory authority - where he as a fire person, was an inspector, that responsibility was taken away from his office and put into the office of the State Department of Health that now brings people who are of questionable background and experience, as far as fire service is concerned; and they are now enforcing the new regulations with regard to the State Department of Health.

It is this kind of a situation, this very loose conglomeration of responsibility, one shooting off in one direction and another department shooting off in another direction, which has led to our present situation. And it will continue as long as we have this situation in existence, make no mistake about it. Perhaps you will hear some segments of the fire service standing up trying to represent us all. Again, take a very good close, realistic look at what is going on. The evidence is there. It is before you. The bodies are stacked up in front of us. All we need to do is count and then relate to what is going on with the present situation.

MR. JABLONSKY: Senator, as a point of information, I think it is important to make a distinction of some of the terminology we have used for the benefit of

some people that may not be as involved in codes as some of us. There is no question that the four model building codes in the United States have gotten support and it is the recommendation by many that they be adopted and not amended at the local level. I think where we need an important distinction, however, is the use of the term "national." We are not talking about federal. When the gentleman alluded to the fact that the State of New Jersey would have to go and get a national change, it is a change from a private organization, the Building Officials and Code Administrators, International, which is an organization, a well respected organization, of building officials who promulgate a model code. The distinction is very important, however. You are not going for a federal change; you are going to a private organization and proposing a change to a model code promulgated by that organization. This is just as a point of clarification to those who may have thought we were talking about federal changes.

MR. MAGLIONE: Mr. Chairman, I, too, serve as a member of one of the BOCA Code Change Committees. I serve as a member of the Fire Prevention Code Change Committee. As a result of my experience there, I can't say I am very pleased by what I have seen.

I see a situation where influence is more important than technical ability. That is basically the backbone of the code change process. If I desire to change something, I write up a code change, I submit it to the committee, and it goes through the committee's procedures until finally it is voted on. And if nobody happens to be there with a special interest, it will go through and pretty soon we will have a code change. I have seen it happen this past year with what I consider to be an alarming frequency.

MR. SZCZEPANIAK: I would like to ask a question. You say you on a Change Code Committee. I am aware of the change in the sprinkling of a building. Before, it was 12 stories or above. Now, as you say, you can go as high as you want without necessarily having a sprinkler system. Can you tell me what input went into that to change that particular type of thinking that a building over 12 stories should not be sprinklered?

MR. MAGLIONE: I wouldn't be able to tell you. I can only give you an opinion. I think the person who could give you more factual information is sitting to the left of Mr. Connolly - that is Mr. Chuck Decker from the Department of Community Affairs - because he serves on that committee.

ASSEMBLYMAN VILLANE: My concept of what this Commission is all about is not to sit here and listen to the testimony and then apply to some independent agency to make recommendations for a change in the code that will take ten years to do. I am here - and this whole Commission is formed - to make the changes in both fire prevention and fire safety in the State of New Jersey legislatively. It is a legislative commission chaired by our Senator. (Applause.)

I am here to bottom-line the problems, to coalesce the things that need to be done, and take legislative action as soon as possible. That is why I think Senator Caufield and Senator Parker and Assemblyman Villane are here, and we are going to do that. We need your input and that is what we are getting. We don't want to get into the politics of BOCA or any other codes. We want things to be better in the State of New Jersey. (Applause.)

SENATOR CAUFIELD: Just one final thing before we get to the other two witnesses, the exception you were talking about before was obviously the Schoolhouse Guide.

MR. MAGLIONE: Yes, sir.

SENATOR CAUFIELD: I was under the impression that they were to report

back periodically - I think every six months - to the Legislature until certain changes were made that would bring them in conformity with the Uniform Construction Code. I am going to direct our Secretary to find out: Do we get such reports? First of all, is that true? I think it is. But if it is true, do we get such reports; and, if not, never mind why we didn't get them, but make sure we get them in the future. Would you make a note of that, Jerry, please.

Thank you very much, Sam.

MR. MAGLIONE: Thank you, Senator. (Applause.)

SENATOR CAUFIELD: Our next speaker is E. T. Hamtil, Chief, Bureau of Fire Prevention of the Township of Union.

E. T. H A M T I L: Senator Caufield, Assemblyman Villane, Senator Parker and Commission members: I am going to make my comments very brief because some of the speakers before have taken a little of my thunder away. There is no use making a carbon copy.

I have been on the Union Fire Department for 35 years. I have been in fire prevention for 20 years. I have been Chief of the Bureau of Fire Prevention for 16 years. I have written not only code for our community but for many communities in the area. I wrote a code for Clark Township; a sprinkler code was included. A few years after they adopted the code, they built the Ramada Inn, a beautiful hotel, completely sprinklered under the code. Today, if they built that under the Uniform Construction Code, the building would not be sprinklered. Then we talk about the tragedies in hotels throughout the country and ask what we are going to do about it. Why are we going backwards? We should be going forward.

We adopt the National Building Code, which is BOCA; and, as far as that Code is concerned, it is not considered a safety code because when code changes are made, too many lobbyists can vote safety requirements out, as we have just seen this past year.

The State of New Jersey needs a bona fide fire code, one that is considered a safety code. Local people have problems. I have problems trying to cope with the fire protection code of BOCA because my hands are tied. The municipality should have some leeway. You don't come out with laws and say, "Go ahead and enforce them," because they may not be enforceable on a local level.

There are also problems with the Cap law. The first place where the municipality removes employees because of a tax bite is the Bureau of Fire Prevention and enforcement becomes a problem.

The fire service in the State of New Jersey I think is big enough and we recognize the problem that we should not be part of another superagency. We should be a superagency o u r s e l f. We have too many splinter groups, as has been brought out: construction code regulations in Community Affairs; rooming houses in Community Affairs; schools in the State Board of Education; nursing homes and day-care centers, the Department of Health; arson, State of New Jersey; and there is even talk now of the training of firemen going under the Board of Education. If we had one roof, one administration, for the fire service, there would be more federal funds available to the State of New Jersey. The fire service is losing money that could be used for training, that could be received from the federal government.

There has been talk that the proposed Fire Prevention Code would be the national BOCA Code, as a basic code. I believe that the people in the fire service object to the name of it, due to the fact that we are not builders - we are fire service personnel. If a code comes down, we would like the name changed to something that would be more appropriate for the fire service.

Just two weeks ago, I had the occasion to visit the State of Connecticut,

and I want to investigate this a little further. I went into a small store. I also went into a small restaurant. Lo and behold, it was very, very obvious that they have fire safety regulations. It was a small store and it had a sprinkler. The small restaurant was sprinklered. Almost every other building I went into was sprinklered. Exits were well lighted. There was panic hardware on the door in the restaurant and emergency lights. It showed that somebody was doing a job. Whether it is mandated by the State Fire Marshal's Office in Connecticut, I do not know, but I intend to find out. I do believe that it is on a State basis, not a municipal basis. But somebody is doing their job.

I think the State of New Jersey has to start recognizing that we have a job to do and we are going to try and do it. We hope the Legislature gives us some backing. Thank you. (Applause.)

SENATOR CAUFIELD: Thank you, Chief. Any questions?

Since I hear no questions, we will call the next speaker, who is Larry Robertson from the Teaneck Fire Department.

L A R R Y R O B E R T S O N: First of all, thank you for this opportunity to speak.

I am a Lieutenant in the Teaneck Fire Department. I am currently the Fire Sub-Code Official. I have had about four years of experience in various parts of code enforcement, both fire prevention and the fire protection portion of the building code.

Everyone else stole my thunder, except for one thing, which I will get to in a second. Let me just reiterate in case anyone was out of the room. You will find very few fire officials in this State who believe in the concept of a minimum-maximum code because it doesn't reflect the differences in local conditions. That depends on the type and the size of the fire department and the geographical problems in the area and the age of construction.

Secondly, I don't think you would find many fire officials in the State of New Jersey who would doubt that there is absolutely no substitute for automatic fire sprinklers. Water stops fires. Smoke detectors warn people, but that is only good if there are exits for them to escape through if the fire doesn't spread too fast and if they are not handicapped or restrained, being tied down to a hospital bed or something like that. There is no substitute for automatic sprinklers. So whatever additional fire safety measures you pass, especially for existing buildings, please don't make the mistake that New York City did with Local Law 5. Additional sheetrock and smoke detectors are great things to have, but water stops fires. That quote is from a little old lady who escaped from one of the burning nursing homes in the shore area. She said that and she hit the nail on the head.

The area that I would like to address in detail is the problem of enforcement. In the township where I work, we have the 1978 edition of the BOCA basic fire prevention code as a municipal fire prevention code passed by the Mayor and Council. It was done with good intentions. But it is a very inefficient and difficult code to enforce. It is an inefficient and difficult code for landlords of goodwill to follow. It almost sometimes seems to be incomprehensible to municipal judges. I am not saying this to be critical of any of these other people nor am I being critical specifically of BOCA. None of the cook-book fire prevention codes that I have ever read really hit the nail on the head. I am not too pleased with the AIA's fire prevention code or even with the NFPA's Standard 1. The reason is this: infrequently, do they ever specifically address a fire hazard.

There was a gentleman from a tenants' organization who was talking about

holes in firewalls. God bless him. I didn't agree with everything that man said, but he really hit on one thing. We may require a building to be built with fire-resistant assemblies, like firewalls, fire separation walls or fire-resistant ceilings. In the course of the use of those buildings, holes will appear because of careless installation of wiring or careless working on pipes or even rats eating through the sheetrock. When we go in to inspect the fire resistance of that building as a maintenance measure with our municipal fire prevention code, that is one of the most common violations. Nowhere in the BOCA basic fire prevention code does it say all fire-resistant assemblies shall be maintained intact. We use a provision - and the guys who use this code here will be familiar with F-105.1.1 - which says it is a violation to have anything that will allow the spread of fire in a building or cause additional fire danger thereto.

That is just great. I know what that means. But a landlord who really wanted to make his building superintendent obey the law can't read that code and know that it means fix the holes in the right way in the walls and ceilings.

Likewise, if that man doesn't comply with my written violation order and I have to bring that landlord, or whoever, before the municipal judge, I don't have it in black and white that that man is supposed to maintain the fire ceiling or the firewall. The same thing occurs with extension cords. We do very thorough fire investigation in Teaneck, very thorough. Every building fire gets investigated. And we know that using extension cords as a substitute for permanent wiring is our greatest accidental fire cause, our greatest fire cause next to arson. Yet, at the present time, if you are going to prevent a person from abusing an extension cord, you have to reference a section that says "unsafe wiring" and then you have to go to the most recent edition of the National Electrical Code.

Sometimes municipal judges don't have the patience to follow through the reference, within the reference, within the reference, with the NFPA interpretation on the end of it. And we lose cases that we should win.

Another big source of aggravation in all of the BOCA codes is the requirement for written notice prior to giving a summons. All of us here understand that you can't ask the man who runs the candy store to know as much about fire safety as you expect a fire inspector to know. I agree that with some technical violations, there definitely should be a requirement for written notice to give the person a fair chance to realize that he is in violation and to correct it before you give him a summons. We are not trying to raise money for the municipality by giving out summonses. However, I can take you to buildings in my town, regardless of how vigorously we enforce the law, that will have locked exit doors. The reason they have locked exit doors marked as fire exits, but with big padlocks and chains that would tie up an aircraft carrier, is because the landlord or the store manager has become aware of the fact that before we can give him a summons for that, we have to give him a written violation order. So he will accept the written violation order, take off the lock and chain; and, before we can get back to that man and check again, he will have violated that exit hundreds of times.

Just Friday, I was on duty and I responded to an office building fire. The fire was in a three-story, occupied office building; and, thank God, it was on the roof. You will see why I said, "thank God." All the smoke, heat and flames were going upwards from the roof. If that fire had been lower in the building, we would have had a good possibility of panic and possibly fire deaths or injuries, because the fire-escape drop ladder was chained up with a big lock and chain. It was a violation and the person received a written violation order from us. But we could not give him a summons because of the cumbersomeness of the enforcement article,

Article I, in the BOCA fire prevention code.

It really irritates us that a parking enforcement agent can go out and give a summons for overtime parking, while the fire inspector with education, training and experience who puts his life on the line in fires, has to go back, type out a violation order, go back, re-inspect and go back to the Police Station and type out a summons for a policeman to deliver. When we hear people talk about a shortage of manpower and resources in fire service because of the Cap law and other economic problems, we agree and there is a need for more inspection personnel and more firefighting personnel. But if you wanted to do one inexpensive thing that would increase fire safety, it would be limited powers of summons to fire officials, so that they can go and square away a problem when they see it. You don't have to be a fire engineer to know when the sign says "exit," the door is supposed to be unlocked when people are in there. You don't have to be a fire engineer to know that when you have a sprinkler system or an alarm system in a building, it is supposed to be turned on.

I, myself, have had my life risked in buildings where obvious violations have existed in the presence of a member of the professional maintenance staff of that building. After the hair-raising experience of being almost hurt or killed, I can't turn around and give the dummies a summons until I give them a written violation order.

If this Commission sees fit to make a statewide fire prevention code, let me sum up by saying what I would personally like to see. I am just talking for myself. I would like to see it not be minimum-maximum, but rather minimum mandatory and I would like to have the local governments decide what additional levels of safety they needed.

Secondly, I would like to see fire officials be given the right to give summonses for fire violations.

Thirdly, I would like to see substantial revision of whichever model code is picked for the fire prevention code - either that, or for us to write our own - which spells out in clear and black and white ordinary-people English what is a fire violation, what isn't, and what must you do to correct it. Thank you.

SENATOR CAUFIELD: I have just one or two questions. First of all, it sounds as though you have an awful lot of local problems that are not going to be resolved at a state level.

MR. ROBERTSON: That is possible.

SENATOR CAUFIELD: The buildings that you were talking about before 1977 - it is clear that your community can handle that. There is no Uniform Construction Code that affects that. You can handle that.

As far as locked doors, are you under the impression that you cannot go in and demand those doors be opened right now?

MR. ROBERTSON: Yes, sir, you can go in and demand it; but you can't give a summons for that before you have given them a written violation order.

SENATOR CAUFIELD: You are looking mainly for compliance.

MR. ROBERTSON: Yes, sir.

SENATOR CAUFIELD: We have gotten compliance in a theatre, for example, when they did it a second night in a row. They hadn't complied. We had the nearest truck company go over and just cut the whole damned thing.

MR. ROBERTSON: We were advised by our municipal attorney that that is a violation of their Fourth Amendment right of due process. They own the chain.

SENATOR CAUFIELD: Well, in the case that I am talking about, they now own broken chains. We have never been sued, I can assure you.

MR. ROBERTSON: I would be struck by lightning if I stood up here and

said we didn't do things like that. But I am trying to make it legal for us to enforce the fire safety laws.

SENATOR CAUFIELD: I think we are doing it legally. We have an obligation as a Fire Department to protect lives and property. If it calls for emergency action, we take that action. We don't take it, obviously, without a great deal of thought. But we do take that action.

In any event your comments were worthwhile and we will consider them. Any other questions? (No response.) Thank you very much.

If Chief Rogers here? Jack Rogers will be our last speaker.

J O H N R O G E R S: I am John Rogers, Chief of the Harrison Fire Department and Past National President of the United States Civil Defense Council, which is now under the new FEMA structure, Federal Emergency Management, of which our national fire organization is also a part.

Senator, I have been waiting about 13 years for a commission of this type. And may I compliment you on the expertise and the cross-sectioning of your members on the panel. I think they will be able to field any problems that we have in the future.

Most of the questions I had in mind have already been asked by someone else. However, I have one thing I want to bring up. I don't know whether it will be in your field or not, but I wish you would give it some consideration. It has to do with railroad fires. I am not concerned about the expertise of local departments to fight these fires. What I am concerned about is the cooperation that they will get from the railroads. Now, I happen to have three main railroads going through my community. That is not unique. Most of the counties in the State have. It is something that I think should be standardized: what we can expect. Maybe we won't get as much as I would want. But by the same token, then the communities could fight fires in accordance with that and maybe not take the chances they would take at another time. I am talking about the stopping of trains when there is a problem. I am talking about the shutting down of power. I am talking about railroad personnel being sent to the scene. I am talking about track surveillance.

I realize a lot of this is in the Department of Transportation. I had an experience - I don't like to talk locally, but it is not unique to my community; in fact, it is prevalent throughout the State. There was a quarter of a mile of track - it wasn't even a quarter of a mile - that was going into this propane field. I had gone to the State Inspector trying to upgrade this track. I had him convinced. But the federal Inspector came along and said, "None of it meets minimum requirements." Now, if there are minimum requirements, there must be maximum requirements. There has been transported millions of gallons of propane a year over that quarter-mile track in this propane field where there is over five million gallons of propane, half a million gallons of butane, and three million gallons of manufactured and natural gasses stored. If anything ever did happen, Senator, the Passaic River would be running down Ferry Street in Newark. We have it all aimed that way. What I am trying to say is that we get so far as the locale and we appeal to the State Department of Transportation and even if the State did go along with us, but the federal over-ruled it --- what I am getting at is some general thing on all railroad fires or anything pertaining to them where we could have some recourse to set the standards so they are not doing something different in Millburn or East Orange or Harrison or Newark; and we expect the same cooperation, as much as it is, whether it is little or not, throughout the State, because they certainly have this down in the Camden area and the Trenton area and other places in the State. So I wish you would give

that some consideration. I make that as a suggestion or input, or request, or whatever.

SENATOR CAUFIELD: It is a very legitimate request, Chief. We have met with Conrail and Amtrak, in particular, for hours on this very subject. I think we have come up with some conclusions. But I think it might be very helpful to our Commission if we invited them to come to one of our meetings. We had some recent problems I am sure you know about with the tank car and then with the fireman having his arm severed, etc. We have worked out some things that are satisfactory, providing they are carried out. We don't want it applied just to Newark, obviously, but to include South Jersey, Central Jersey, anyplace where there are railroad properties. I think if we have them at one of our Commission hearings, it might be helpful to all of us. I do thank you for bringing it up.

Are there any questions of Chief Rogers? (No response.)

There being no further witnesses, we will conclude this hearing. But I would like to note that two weeks from today, we will have a Commission meeting at 9:30 A.M., in Trenton. All Commission members will receive notice of that.

There are three further public hearings. One will be on September 22 - and that will be in Cherry Hill. Another will be on October 20 in Asbury Park. Then there will be one on November 24 in Trenton. Of course, our Commission meetings will be going on in between. More important than that probably is that the subcommittees will be meeting. I would hope that the subcommittee chairmen will schedule meetings. Everyone is on a subcommittee and I know some meetings have been called already. We want to get into the meat of this. The first subject on each agenda is going to be a report of each of our subcommittees. I don't want anybody to be embarrassed on a subcommittee. We don't need an Elks' report of progress; what we are looking for is a substantial report from each of the subcommittees.

Again I want to thank all of you for being here today. I want to thank all you people who were nice enough to come here and express your concerns and you certainly gave very valuable input to this Commission.

The meeting stands adjourned.

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