COUNCIL OF THE CITY OF PHILADELPHIA

PUBLIC HEARING

COMMITTEE ON FINANCE

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Room 696, City Hall
Philadelphia, Pennsylvania
Monday, December 8, 2003
2:30 p.m.

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BILL 030769 - An Ordinance amending Section 19-1303(3) of The Philadelphia code, entitled "Authorization to Offer Exemptions from Real Estate Taxes on Improvements to Deteriorated Industrial, Commercial or Other Business Properties," by extending the exemption period for certain existing grants of exemption, under certain terms and conditions.

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PRESENT:

COUNCILWOMAN JANNIE BLACKWELL, Chair
COUNCILMAN DAVID COHEN
COUNCILMAN FRANK. J. DI CICCO
COUNCILMAN JAMES KENNEY
COUNCILMAN MICHAEL A. NUTTER
COUNCILMAN BRIAN J. O'NEILL

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P R O C E E D I N G S

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COUNCILWOMAN BLACKWELL: We would like to begin our Public Hearing dealing with Bill Number 030769 that will be heard before the Finance Committee.

We have a quorum: To my left Councilman DiCicco, to my right Councilman Kenney, and to his right Councilman Nutter.

We will now ask the Clerk to read the title of the Bill which is sponsored by Council Members Kenney, DiCicco and Nutter.

COUNCIL CLERK: Bill Number 030769, an Ordinance amending Section 19-1303(3) of The Philadelphia code, entitled "Authorization to Offer Exemptions from Real Estate Taxes on Improvements to Deteriorated Industrial, Commercial or Other Business Properties," by extending the exemption period for certain existing grants of exemption, under certain terms and conditions.

COUNCILWOMAN BLACKWELL: Thank you very much.

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The Chair will call to testify our Revenue Commissioner, Nancy Kammerdeiner.

After her testimony we will have Mr. Tom Witt and James Kroll from the Hyatt Hotel. After those gentlemen, we'll have Joshua Grimes and Jay Barnett from Doubletree. And after them, we have Joshua Vincent, Center for Community Study of Economics.

If there are others who would like to testify, please see Darwin Bovay who is standing there, and he will certainly place you on the list.

Commissioner.

MS. KAMMERDEINER: Good afternoon, Councilwoman Blackwell and Members of the Committee on Finance.

I'm Nancy Kammerdeiner, Revenue Commissioner. And I'm pleased to be with you today to present testimony regarding Bill Number 030769.

This ordinance will amend Section 19-1303(3) of The Philadelphia Code, entitled "Authorization to Offer Exemptions

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from Real Estate Taxes on Improvements to Deteriorated Industrial, Commercial or Other Business Properties," by extending the exemption period from three years to ten years for certain properties that are used as hotels.

Specifically, this Bill would add the definition of a qualified building as, quote, any deteriorated property that is a hotel, as defined in Philadelphia Code Section 19-2401(5), end quote.

It then adds a new section that would require the Board of Revision of Taxes to -- and again I quote -- extend to ten years the term of any three-year real estate tax exemption issued pursuant to this Section, 19-1303(3), upon any improvements to a qualified building for which a certificate of occupancy was issued after October 27, 1999, end quote.

The Board of Revision of Taxes has provided information that indicates that nine hotels have been issued certificates of occupancy since October 27, '99.

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Adding seven additional years of tax abatement for these properties would cost the City and the School District approximately $27 million in real estate tax or an average of nearly $4 million each year for seven years.

Any future hotel properties would also be entitled to ten years of real estate tax abatement instead of three.

There's a potential that the fiscal impact of this legislation would be even higher.

Mayor Street and his Administration want to encourage businesses to grow and develop in Philadelphia.

Of special interest has been the development of hotel rooms as part of the City's strategy to fully utilize the Convention Center and to grow the tourism industry.

We share your interest in supporting the hospitality industry. However, at this time we cannot afford to reduce revenue without further deliberate consideration of

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priorities, and the relationship to other tax reduction proposals.

Furthermore, this Bill would provide assistance for only a select few hotels, not the industry as a whole.

I remind you of the fiscal pressures that the City has faced in fiscal '04 and will continue to face during the balance of the five-year plan.

Reductions in the state budget that caused cuts of over $85 million in direct financial support to Philadelphia have not yet been restored.

This comes at a time when revenues have been curtailed by weak regional and national economies, and future revenue growth has been further curtailed by legislation that triggers further reductions in wage tax rates.

In addition, rapidly increasing pension and health insurance costs are putting enormous pressure on the City's budget.

I also remind you that the Tax

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Reform Commission was recently presented -- excuse me -- has recently presented a comprehensive package of recommendations for tax reductions to Mayor Street and to Council President Verna.

These recommendations were developed after fact gathering and serious deliberation over a period of nearly a year.

The Administration and this Council will use the Commission's recommendations as the basis for serious discussion about the tax policies that will be incorporated in the next five-year plan and the budget that will be developed for fiscal year '05.

The extended tax abasement proposed in Bill Number 030769 and any other tax measures that will affect the revenue available for the budget should be considered along with the recommendations of the Commission, not in isolation.

For all of these reasons, the Administration cannot support Bill Number 030769. I urge you to hold this Bill in

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Committee, and to look at this proposal along with other tax measures early next year.

Should you decide to move forward with this Bill, however, I recommend that you consider an amendment that would condition the continuation of the tax abatement on the continued operation of the hotel on the property.

With such a requirement in place, you would support the hospitality industry but would not consider a tax abatement -- continue a tax abatement if the property were used for another purpose.

This concludes my testimony, and I'll be happy to answer my questions.

COUNCILWOMAN BLACKWELL: Thank you. We have two questions ourselves, but we would like to defer to sponsors of the Bill.

Councilman Kenney.

COUNCILMAN KENNEY: Thank you, Madam Chairperson. Thank you, Commissioner, for your testimony.

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Let me say from the outset that I do understand the concern that other hotels in the City have that are not going to be able to take advantage of this abatement.

And I commit, along with the other sponsors of the Bill, to work with them to try to find appropriate measures to keep them afloat also, while we're going through this period of time, post 9/11, and more importantly, post Convention Center mess. And hopefully its restructured approach and work rules will get us back to where we want to be in three to five years.

And also in your analysis or in the Administration's analysis of the Bill, while looking at the revenue loss, has anyone looked at the number of jobs that are associated with these nine hotels? Do you know how many jobs there are?

MS. KAMMERDEINER: I don't know directly on that; but I know that, of course, there are quite a few jobs that are dependent upon the continued functioning of these hotels.

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We had such a brief period of time to look at this, that we don't have a full analysis on that.

COUNCILMAN KENNEY: Well, according to the nine hotels, there's 1416 jobs, 1,416 jobs, at each hotel.

And are you aware of the type of -- Now, this is more generalization, but I think it may fit. Is the profile of the individuals who are working there, the types of people, you know, where they've come from prior to working at these hotels?

MS. KAMMERDEINER: I know that Commerce is more familiar with that than I am. But it's my understanding that most of them are Philadelphia residents, and many come from our poorer neighborhoods.

COUNCILMAN KENNEY: And many of them are also from our -- from the Welfare to Work Program.

MS. KAMMERDEINER: I know that there were some concentrated programs to make sure they were given opportunities at the hotels when they were opening.

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COUNCILMAN KENNEY: And theoretically, do we -- when we or the Administration considers whether to support a bill or not, relative to its fiscal impact, does it also take into account the cost associated with having to absorb people who were formerly employed who are now unemployed, for example, the loss of their wage tax, and the perhaps increased use of our health centers and other things as a result of loss of medical benefits?

MS. KAMMERDEINER: It's things like that that I refer to when I said that we need to do a thorough analysis, and look at our tax policies in conjunction with our needs for expenditures.

And I would say that given the short time that we've had to look at this, we have not specifically looked at those issues, with regard to this Bill.

That is an issue we need to look at in general, with not only this, but all of the tax reduction proposals, to ensure that we can continue to provide the services

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that are going to be necessary.

COUNCILMAN KENNEY: This is not an exact science. And you never know, again, hypothetically, if 1400 people are out of work, how many people are going to get new employment; how many people are going to get employment that pays less than what they had before; how many people will gain employment that don't have medical benefits; and how many people won't be employed at all. So there's a sliding scale of misery as a result of, you know, the company or business going out of business.

And the other question I have is, what happens if one of these hotels, say... I don't know. Say the Sheraton Rittenhouse, for example, or the Ritz-Carlton decide to go condominium, what happens to the real estate taxes on the conversion, if in fact these rooms are no longer hotel rooms but are now privately owned condos?

MS. KAMMERDEINER: Well, that's one

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of the questions and issues that I raise, and the reason that I suggested that if you are considering moving this Bill forward, that you consider an amendment to address just that very question, and whether or not the tax abatement would continue if the structure were used for a purpose other than hotel.

If in fact your intention here is to provide a tax break for the hotel industry and for these hotels, then, that is a question, from a policy perspective, that you need to take a look at, as to whether or not the tax abatement for real estate taxes should continue post conversion.

COUNCILMAN DiCICCO: Madam Chair.

COUNCILWOMAN BLACKWELL: Certainly. Point of order. Councilman DiCicco.

COUNCILMAN DiCICCO: Thank you, Madam Chair, Councilman Kenney.

If the Bill did not move forward and any of one of these hotels were to close, as Councilman Kenney suggested, and they decided to convert the building into a

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condominium or an apartment building, would they not be entitled to the ten-year exemption on the improvements?

Because in effect it becomes a vacant building. And the exemption bill that we did in 1997 says, if you take a vacant building, whether it's an office building, institutional building, whatever, they would be entitled to the ten-year exemption on the improvements.

MS. KAMMERDEINER: The actual administration of the legislation is handled by the Board of Revision. And I know David Glancey is here to address this if I err on this.

But I guess part of it would depend upon whether or not it became a vacant building in the interim.

You might have a conversion. You have situations where you have combinations of condo and apartment or condo and hotel in the same structure.

And so, there would be a question in my mind as to whether or not you would have

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a vacancy in between, that would qualify that structure for the abatement going forward.

COUNCILMAN DiCICCO: Are you familiar with the Korman Suites up in the Frankford section, off of Fairmount Avenue -- off of the Parkway?

MS. KAMMERDEINER: I know the structure.

COUNCILMAN DiCICCO: They just recently converted the property. Was it totally vacant; do you know?

MS. KAMMERDEINER: I don't know.

COUNCILMAN KENNEY: But I would suspect that an owner of a building would, knowing that the opportunity for a ten-year abatement is there, would create a circumstance where the building is vacant prior to their --

COUNCILMAN DiCICCO: And if I can, I think Clarion Suites on Race Street? I believe that -- and I could be wrong. Somebody can correct me. I think that building was vacant.

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They stopped renting out rooms as a hotel, and then ultimately did the conversion to condos.

So, I would assume -- and I could be wrong for assuming this -- that there's some sort of an exemption.

MR. GLANCEY: There's really a couple of answers. One --

COUNCILWOMAN BLACKWELL: Excuse me. Identify yourself.

MR. GLANCEY: I'm sorry. My name is David Glancey. I am the Chairman of the Board of Revision of Taxes. And thank you for inviting me today to make comments.

Number one, if you look at the language of the ordinance, it's value added due to the improvement. That's the first thing you have to look at, is there value added due to the improvement.

The hypothetical you pose is that a hotel gets converted to a condominium. Two questions: One, can it simply be converted. You know, maybe you bust out a wall here or there, not add so much value

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by doing that; and therefore, the answer would be no, that there would be no value added; therefore, there wouldn't be anything to abate.

Second way of looking at this is, of course you can gut. You know, if you've got 15 rooms on a floor, maybe you make four condominiums out of that floor; and therefore, significant changes; and therefore, significant value added due to the improvements.

So, if it is just a mere conversion of what's there, my -- and again, this would be a question of first instance.

I have a hotel that now has three years into their abatement and they have seven years left. It's not working as a hotel. I want to convert it to a condominium.

Abatement runs with the land. So, if you make the conversion to the condominium, it seems to me -- and again, I haven't asked the Law Department for an opinion -- but it seems to me a common

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sense way of looking at this would be that there still would be seven years left to run on that -- on that particular abatement, no matter what the use is, because it is still being used -- it still falls within the ambit of all those things that this Council has chosen to abate.

I don't know if that's the answer to your question.

COUNCILMAN DiCICCO: Well, we have -- We've done a number of conversions in this town, and more recently conversions to buildings that had been previously used as a financial institution, Allen Dom's recent project on, I think it's Walnut street.

MR. GLANCEY: Right.

COUNCILMAN DiCICCO: Jewish Federation or something was there.

They did a conversion. They're selling each unit as a condo which I think is a fee simple title or whatever.

MR. GLANCEY: Right.

COUNCILMAN DiCICCO: Don't the -- Do

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not the owners of those condos now enjoy the ten-year tax abatement?

MR. GLANCEY: They do. They do. I'm agreeing with you.

(Mr. Glancey and Councilman DiCicco began speaking simultaneously, not reportable.)

COUNCILMAN DiCICCO: But if you take the... one of the hotels that Councilman Kenney mentioned or any hotel, and you tear out a wall or you don't do that great of amount of improvements, but you sell off the individual units as condos which is a new construction, more or less, because it's a new owner, is it not? Would they not be entitled to ten years?

MR. GLANCEY: I would say if there was --

COUNCILMAN DiCICCO: And then get no taxes out of it.

MR. GLANCEY: If there was value added, the answer to your question is yes. If there is no value added -- and by that I mean, Frank, I guess if you looked at a

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hotel room that if it was not really changed very much could sell for a hundred thousand dollars as a condominium, okay? You don't add --

COUNCILMAN DiCICCO: I'll take two.

MR. GLANCEY: Yeah, yeah; right. You don't add any value to that room in the instance that you're converting that use. There really is nothing to abate.

On the other side -- On the other hand, if you take that same room and it is now being sold for two hundred thousand because there are certain amenities that have been added, well, yeah, I would say that that one hundred thousand dollars would be --

COUNCILMAN DiCICCO: An abated value.

COUNCILMAN KENNEY: I just want to jump --

COUNCILWOMAN BLACKWELL: Chair notes that Councilman Cohen is here part of the hearing. But that was a point of order for Councilman Kenney. Thank you for that.

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COUNCILMAN KENNEY: The other issue, Miss Kammerdeiner, that you raised in your testimony was one of the -- suggested amendment, if you go forward, to require that the use remain a hotel, to take advantage of this particular --

MS. KAMMERDEINER: That would be one thing that you might want to consider if your goal is to assist the hotel industry and not just provide an abatement for the land.

COUNCILMAN KENNEY: Is that not satisfied on page one of the -- I'm sorry. We have -- Actually, I do have -- In the Bill now under Section C, paragraph number four, it says, qualified building.

The qualified building is any deteriorated property that is a hotel as defined in Philadelphia Code Section 19-2401(5).

Does that not cover the concern as it operating as a hotel?

MS. KAMMERDEINER: I'm not certain that it does, once the abatement is given.

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And that would be a question for legal interpretation.

COUNCILMAN KENNEY: Okay. That's it for now. Thank you.

COUNCILWOMAN BLACKWELL: Thank you. Councilman DiCicco.

COUNCILMAN DiCICCO: Thank you, Madam Chair.

Councilman Kenney covered most of the questions.

In your testimony, Commissioner, you referenced a Tax Reform Commission study or recommendations.

Do you know if there's anything in there -- Because I haven't, obviously, not had the opportunity to read it at all -- if there's anything in there that deals with the problem with the hotel industry today?

MS. KAMMERDEINER: Not specifically.

COUNCILMAN DiCICCO: Has your department -- I don't mean this to be critical. Has your department in any way looked at this potential problem? Because we have been talking about this for a

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couple of years now.

Is there any recommendations that your department may have on the burner right now that might be helpful to us?

MS. KAMMERDEINER: Commerce has really been looking at the issues, not Revenue specifically.

COUNCILMAN DiCICCO: I have no further questions at this time. Thank you.

COUNCILWOMAN BLACKWELL: Thank you. The Chair notes that Councilman O'Neill is here.

Councilman Cohen, you are next.

COUNCILMAN COHEN: Thank you, Madam Chair.

How many hotels are there in the City?

UNIDENTIFIED MAN: Councilman, the inventory that we have includes some beds and breakfasts. It's roughly 55.

COUNCILMAN COHEN: Are there provisions in the years -- I assume that on some occasions the hotels have shown a profit.

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MS. KAMMERDEINER: Yes.

COUNCILMAN COHEN: And have they shared that profit with the City? Have they voluntarily or is there an agreement that since the City offers assistance to hotels at various times, when the hotels make a profit, they give back that assistance or enable the City to share in it? Or is this a one-way street?

MS. KAMMERDEINER: As with other businesses, they're responsible for paying certain taxes, including the Business Privilege Tax.

COUNCILMAN COHEN: And that's all they pay. They keep their profits, if they have profits.

MS. KAMMERDEINER: They also collect -- Well, it wouldn't be from them. I was going to say they collect the hotel tax, but that would be from their patrons. They are responsible for paying taxes, just like any other by business in the City.

COUNCILMAN COHEN: And don't share any of the profits with the City if they

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make them.

MS. KAMMERDEINER: Not to my knowledge.

COUNCILMAN COHEN: So the partnership begins only when a hotel loses money or believes it may be threatened for loss of money. Then it suddenly gets interested in becoming a partner with the City, to share the costs of the loss, maybe to absorb the whole loss?

I mean, I'm confused here. I thought hotels were risky business, like every business is; that they're entitled to profits because they undertake risks.

But here we have a situation which the hotels have already benefited heavily from the City's tax abatements in the past.

And now when they're running into some financial problem or think they are -- I don't know whether they are. There's been no evidence that they are. But let's assume for a moment that they are, because of one reason or the other, maybe it's the Convention center problem that caused them

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to run into a rift.

And then we didn't hear sad tales about labor, though. Jobs are being lost by the thousands because policies were being adopted that killed Convention business for the City.

Now, they're coming to the City to ask for help. I mean, I don't understand. What is this risk-taking that a business ever takes?

COUNCILMAN KENNEY: Can I just add a point of information on the question --

COUNCILMAN COHEN: Yes.

COUNCILMAN KENNEY: -- because it's a very important point.

Any hotel that's taken advantage of a TIFF or other abatement in its financing to be constructed is not eligible for this abatement.

COUNCILMAN COHEN: Well, haven't these nine hotels --

COUNCILMAN KENNEY: I don't know whether --

COUNCILMAN COHEN: These nine were

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built before.

COUNCILMAN KENNEY: Were built after -- Were built... For whatever reason, some chose not to take advantage of what was available at the --

COUNCILMAN COHEN: Why did they choose not to?

COUNCILMAN KENNEY: It was all individuals choices at the time. If you had qualified -- If you had taken advantage initially of any of the incentive programs or any of the TIFFs, you're not eligible for this particular Bill.

MR. GLANCEY: Councilman, if I may --

COUNCILMAN COHEN: I just don't understand this one-way street --

COUNCILMAN KENNEY: And the other issue is not -- well, for me at least -- is not necessarily the hotels, but the 1400 jobs of people who are hard to employ.

COUNCILMAN COHEN: Well, in my experience --

COUNCILMAN KENNEY: Or hard to

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re-employ.

COUNCILMAN COHEN: My experience, Councilman Kenney, is that an employer cuts jobs when jobs are not needed, and that he employs people when jobs are needed.

And that -- Is there anything in your Bill which guarantees that there will be no layoffs?

Is there anything in your Bill that provides that in the event of unemployment maybe the City, ought to have an unemployment policy which covers not only hotel workers but covers all workers that are laid off from their jobs?

COUNCILMAN KENNEY: This Bill is not that ambitious.

But I do want to make sure that the record is clear, that I am concerned, as I know you are, with the reemployability of these particular individuals because of where they've come from out of the work force. And a lot of them came from unemployment to work, and are going to be much more difficult to employ again.

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COUNCILMAN COHEN: Well, I don't think that's true at all.

COUNCILWOMAN BLACKWELL: Point of information.

(Councilman Cohen, Councilwoman Blackwell, and Councilman Kenney speaking simultaneously, not reportable.)

COUNCILMAN COHEN: But I don't think they're going to have an extra day's job --

(Councilman Cohen, Councilwoman Blackwell, and Councilman Kenney speaking simultaneously, not reportable.)

COUNCILWOMAN BLACKWELL: Councilman Cohen.

COUNCILMAN COHEN: Yes.

COUNCILWOMAN BLACKWELL: Excuse me. We have a point of information. Councilman DiCicco.

COUNCILMAN DiCICCO: Thank you, Madam Chair.

To Councilman Cohen's question, I believe as of today there have been three hotels, former hotels, that have been -- closed down their operations, and are

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either in the process or have been in the process of converting to condos: Korman Suites; the Clarion Hotel, as I said, on Race Street; and the Hawthorne Suites on 11th Street no longer exist as hotels.

And as a result of that -- I don't know the exact number, but there have been many, many jobs that have been lost as a result of that.

In addition, some of the hotels that are still operating in the City have had to cut back with their employment, employees significantly.

And I believe there will be couple of folks here who will be testifying as to the number of jobs that they already had to scale back on to date because of the problem with the hotel industry as it exists today.

COUNCILMAN COHEN: What's happened to the famous statements, let the market take care of the situation? There were a lot of concerns expressed when the hotels were on a building spree, that hotels were

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being built without any thought as to their need or anything.

COUNCILMAN DiCICCO: I don't think anybody --

COUNCILMAN COHEN: I think there was going to be at some point a time of reckoning. I thought that businessmen who invested money took risks, and because they took risks were entitled to profits when profits were made.

But it seems here in the hotel industry, they want government to supply everything. They want the support at the beginning to enable them to build.

They come in with all sorts of promises. And then when there are losses, they come back to the City for further benefits.

Whether these particular hotels got significant benefits and tax deferrals or tax clearances entirely may or may not be the case.

But we know what's going to happen if these nine hotels get it already. The

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Mayor points out that why do you pick these hotels? Maybe other hotels also need support. Maybe they ought to get it.

What's the terms for getting it? How's the City going to share in the profits when profits are made? I'd like to hear those.

I'd also like to hear how the money was spent that the hotels had. How do we know the hotels are in trouble spent their money wisely?

I have yet to find an employer who, except for one in Massachusetts, and he's in trouble, when his plant burned down, continued to employ his workers.

I forget his name. But it was recently in the news. Except for him, I know of no other employer who hires people unless they're needed.

And if they're needed, they are hired. And if they're not needed, they're going to be fired. And there's nothing in this Bill that guarantees that the money will solely be used to pay wages for

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employees that are not needed by business conditions and therefore face layoffs. Then this is a Bill for unemployment compensation. It's not a Bill for working people.

So I have all kind of questions. And other than the hotel industry, I'm sure there are other industries that are complaining now: Some because of Iraq, some because of slow economic conditions.

Or take the jobless recovery we're having, where people are not getting jobs even though the economy seems to show, by some indications at least, evidence of strength.

So, I think we need lots of information and lots of facts before we can go on a wild spending spree and say, let's just forego all kinds of taxes in the hotel industry.

Because other industries are going to be asking for the same kind of help, and other parts of the hotel industry will also be asking.

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So I think the Mayor makes a wise decision in telling us to go a little slowly in the curtailment here.

COUNCILMAN DiCICCO: We've made history today.

COUNCILWOMAN BLACKWELL: We certainly have.

COUNCILMAN DiCICCO: We agree with the Mayor. It's a historical moment.

COUNCILWOMAN BLACKWELL: How much Revenue is generated in the Wax Tax from the hotel industry? And should the nine hotels not receive relief outlined in this Bill how much would we lose in Wage Tax Revenue?

MS. KAMMERDEINER: I'm sorry. I didn't bring those numbers with me, but I can get them for you, and give it back to you very shortly. After I'm away from the witness stand, I can call my office and get them for you.

COUNCILWOMAN BLACKWELL: Thank you. And how would there Bill impact revenue to the School District?

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MS. KAMMERDEINER: As you know, real estate tax is divided between the City and the School District. And the School District now gets approximately 58 percent of the real estate tax that we collect, starting with calendar year '04.

COUNCILMAN COHEN: Madam, point of information. Would the School District be affected by this Bill, too?

MS. KAMMERDEINER: Yes, because real estate tax is divided between the City and the School District.

And I did not add in in my testimony that you remind me with your questions about the School District that we do have an Act 46 problem because the City would be responsible for making the School District whole on revenues that are taken away from them.

COUNCILWOMAN BLACKWELL: So certainly we would need that information as well.

MS. KAMMERDEINER: Well, basically, with the $27 million over the period of

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time, 58 percent of that is School District. So slightly more than half of that 27 million or the 4 million per year would be School District.

COUNCILMAN NUTTER: Point of information.

COUNCILWOMAN BLACKWELL: Yes. Councilman Nutter.

COUNCILMAN NUTTER: I'm sorry, Madam Chair. You were in a question. I'll just...

COUNCILWOMAN BLACKWELL: That's okay.

COUNCILMAN NUTTER: I'll just remember the... I'll just remember my question. That's all right.

COUNCILWOMAN BLACKWELL: So, you're saying how much per year affects the School District?

MS. KAMMERDEINER: It's almost $4 million a year in total. 58 percent of that would be School District. So, considering that it's what, about 3.85 million? It would be about $2 million a

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year would be School District, just in round numbers.

COUNCILWOMAN BLACKWELL: Okay. That's $2 million a year School District. All right.

MS. KAMMERDEINER: And that's the hotels that we know of right now, the nine that have been identified specifically.

COUNCILWOMAN BLACKWELL: Thank you.

COUNCILMAN COHEN: Is there anything in the Bill that provides that each hotel that might benefit would have to submit its books to the City so they can be studied to determine what wastes there may have been?

How do we know that a loss of funds is due to bad business? How do we know that it's not due to bad management? Or are they going to be covered in and everybody's going to be saved from any mistakes they made?

MS. KAMMERDEINER: There are no special requirements to that effect in this legislation.

COUNCILMAN COHEN: You say there is

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no special requirement. So that everybody would be eligible.

MS. KAMMERDEINER: Nor is there in any of the real estate tax abatement bills. The only requirement is that they be current with their City taxes.

COUNCILMAN COHEN: Is there anybody from the hotel industry here that's going to testify?

COUNCILWOMAN BLACKWELL: Yes, Councilman. We will get that testimony.

COUNCILMAN COHEN: All right. We'll hold some further questions till I hear from them.

COUNCILWOMAN BLACKWELL: Thank you. Councilman Nutter.

COUNCILMAN NUTTER: Thank you, Madam Chair.

COUNCILWOMAN BLACKWELL: I'm finished, yes.

COUNCILMAN NUTTER: Commissioner Kammerdeiner, until you mentioned this, this was not on my list of questions, but it was a rather stunning statement. So why

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don't I start here?

I took from your last statement that the mere continuation of this abatement now triggers an Act 46 issue?

MS. KAMMERDEINER: I believe it could because --

COUNCILMAN NUTTER: Why?

MS. KAMMERDEINER: We would be reducing the revenue to the School District, and we would potentially have the issue ahead of us of having to restore that income to the School District.

As I understand, Act 46 -- and I'm nowhere near an expert on it. If the City deprives the School District of revenue, that we are responsible -- through changes in the tax rate or the way we tax, that we have to make up for that, in terms of other revenue coming to the School District that would make them whole.

COUNCILMAN NUTTER: But if someone's already under an abatement, how did you account for... School District hasn't received those revenues yet. And if you

just extend the abasement, how is it lessening their revenues? I'm a little confused here.

MS. KAMMERDEINER: It's revenue that they were anticipating because you've changed the structure of what they were to get and what was part of their revenue flow. I would --

COUNCILMAN NUTTER: So are you now saying that as a result of Act 46, the City is now not in a position to offer any form of abatement programs for anybody about anything?

MS. KAMMERDEINER: No. I'm saying that to change the rules. Those other abatements were in place. The rule was set up. And that was in place before.

And now that we are trying to change the rules, I think we may have that problem.

It's something that I think needs to be reviewed with the Law Department and those who are fully conversant with the implications of Act 46. I am not.

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COUNCILMAN NUTTER: How is Act 46 affected by TIFFs?

MS. KAMMERDEINER: Act 46 is definitely affected by a TIFF. That's why the School District has to vote on, and the School Board needs to approve participation in any TIFF.

Otherwise, it cannot move forward, as it relates to School District taxes.

COUNCILMAN NUTTER: Well, let me ask you about --

MS. KAMMERDEINER: So they're taking that into consideration and approving that as part of what they look at with the proposed TIFF.

COUNCILMAN NUTTER: Let me ask this question: Is there an Act 46 issue if... Let's say one of the hotels... You know, I don't want to be too dramatic here.

I'm like -- And I'm not talking about you, but I'm like the usual or oft times doom and gloom that we get when we end up in these situations that, you know, the City is going to collapse if we do

something.

But let's say that one of the hotels starts to have some problems and possibly closes. One of the first things they're going to do, isn't it, is to go over to the Board of Revision of Taxes and ask for a lowering of their assessment, since the property is not functioning properly?

And when they get their reduction, because they probably are, does that trigger an Act 46 issue as well? Isn't that a reduction in taxes, tax revenues?

MS. KAMMERDEINER: It is. And that's why I say that I may have gone a little far with what -- what I indicate.

I said it may be an Act 46 problem. I'm not an expert on how that is applied. I just know that when we were addressing some of the bills last... a year ago, in reference to caps and freezes, the Solicitor's Office advised that as we changed the rules, we put an impediment on the production of revenue that was anticipated by the School District, that it

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would trigger an Act 46 issue that would need to be resolved with the School Board and with the State.

COUNCILMAN NUTTER: We're not changing the rate --

MS. KAMMERDEINER: I don't know that --

COUNCILMAN NUTTER: But there's nothing in this Bill... It's one of our shorter ones. Is there anything in this Bill that changes the tax rates?

MS. KAMMERDEINER: It doesn't change the tax rate --

COUNCILMAN NUTTER: Okay.

MS. KAMMERDEINER: -- but the --

COUNCILMAN NUTTER: Isn't Act 46 --

MS. KAMMERDEINER: But it --

COUNCILMAN NUTTER: -- geared toward a maintenance of effort, from a tax standpoint?

MS. KAMMERDEINER: Yes, it's a maintenance of effort, and basically --

COUNCILMAN COHEN: Point of information.

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COUNCILWOMAN BLACKWELL: Excuse me. We have a point of information on the table. Councilman Cohen.

COUNCILMAN COHEN: Wouldn't the question be more appropriately directed to David Glancey, of the Board of Revision of Taxes?

MR. GLANCEY: If it's a question about Act 46, I'm not going to -- I'm certainly not going to say something I know nothing about.

COUNCILMAN NUTTER: He wasn't exactly jumping at the microphone over there.

MS. KAMMERDEINER: I believe this is a question that needs to be addressed by the City Solicitor's Office and by Council to the School District because they deal with the Act 46 issues regularly.

COUNCILMAN KENNEY: Councilman, I just have --

COUNCILWOMAN BLACKWELL: Councilman Kenney, point of information.

COUNCILMAN KENNEY: I beg your

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pardon for a minute.

The Law Department's aware of this Bill. Okay? And for... I mean no disrespect. For a throwaway comment of it may be Act 46 related...

COUNCILMAN NUTTER: Right. Right.

COUNCILMAN KENNEY: I mean, now we're --

COUNCILMAN NUTTER: I mean, we're just going to bang the door --

COUNCILMAN KENNEY: I mean, the Law Department's --

COUNCILMAN NUTTER: -- wide open.

COUNCILMAN KENNEY: The Law Department's had the opportunity to weigh in any time they like. And I don't even know if they're here.

I mean, to throw out these kind of would-bes, could-bes, I don't think it is, frankly, because I don't think any other thing we've done for any other industry in any other -- This is money that they're not getting now, so that if the abasement's extended, they're still not getting it.

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It's not an Act 46 issue at all. But -- But --

MS. KAMMERDEINER: It may not be, Councilman. And I apologize if I made it sound like I was certain that it was there. I did not intend that. I said it's an issue that I would have a question about.

COUNCILMAN KENNEY: I understand.

MS. KAMMERDEINER: And I think that it needs to be explored before you would --

COUNCILMAN KENNEY: But I guess what's concerning to me is that the Administration is obviously opposed to the Bill, as is their right to be.

And you were here to testify, and I thank you for being here. But where's the Law Department? Where is the Commerce Department? Where is the Mayor's Office?

I mean, if there are things that people have expertise in that can enlighten us about the process, it's terrific. I'd love to have them here. But they're not here. And they've known about it. It's not something that's a secret. It's not a

secret.

I mean, people, I'm sure, in every one of those departments I've mentioned have had an opportunity to read this Bill and can come up any time they want. The door's open and they're welcome to testify.

But their lack of presence is concerning because as the Revenue Commissioner you have certain areas of expertise which I respect and admire.

But I mean, to throw out a legal issue that the Law Department is not even here -- couldn't even send a letter, which would have been nice. But I just wanted to make that comment, Councilman. I'm sorry to interrupt you.

COUNCILMAN NUTTER: No. I understand. I... You know, look: We're all concerned about the impact on both the City and the School District.

But I mean, I didn't hear -- and the Commissioner was not here for that hearing, but I mean, many of us sat through a rather tortuous hearing just a week or so ago.

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And I mean, I didn't hear all this School District conversation with regard to a pretty high profile tax increment financing transaction. But let me -- Well, Councilman Kenney has dealt with the Act 46 issue.

But let me go back to the issue that I actually started with but in a different light. Commissioner, have you had an opportunity to evaluate what the tax revenue impact would be on whatever the number of hotels it may be, if they all go to the Board of Revision of Taxes, based on... I think one of the things I learned in the course of the past year is one of the assessment methods, I believe, has to do with income.

So, if they all started experiencing significant financial loss, what's your calculation on the impact to the City, the School District, the citizens of Philadelphia, the unemployment losses, and the increase in social service costs as a result of doing nothing?

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MS. KAMMERDEINER: As I indicated earlier, we have not done that full analysis. We did not have much time in reference to this Bill to look into those issues in an informed way.

And really, the first issue you raise, in terms of reduced assessments, we would have to get a great deal of information or make a lot of assumptions about what level of assessment change would be granted by the Board.

And so, you'd have to develop a whole series of assumption sets in order to come up with anything in line with the kind of question your raising. And we have not done that.

COUNCILMAN NUTTER: How much assessment relief was provided in the last fiscal year as a result of either businesses or property owners, residential property owners, seeking a reduction in their assessment? What was the total value of that?

MS. KAMMERDEINER: I would have to

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defer to David Glancey.

MR. GLANCEY: Total tax value?

COUNCILMAN NUTTER: Mm-hmm.

MR. GLANCEY: Councilman, I couldn't tell you that because, again, we don't do the taxes. We do valuations. But let me just say to you --

COUNCILMAN NUTTER: What was the total value?

MR. GLANCEY: Yeah. The total value increases ran about four percent, and I believe give backs by way of appeals, which is really your question, probably ran less than a half a percent.

Now, what that means in actual numbers I could figure out for you, but I don't have that information with me today, but I'd happily provide it.

COUNCILMAN NUTTER: Well, was it a little bit or was it a lot?

MR. GLANCEY: Well, no, it was not a significant amount of give backs by what of -- And I use that term loosely here. But it was not a significant amount of

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money that came back -- went out of the City coffers due to appeals. Let me put it that way, particularly, I might add, in commercial and industrial properties.

COUNCILMAN NUTTER: Well, it didn't go out of our coffers because we didn't get it.

MR. GLANCEY: Well, no. It was proposed --

COUNCILMAN NUTTER: First.

MR. GLANCEY: -- coffers. Let's talk about it that way.

COUNCILMAN NUTTER: Right.

MR. GLANCEY: So out of the proposed amount that was to come in, there was some amount that did not come in, due to appeals.

COUNCILMAN NUTTER: Well, people are always proposing to...

MR. GLANCEY: Yes.

COUNCILMAN NUTTER: ...to, you know, give you your $5 back or give you your $10 back. But sometimes you get and it sometimes you don't. So the proposed

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coffers are one thing. I think the actual is something else.

MR. GLANCEY: Right.

COUNCILMAN NUTTER: Let me make one other comment with regard to the broader issue here, which we seem to run into from time to time when we try to help any particular sector or even groups within a sector.

There always arises the fairness issue, based on timing. So, for instance, this particular Bill has a date by which a certificate of occupancy would have had to have been issued.

And maybe I'll wait on this particular issue. But it always seems that we end up in these situations where, whenever the line is drawn or whenever an abatement is done, someone misses out.

And so, the City of Philadelphia and a number of us sitting at this table consciously sought to bolster the hospitality and tourism industry, and specifically the hotel business, by helping

to actually put money directly or indirectly into the construction of new hotels. That started primarily under now Governor then Mayor Rendell, the culmination of which could have been the landing of the Republican National Convention.

Subsequently, there's been a serious negative impact, prior to September 11th and certainly afterwards, in our hospitality and tourism industry because of a variety of issues, some of which have directly to do with the fortunes of the Pennsylvania Convention Center.

A couple of us, at least, are trying to turn that situation around. And some of the hotels, as has been pointed out, may not benefit from this particular Bill.

Maybe they got some other benefit from something else we did. Maybe some of them got no benefit from anything that we've done.

But I'm certainly mindful of the fairness issue, in that there's either a

belief or a perception that some are being enhanced to the detriment of others.

I certainly have no interest in trying to do that; but at the same time, if we know that a group is having a problem, I think we do have some compulsion to try to do something for that group, and then change our overall business environment that lifts... As they say, the rising tide lifts all boats.

So, this is one effort about one group that's sitting in front of us with a particular issue that we can actually do something about.

I think that does not mean that we're going to turn a deaf ear to other ideas or other proposals. But we're in this particular situation now, and we should do something about it.

I'm going to need to ask at a later point maybe, Madam Chair, depending on what the schedule is, a question about a particular location, and a timing issue related to the date in the Bill, and

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whether a particular location is effective. But I'll wait until the appropriate moment at the Chair's direction for that.

Thank you, Madam Chair. I'm finished for the moment.

COUNCILWOMAN BLACKWELL: Thank you. Councilman Cohen, and then Councilman DiCicco.

COUNCILMAN COHEN: It seems to me that when you treat an industry or group or portion of an industry together as a unit, you're implying that everything is the same.

Does that mean that running a hotel is automatic? Every hotel uses the same procedure? Every hotel has the same proportion of expense for food, for labor, for everything?

I'm confused by this. Why do you pick these nine hotels? It may well be some of them may be part of a national group. Some may be individuals. Some may need assistance. Some may be eligible for assistance from home offices.

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I don't understand this give-away feeling. Seems to me that there's some Members of this Council that seem to feel that the City ought to just take care of business, that's the only thing -- And by "business" I mean that which we think of as being business organizations -- and that there's no limit to the City's ability to deal with that.

But when matters are raised concerning the community at large, suddenly they want to know, where is the next $50 going to come from? You don't have $50 free in the budget. But we apparently have millions when it comes to industry.

But I don't understand the unscientific approach. How can you just take a group of hotels, and say, maybe the manager was running around with the chief waitress or something in a hotel, you know, and spending that money idly.

Nobody's going to look at anything? You're just automatically going to write checks in the form of tax abatements?

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I'd like to see if ever we give assistance -- And surely sometimes there's circumstances under which maybe it would be needed, if there's no other place of getting it, if the particular industry or business is vital to the City's existence.

But we don't know... I want to know whether any studies have been made as to how many hotels are needed, as to their efficiency of operation. That's why I'm looking forward to the hotel industry to help guide us on that line.

MR. GLANCEY: Councilman, if you don't mind, I mean, the policy and philosophical questions you raise are not questions that I'm going to answer.

I believe I'm here as a fact witness. But there are two, I think, important facts that I might be able to enlighten you about, is that there was -- As far as I know, nobody up here picked these nine hotels.

The nine hotels fell into this category because the date October 27, '99,

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which appears in the proposed ordinance, says that anyone who would have been up -- who had a certificate of occupancy issued on or after October 27, 1999, would be eligible for this extension. So I believe the date gives rise to the nine, and it might be ten. Something was raised to me this afternoon, being here: Nine or ten hotels.

Secondly, and you raised this earlier. And I think it's appropriate that I respond to this, is that the reason none of these hotels would have received TIFFs is that the state legislation forbids getting a TIFF and an abatement.

The state legislation that creates the TIFFs says, if you take a TIFF, you can not get an abatement. So, those two facts, I thought, were important.

MS. KAMMERDEINER: If I could add one other thing --

(Ms. Kammerdeiner and Councilman Cohen began speaking simultaneously, not reportable.)

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COUNCILMAN COHEN: -- TIFFs in the past?

MR. GLANCEY: I'm sorry.

COUNCILMAN COHEN: Have these hotels gotten TIFFs in the past?

MR. GLANCEY: No.

MS. KAMMERDEINER: No.

MR. GLANCEY: They wouldn't get TIFFs if they got abatements.

MS. KAMMERDEINER: There's one other thing. I believe the date that was selected for this ordinance is the date that was used in another abatement bill to change from three years to ten years.

And there was, in fact, a question at that time as to whether or not that date preceded the time that we had authorization from the state legislature, to actually enact a ten-year abatement.

And so, there is an underlying question, that the other Bill was approved and is in law. And so, that's why I didn't raise it in the testimony. But I believe this date is a date that this Council has

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already used in the past.

MR. GLANCEY: It's the same date as the residentials.

MS. KAMMERDEINER: Correct.

COUNCILMAN COHEN: It seems to be a basis upon which to award millions of dollars in tax-free activities.

Thank you, Madam Chair.

COUNCILWOMAN BLACKWELL: Thank you, Councilman.

I'm not sure if the Chair mentioned that Councilman O'Neill is present. We certainly did want to say that.

Councilman DiCicco.

COUNCILMAN DiCICCO: Thank you, Madam Chair.

Ms. Kammerdeiner, I'm not sure if you're even the appropriate person to ask this, since I don't see anyone from the Commerce Department here.

It is not unusual for the City of Philadelphia to lend assistance to a business or businesses who have... either are experiencing some extremely difficult

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times or have... or are thinking about the possibility of moving out of the City to another municipality, for reasons that may benefit their business expansion, et cetera, the cost of doing business.

Comes to mind Tasty-Kake, I think of, several years ago was considering -- I think was almost going out of business, if I'm not mistaken or reducing its work force significantly.

And the City, I think, stepped in with some sort of tax incentive. A company in my District, who we have another issue we've been dealing with, was a wholesale furniture manufacturing company, that wanted to literally expand their facility and actually bring more jobs, was considering going to New Jersey because they had offered a better incentive, if you will.

Is it not only -- I mean, this is not unlike any other kind of business, if you will, where, when we see that a business has a problem which could result

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in its closing and the loss of revenue and a loss of jobs, which translates into Revenue and taxes... Do you not see it the same way?

And it may not necessarily be what we're looking at in the Bill, but in the context of what we're talking about there is doing and assisting an industry that thousands and thousands of Philadelphians rely on for employment.

MS. KAMMERDEINER: You're correct that Commerce regularly works with businesses to try and find ways to assist them in staying in business in Philadelphia, expanding their businesses in Philadelphia, or opening one in here in the first instance.

They do have incentive programs through various economic incentives, some of them from state funds, some of them from funds that have been authorized in appropriations either directly with Commerce or with PIDC.

But those are done on a

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business-by-business basis, not on an industry basis or not on a date basis.

They are done as specific targeted activities for those particular businesses --

COUNCILMAN DiCICCO: Right, like --

MS. KAMMERDEINER: Like the ones you just site.

COUNCILMAN DiCICCO: But are those offers that are put on the table, do you know of any that have an offer of some sort of a tax incentive or an abatement or a reduction in the collection of taxes?

MS. KAMMERDEINER: Tax law itself must be uniform for everyone in a category, and so they couldn't provide a specific tax incentive for an individual business.

COUNCILMAN DiCICCO: They could.

MS. KAMMERDEINER: It would have to be for... They could not, unless it's a program that has been established where everyone who's similarly situated can benefit.

COUNCILMAN DiCICCO: So

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hypothetically, if -- that could apply to all of the hotel establishments, as opposed to just several of them, as we're talking about today, if the Commerce Department and P.I.D.C. were so inclined to get involved in this process, which I think they should.

MS. KAMMERDEINER: I think you're correct.

COUNCILMAN DiCICCO: There's a possibility.

COUNCILMAN COHEN: Madam Chair --

COUNCILMAN DiCICCO: I'm not putting words in your mouth. I mean, there is a possibility that there is some sort of incentive to be offered to the hotel industry...

MS. KAMMERDEINER: I don't know what incentives specifically --

COUNCILMAN DiCICCO: I don't know what they are either.

MS. KAMMERDEINER: -- but they would normally work with individual businesses or groups of businesses to identify what might be available, either through existing

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programs or through some other things that could be crafted.

Generally, they're not taxes as such because under the Pennsylvania Constitution, the tax law must be uniform and uniformly applied to everyone in the same class or category.

COUNCILMAN DiCICCO: Thank you. No further questions.

Thank you, Madam Chair.

COUNCILWOMAN BLACKWELL: Thank you. Councilman Cohen.

COUNCILMAN COHEN: Yes. It's my understanding that there's a problem with respect to an over supply of hotel rooms. Is that the case or is it not?

(Ms. Kammerdeiner and Councilman Cohen began speaking simultaneously, not reportable.)

MS. KAMMERDEINER: You would have to address that to the members of the industry, not to me.

COUNCILWOMAN BLACKWELL: Councilman Kenney.

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COUNCILMAN KENNEY: Can I maybe perhaps just throw some light as far as what my motivation was relative to the period of time we're talking about?

COUNCILMAN COHEN: Well, it isn't a question of your motivation. It's a question of the impact of the Bill.

COUNCILMAN KENNEY: Well, that's part of what I'm going to try to express. Not being -- I'm not an industry expert, but certainly the people we've talked to in the industry, both in the convention business and in the hotel business, believe that as a result of the changes in governance that Council Member Nutter and others have helped with over there, relative to the work rules, that anywhere from three to five years, five years probably being more realistic, is when it should start turning around as a result of increased bookings again.

Because of the cycle of convention bookings, we've been out of the loop. And we'll probably, if all things go well, be

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back in the loop three, four, five years out.

So one of the things I wanted to bring up later, but I'll bring it up now, is that after continued analysis about the revenue issues, I'm willing or ready today to offer an amendment which I will put on the record now, but will do so at the Public Meeting, to extend the abatement for eight years, as opposed to ten, so that this way we'll get to that five year --

COUNCILMAN COHEN: What's the point? You know, before it gets to the eight-year period, you'll be in here asking for an extension to 12 years or 15 years, if we live through that.

COUNCILMAN KENNEY: If I'm here that long.

COUNCILMAN COHEN: Well, this is the only abatement asked for.

COUNCILMAN KENNEY: Well, I'm putting on the record now that I'm willing to go to do it for -- amend the Bill to go eight --

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(Councilman Cohen and Councilman Kenney speaking simultaneously, not reportable.)

COUNCILMAN KENNEY: Can I just finish? I really just want to finish, so I'm understood.

The number would move from $26,900,000 over the ten-year period to 19 million two over the eight-year period. So that will be offered at the appropriate time in the Public Meeting.

But my understanding from the industry's input in the creation of the Bill is that three, four, five years out is when we should start seeing the improvement in our bookings, relative to the changes we made at the Center.

And some of the other things that might happen. The Barnes may be here. There may be a number of other things that bring people in to want to stay overnight.

And hopefully, we can get these hotels, and if we need to help the other hotels in some other way, get to that

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period of time where people can start fresh and have the bookings available again.

COUNCILWOMAN BLACKWELL: Thank you, Councilman.

Councilman Cohen.

COUNCILMAN COHEN: Yeah. I think that that's just a lot of words aimed at getting benefits that people are not entitled to.

If you're going to offer a Bill to provide unemployment insurance or provide salaries of workers laid off, I'll be happy to support it, because I'm absolutely convinced that your Bill will produce nothing in the way of continued employment.

The hotels that don't need workers when they're asking for tax benefits, certainly got top rated as economically as they can. And they're not going to keep people on the payroll if they're not needed.

The only thing that's going to keep people on the payroll is when the business comes and people are needed. That's when

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work is provided, and when there is payment of salaries that provide for health benefits and decent care.

But not now. What you're doing is offering people money to provide nothing except idle workers. It makes no sense to me.

MR. GLANCEY: Councilman, again, as a fact witness, to answer the question that you had posed, there are many more experts here better qualified to testify about the state of hotels than I am.

But from my side of it, what I have seen since the year 2003, because 2002 was still a significantly good year at the Convention Center.

In the year 2003 there has been a decrease in the occupancy rate of all of the large Center City hotels. And I say that -- Not the airport hotels. The large Center City hotels.

And there also has been a drop in the average daily rate for those rooms that are rented. But factually, that's... that

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is the case, but I'm sure there are folks here with probably more up-to-date figures than I have.

COUNCILMAN COHEN: Thank you.

COUNCILWOMAN BLACKWELL: Thank you. Council Kenney.

COUNCILMAN KENNEY: No.

COUNCILWOMAN BLACKWELL: Are there any further questions from Members of the Committee?

(No response.)

COUNCILWOMAN BLACKWELL: All right. We'll now go to Mr. Tom Witt and James Kroll from the Hyatt Hotel.

Thank you, both Commissioner and Mr. Glancey. Thank you for agreeing to stay, Mr. Glancey and Commissioner Kammerdeiner.

Good afternoon. Please identify yourselves for the record and begin your testimony.

MR. WITT: Good afternoon, Chairman Blackwell, Members of the Committee. I'm Tom Witt of Wolf, Block, Schorr, and

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Solis-Cohen.

We represent the Hyatt Regency Philadelphia at Penns Landing. And to my right is John Kroll who is the General Manager of that hotel.

We appreciate, Madam Chairman, the Committee's willingness to hear our testimony this afternoon.

COUNCILWOMAN BLACKWELL: Certainly.

MR. WITT: To clear up a couple of things, we have in Philadelphia today and have had for several years a ten-year tax abatement for every new hotel and for every new commercial facility.

Nothing in the Bill before you today would change that. All we would propose is to extend the benefit of that to hotels that were in the construction cycle at the time that the ten-year program was adopted.

Before the ten-year program, we had a three-year program. In the case of the Hyatt, while we were in construction, the program was changed from a three-year program to a ten-year program.

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And the purpose of this Bill is to move the date of eligibility slightly back, so that hotels in that one construction cycle would now qualify for the ten-year.

And having been involved in the drafting of this, I can confirm what you heard from Mr. Glancey. We looked at the Philadelphia Code and found that the residential program had been amended to extend back to a certain date.

We took that exact date as the potential date for the hotel program. And it was only after that when we decided to draft an ordinance and propose an ordinance that conformed to an existing ordinance that we then did the research to see who would be affected.

I will tell you that we knew starting out that the Hyatt would be included or we wouldn't have done the exercise. But there was not a list of hotels. There was a date that conformed to the date in the Philadelphia Code.

The Bill is also designed to limit

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this particular benefit to hotels, and that's why on the first page you have the definition of a building to which this applies which refers to the hotel tax. So that this is only intended for the benefit of hotels.

You have already heard of some of the difficulties that have afflicted the hotel industry. There are essentially three things that were general to the hotel industry that have happened since our hotel was completed in 2000.

That's a national recession. Secondly, the massive tourism decline following 9/11. And thirdly, the difficulties of the Convention Center.

There's a fourth problem that's peculiar to the Hyatt at Penns Landing, one of two union, full-service hotels in the City. And that is that we are on Penns Landing because the City government wanted a hotel on Penns Landing, encouraged us very strongly to build a hotel in Penns Landing, asked to us accommodate the City,

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in effect, by moving forward development on Penns Landing.

And we did all of those things. And when we got to Penns Landing --

COUNCILMAN COHEN: Point of information, Madam Chair.

COUNCILWOMAN BLACKWELL: Yes, Councilman Cohen.

COUNCILMAN COHEN: Is the witness indicating that they built it on behalf of the City of Philadelphia and not on behalf of the developer?

MR. WITT: No, Madam Chairman, I'm not indicating that at all.

But I am indicating that the City went to great lengths to encourage us to build a hotel at this location because the City government wanted a hotel at this location.

COUNCILMAN COHEN: And didn't the developer believe it to be a good business?

MR. WITT: Madam Chairman, the developer believed that he would have a hotel in Penns Landing which would be

accompanied by an entertainment center, a tram connecting the two sides of the river, and a major museum.

We are on Penns Landing by ourselves. We are the only ones who did what we told the City we'd do. We produced. And now we're there alone.

COUNCILMAN COHEN: But you didn't do it because of the City's request. You did it because you thought there was going to be a profit or your developer did.

MR. WITT: Well, there certainly were City requests. And I'm sure that there was also a hope for profit. And believe me, there still is. We hope that this will be a successful business.

COUNCILMAN COHEN: I don't think there ought to be any deception in suggesting that this is a City hotel. Because the City never was going to get any profits from it, was it? Was it City owned? Did the City own it?

MR. WITT: The Penns Landing Corporation does share in the profits of

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this hotel if there are any, which there haven't been to date.

COUNCILMAN COHEN: But I'm just wanting the record to be clear that the City has nothing to do with the ownership of the hotel.

The City is interested in developing Penns Landing in many different ways. And we've had many proposals. Some have been carried through in part; some have not been.

Thank you, Madam Chair.

COUNCILWOMAN BLACKWELL: You're welcome.

MR. WITT: Thank you.

COUNCILWOMAN BLACKWELL: Councilman Kenney. Thank you.

MR. WITT: May I?

COUNCILWOMAN BLACKWELL: Yes, of course.

MR. WITT: In particular, the hotel industry has suffered from these three factors that are City wide. And you can see that, particularly with respect to the

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booking of conventions.

City-wide conventions booked for 2004, '5, and '6 are lower than in any years before -- since before 1998.

And room rates in 2003, room rates, are the lowest since 1997. And they're projected in '04 and '05 to be below 1998. So this is a problem that the hotel industry has suffered, and we all hope it's a temporary problem.

I would, though, like to make one point in that connection, to follow up on some of the hotel closings that Mr. DiCicco talked about.

Those of us who are old enough to remember before the Four Seasons, when Philadelphia's finest hotels were the down at the heel Bellevue, the Ben Franklin, the Adelphia, and our newest was the Sheraton on Kennedy Boulevard.

We had room rates that were well below the national average and below what was needed to produce new hotels. We had occupancy rates that were terrible.

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And it was widely reported by knowledgeable people, who seem to have turned out to be right, that our problem was an inadequate supply of hotels which is completely counter intuitive.

You would think that if the rate is too low and the occupancy is too low, then what you ought to have is fewer, not more.

But the answer that was stated then, and which now seems to have been proven out, for instance by the 2000 Republican convention, is that you need a critical mass of really good hotel rooms in order to be able to compete effectively in the markets that our Convention Center and our other meeting facilities are trying to compete in.

And so we think it's important to the industry that over this next three, four, five, whatever year period, while the Convention Center is in recovery, and while the economy is in recovery, that we keep that inventory of rooms as high as we can keep it, so that we have the critical mass

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to answer the need when the opportunities for more big conventions and shows come to Philadelphia.

Now, the point's been made that the Hyatt's taxes would not be reduced under this Bill. What we will be doing under this Bill is deferring an increase which would otherwise occur next year of approximately $1.1 million.

And while that number is the number based on our current assessment, our assessment is under appeal.

And I believe that many of the hotels may be over valued because of what happened recently in the hotel market.

We hope that's temporary. But any reduction in those assessments -- and we believe we're entitled to one -- would reduce the number that is the cost of this Bill because it would reduce the value of the abatement.

The Hyatt generates over $1.6 million a year in taxes to the City. That includes the hotel tax, parking tax, liquor

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tax, the real estate tax that we do pay, and the wage taxes of our employees that we generate, far more than the amount of the proposed abatement.

So we're hopeful that the Committee can recommend to the Council that we adopt a date that's already in our abatement ordinances, that we extend the benefit of an existing abatement to this one group of hotels that were in the construction cycle at the time that the City's ten-year program was adopted.

Thank you.

COUNCILWOMAN BLACKWELL: You're welcome. Councilman.

COUNCILMAN KENNEY: Mr. Kroll has some testimony.

MR. KROLL: I'm actually here for questions.

COUNCILMAN KENNEY: I just have a... If I could just have a question of Mr. Kroll.

MR. KROLL: Sure.

COUNCILMAN KENNEY: I appreciate Mr.

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Witt's testimony.

Mr. Kroll, could you give us an idea as type of the -- kind of a -- what your employees -- the profile of your employees' residency, sex, race, where they have come from, if you're aware of how, you know, how your hotel, you know, your employees came to be.

MR. KROLL: Sure. At the present time, I have 265 employees. 53 percent approximately are African American, 5.5 percent are Hispanic, and a little over 6 percent Asian.

The majority of them, and particularly the year that we opened in 2000, are people who did not have or employees who did not have any hospitality background. And we literally took individuals with no experience and brought them into the industry.

COUNCILMAN KENNEY: Could you talk a little bit about average pay and benefits, I mean, without being too -- If you can be specific, please. But like what type

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health care coverage and hourly rates average, those kinds of things.

Just give me an idea as to what these -- Because I think there's some belief that hotel employees somehow -- You know, being a hotel employee is not a credible job, that somehow being in the service industry is something that's not dignified.

I think that the hotels in general should kind of trumpet the type of employees and the type of work and type of benefits that they do provide to their employees because I do think they're significant.

I know numbers of people who have worked at various hotels, and still do throughout the City, who have made great careers out of entry level positions, that have moved into management. And I think there are a lot of success stories there that aren't well known.

So, again, give me kind of an idea what type of...

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MR. KROLL: Sure. Probably the lowest hourly salary we probably have starts at $#10. They do have full health benefits, dental, medical.

They also -- We are a union hotel, so they are union benefits and also non-union benefits. But they are very competitive in the market and also outside our market.

COUNCILMAN KENNEY: But full health coverage.

MR. KROLL: Correct.

COUNCILMAN KENNEY: Thank you.

COUNCILWOMAN BLACKWELL: Thank you very much. Councilman DiCicco.

COUNCILMAN DiCICCO: Thank you. I apologize if you already answered this question.

What percentage of your employees are Philadelphia residents? Do you happen to know?

MR. KROLL: I am going to say 82 percent.

COUNCILMAN DiCICCO: So it's about

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consistent with what the industry has always told us, somewhere between 80 and 85 percent; is that accurate?

MR. KROLL: Yes.

COUNCILMAN DiCICCO: The majority of the people whom you employ, do you know where they worked before they came to you for employment? Or did they have a job at all?

MR. KROLL: That one I don't have very true guesses on, from a percentage standpoint.

I stated earlier that we do take a lot of our employees... They were not working at the time. We opened up during a very good economy, and also at the end of the new hotel cycle which means that all the employees were already taken by the four previous hotels that actually opened that year. So we had a very difficult time finding employees.

So we found employees who really had very little experience or no experience and made them hoteliers.

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COUNCILMAN DiCICCO: I don't know the exact number either. I just wanted it for the record because I know when I was involved in some of the other hotels that were being proposed, many in my District, by way of either TIFF or the abatement, one of the things that was always mentioned that was very high on the list is that the majority of people in the hotel industry were formerly on the welfare rolls.

MR. KROLL: I'm going to say at least 95 percent of the employees had no experience in the hotel business. And I'm going to say about 60, 65 came from welfare.

COUNCILMAN DiCICCO: Thank you. No further questions.

COUNCILMAN BLACKWELL: Thank you. Councilman Cohen.

COUNCILMAN COHEN: Do you employ people in your hotel that are not needed for the work? Do you employ them merely to keep them on the payroll?

MR. KROLL: No.

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COUNCILMAN COHEN: So the people you employ are people that are needed for the work in the hotel.

MR. KROLL: Certainly.

COUNCILMAN COHEN: And you don't keep them on if they're not needed?

MR. KROLL: You mean if there is no -- We employ as many people as we need.

COUNCILMAN COHEN: That's right. And you need, according to the occupancy rate? What determines the need of the hotel?

MR. KROLL: Well, we're a full service hotel, so both occupancy rate and also the food and beverage business that comes to the hotel which is --

COUNCILMAN COHEN: So you would not keep people on the payroll if you didn't need them to perform hotel work; isn't that right?

MR. KROLL: Well, we hire as many people as we need.

COUNCILMAN COHEN: That's right; and no more because to hire more would be

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wasteful, right?

MR. KROLL: That would be correct.

COUNCILMAN COHEN: All right. No further questions.

COUNCILMAN KENNEY: I just have a follow-up, if I can.

COUNCILWOMAN BLACKWELL: You're welcome. Go ahead.

COUNCILMAN KENNEY: Could you give me an idea, Mr. Witt or Mr. Kroll, what this abatement could mean to the breathing room, for want of a better term, that it would provide your particular business, and as it relates to continued employment of as many of these people as possible?

I mean, can you explain what effect the implementation of this abatement or the extension of this abatement would have on your bottom line, and then therefore on the hotel's ability to stay a fully functioning full service hotel?

Because I mean, you don't hire and fire people or lay people off as a result of a weekly or monthly analysis. I mean,

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you don't, I assume; that people are employed for a period of six months to a year, I mean, before you start making decisions on what's your projected occupancy, projected banquet business, those kinds of things. So you know pretty well in advance what you're anticipating. So --

COUNCILMAN COHEN: Point of information. I hope Councilman Kenney permits the witness to answer the question instead of just directing the answers. He's doing so well.

COUNCILMAN KENNEY: I'm sorry, Councilman. Councilman, with all due respect, I have learned from you how to badger a witness.

COUNCILMAN COHEN: Well, you're not badgering him. You're helping him. You're answering the question.

COUNCILMAN KENNEY: Let me be quiet. I think he got my drift.

COUNCILMAN DiCICCO: Leading the witness. That's leading the witness.

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COUNCILMAN COHEN: Was a few answers that if he keeps them when they're not needed, he's obviously wasting money.

MR. KROLL: If I understood the question correctly, there is not at this present time in the present climate, there is not a lot of breathing room. Presently I would have to say break even, if indeed whatever the taxes are. Then that's how much we'd be in the red.

COUNCILMAN KENNEY: Okay. As far as employment complement, how is that term projected? How do you figure that out?

I will stipulate to the fact that I'm sure you're not going to hire people you don't need, as Councilman Cohen has contended. We'll stipulate that's the case.

MR. KROLL: Right.

COUNCILMAN KENNEY: But how do you determine your employment complement? How much in advance do you plan?

MR. KROLL: You pretty much plan, I would have to say, on a yearly basis. And

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then within that year, you make adjustments. And you have to make adjustments with the swings in business, whether it is there or not there.

COUNCILMAN KENNEY: But the bottom line is an important issue in determining current levels of employment.

MR. KROLL: Very much so.

COUNCILMAN KENNEY: Thank you.

COUNCILMAN COHEN: And Madam Chair?

COUNCILWOMAN BLACKWELL: Yes. We had a follow-up. Councilman DiCicco, and then Councilman Cohen.

COUNCILMAN DiCICCO: Thank you. Mr. Kroll, I think you testified that you currently have 265 employees.

MR. KROLL: Correct.

COUNCILMAN DiCICCO: How does that compare to a year ago or two years ago?

MR. KROLL: Well, in my particular case, we just opened, so each year you're hoping you get busier and busier, so you would ramp up.

We weren't completely finished the

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hotel in 2000, nor in 2001. But it would be more comparable with 2002. And it probably increases and should continue to increase, if the business gets better. So it's probably 30 less employees last year.

COUNCILMAN DiCICCO: 30 less than last year?

MR. KROLL: Correct.

COUNCILMAN DiCICCO: So it's ten percent reduction, approximately.

MR. KROLL: Mm-hmm.

COUNCILMAN DiCICCO: Thank you. No further questions.

COUNCILMAN COHEN: Madam Chair.

COUNCILWOMAN BLACKWELL: Thank you. Councilman Cohen.

COUNCILMAN COHEN: Is your hotel a one hotel business? Is that the only hotel it owns or is it part of a chain?

MR. KROLL: Well, the way the hotel business works is, we are management companies that run the hotels for the ownerships. And for the most part, that's true in Philadelphia.

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We primarily... You could have ownership in a hotel; you may not. In this particular hotel, Hyatt does not have ownership.

COUNCILMAN COHEN: I'm not sure I understood what you said.

COUNCILMAN DiCICCO: Hyatt manages the hotel.

COUNCILMAN COHEN: You're a managing company?

MR. KROLL: Correct.

COUNCILMAN COHEN: So you're not an owner.

MR. KROLL: Correct.

MR. WITT: Mr. Cohen, I do represent the owner. And the ownership is a one-hotel entity, as are most, because of the way the financing is set up today.

COUNCILMAN COHEN: The way the financing is set up, each hotel is separately owned.

MR. KROLL: That's generally the case.

COUNCILMAN COHEN: But isn't it part

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of an overall company that has a lot of individual ownerships.

MR. WITT: It could be --

COUNCILMAN COHEN: Are there common owners?

MR. KROLL: That might be the case in some cases. It's not the case in this case. But like most hotels in the country, most full service hotels, it is managed by a national chain, in this case Hyatt.

COUNCILMAN COHEN: All right. Because seems to me that private industry has all sort of resources available to it. And it has to have a resource available to it in tough times, as well as in good times.

In good times, before the Convention Center mess exploded and the bookings were up and were growing, certainly seemed to me that wise ownership would be planning for tougher times. It would have reserves, and that those reserves are available.

If the future looks good, lots of businesses go through tough years. And you

can't be in a position, I think, of coming to the City during the lean years.

Lean years are, as you testified earlier, somewhat interested for the developer or the hotel ownership. Testified that there were a number of reasons.

And there are a number of reasons, undoubtedly, for problems that exist. But isn't that part of the taking-risk business?

How do we know it's going to be three or five years? Maybe it will be five to seven years? Maybe it will be seven to ten years. Maybe it will be next year when prosperity comes back.

Maybe there won't be any because of the jobless nature of the recovery or maybe that will end, and we'll have good job recovery. No one seems to know for sure.

One day you read it, and you read that President Bush is in real trouble because of the economy. And the next week you read an article that says he's a sure

bet to win again because of the economy. Things change. Nobody seems to know. But that's all part of the risk-taking, isn't it?

Your people who invest in the hotels are running the risk: They're going to make money; they're going to lose money. And I assume an investor studies the situation carefully, much more carefully than the City of Philadelphia.

For example, did you have to submit finance statements to anybody about your hotel operation? How do we know that your hotel is not in trouble because of wasteful management? Has anybody studied that, any official of the City studied?

Why do we treat all hotels equally? I'm sure in the hotel industry, like in all industries, you have good operators and you have operators that are not so good, as far as being efficient and being economical.

And yet, you're asking for a blanket tax reduction. You call it tax deferral. Everybody knows it's really tax reduction

because it's going to take less money away from your operations.

And that, I think, tax money is money that comes largely from ordinary taxpayers who live often in minimum wages or lower. And I just think it's wrong for government money, tax money, to be used to enrich people who are in business.

I have no objection to business people making profits because they undertake a risk. But it seems to me you're re-defining all the notions of how you do business.

Sure, on good days you want to take the profit and you want government to stay out of your business. And maybe you're right in that position. I don't know. I offer no judgment on that.

But then it seems to me you weaken that kind of an argument when in leaner days you come to us and say, now let's be partners; we're having trouble; now we want to partner with you, until good days come again when we'll throw you out; and when

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we'll say that if you want any information, you're interfering with us.

So I'm just troubled badly by this kind of business, when people in the community claim that their houses are being taken that they've lived in for 50 years, I don't find this kind of interest on the part of City Council.

When Port Richmond is threatened as a community, I don't find anybody interested in City Council. Very few members are interested.

But as soon as the business indicates slightly its concern that maybe it's not making the level of profit it ought to be, certainly then everybody seems to get very much concerned. Seems to me that's not the right direction for government to take.

Thank you, Madam Chair.

COUNCILWOMAN BLACKWELL: Thank you very much. I don't know who was next, Councilman Kenney or Councilman DiCicco.

COUNCILMAN DiCICCO: I don't have

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any more.

COUNCILWOMAN BLACKWELL: Thank you very much. Thank you, gentlemen.

Joshua Grimes and Jay Barnett from Doubletree.

After they testify, Joshua Vincent is next. Then Harriet Lessee, and then Richie Fader.

MR. GRIMES: Madam Councilwoman, we have copies of Mr. Barnett's testimony.

COUNCILWOMAN BLACKWELL: Thank you very much. Thank you for your patience.

Please identify yourselves for the record and begin your testimony.

MR. GRIMES: Madam Chairwoman, Joshua Grimes, representing the ownership of the Doubletree Hotel.

MR. BARNETT: Madam Chairwoman, my name is Jay Barnett. I am one of the owners of the Doubletree Hotel.

COUNCILWOMAN BLACKWELL: Thank you.

MR. BARNETT: If I may, good afternoon. My name is Jay Barnett. I'm a partner at the Doubletree Hotel at Broad

and Locust Streets. With me is Josh Grimes, our attorney, who specializes in representing hotels and other hospitality businesses.

We're here today to express our concerns about the proposed legislation before you. The property that is the Doubletree Hotel was originally developed and opened in 1983 as the Hershey Philadelphia Hotel.

Norman Wolgen is the General Partner of this group, along with a number of other Philadelphians. We built this hotel in 1983, after former Mayor Green assured us that a new Convention Center would be up and running by 1986.

Mayor Green felt that a new hotel was absolutely necessary for the success of the new Convention Center. The Doubletree property was built entirely with private money, with no state, local or Federal Government assistance. And of course, the Convention Center did not actually open until 1993, ten years later.

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Back in 1983 the new commercial construction was able to get a five-year real estate tax abatement. We applied for it and received that abatement which ran out in 1988.

Since that time, we have been paying our full real estate taxes, along with all the other taxes levied on our business.

We realize that the Bill before you is an attempt to help some hotels that may be experiencing financial difficulties. It is well known that the industry is going through troubled times.

The major reason for this unfortunate situation at the Pennsylvania Convention -- excuse me -- is the unfortunate situation at the Pennsylvania Convention Center, which we all hope is finally on the way to recovery.

In recent years conventions that came to Philadelphia once would not book here again because of the labor difficulties and high costs involved.

We are also having an enormous

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amount of difficulty attracting new groups to the Convention Center for a first meeting.

This situation is so bad that the number of City-wide conventions which use most of the hotel rooms in the Center City area has dropped from a high of 27 in 2000 to 14 next year, and not much improvement going forward.

The hotel community is hopeful that the new agreement recently reached at the Convention Center will cause meeting organizers to take another look at Philadelphia.

But even if it does, it will be many years before a critical mass of new conventions will come to our City. The Center must create a track record of improvement before meeting organizers will feel comfortable that the labor agreement is actually working. And most large meetings book at least three or more years in advance.

The hotel industry's recovery will

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take several years, not months. The other reason for the hotel industry's troubles is that the City has an over supply of rooms.

During the 1990s, the City went to great effort with the, quote, 2000 Hotel Rooms in 2000 Project.

Tens of millions of dollars in subsidized loans, outright UDAG grants, and other incentives were given to developers to build new hotels.

Unfortunately, this program went on too long, and instead of 2,000 new rooms, approximately 4,000 new rooms were constructed.

The result is an over supply of hotel rooms, so that even when a City-wide convention is in town, many hotels struggle to fill their inventory.

The Bill before you is an attempt to give some hotels financial relief by excusing them from paying their share of real estate tax for seven more years.

Specifically, it will help about nine properties and a few smaller ones that

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opened around the time of the Republican Convention in the year 2000.

We salute the Council for recognizing that the industry is in trouble, and for your eagerness to help these properties.

This Bill will provide relief that some of them sorely need. However, the Bill does not go far enough. It does not address the real problem which is that nearly all of the 60-plus hotels in the City are struggling.

It seems to me that if the City wishes to help the hospitality industry, it would be better to help everyone or at least those who can demonstrate financial necessity.

If your goal is to protect the City's economy and keep the more than 17,000 citizens in the hospitality industry employed, then Bill Number 030769 will affect just the tip of the iceberg.

We look forward to a dialogue with Council and the Mayor about the most

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effective ways to provide relief to all of the City's hotels.

There are a number of solutions employed by other cities, such as rebating portions of the hotel tax.

Providing the relief to all hotels in addition to or instead of selective real estate tax abatement would certainly be a better fix for the City's economy during this very difficult time.

In conclusion, we thank you for introducing this Bill and addressing the important issues facing Philadelphia's hotels. We ask that you amend this legislation to incorporate assistance for all of the many troubled properties that are in critical need of help.

I'm certain that most of the hotel owners and managers in the cities would agree with our position. And I am pleased to inform the Council that the owners and/or managers of the Omni Hotel at Independence Park, the Holiday Inn Express in Midtown, and the Adams Mark Hotel have

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specifically authorized me to express their support for my testimony today. Thank you.

COUNCILWOMAN BLACKWELL: Thank you very much.

Councilman Cohen, did you have a question?

COUNCILMAN COHEN: I expect that either Councilman Kenney or Councilman DiCicco will introduce the Bill, and cover -- And they'll come up with, instead of being another production cycle, will have another good reason to want to extend it a few more.

I think you make a good general plea. I think we need a lot of facts. Nobody wants to kill the hotel industry.

But we want to make sure we're not giving away tax money when it's not needed, and that the need is really there. And I think a lot of work has been done.

So you say Doubletree has only received once an abatement for five years?

MR. BARNETT: That's correct.

COUNCILMAN COHEN: You seem to have

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a have good record among all the hotels in the City.

MR. BARNETT: Thank you.

COUNCILMAN COHEN: Now, I understand that Franklin Windham -- Is there anybody from the City that knows -- still gets a million dollars a year from the City of Philadelphia, that they worked out that agreement with Mayor Green in the early 1980s.

And any one year in which the books show that the profit is less than a certain figure, the City agreed to pay a million dollars. And I understand that million dollars a year is still being paid. It's wonderful deal, if it exists. Anybody here know that?

I'm going to ask the Chair if she would get... would ask the City Administration to check on that, and see whether that's an ongoing agreement. A few years ago it was.

COUNCILWOMAN BLACKWELL: Certainly. The Chair is happy to do that.

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COUNCILMAN COHEN: And Franklin Windham controlled the situation because they furnished the books to show each year that their profits were below this level, which gave them an additional million a year from the City Treasury.

COUNCILWOMAN BLACKWELL: Thank you. We're happy to do that.

Councilman O'Neill.

COUNCILMAN O'NEILL: Yes. just a couple questions on this proposal.

Is state legislation needed to accomplish this?

MR. GRIMES: Councilman, if I may, do you mean -- Which proposal are you speaking of?

COUNCILMAN O'NEILL: This proposal for the rebate?

MR. GRIMES: For the record, Joshua Grimes, representing the Doubletree.

Councilman, my understanding is state legislation would not be needed. State legislation authorizes the City to collect the hotel tax, and to pay it out to

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the tourist promotion agency and the Pennsylvania Convention Center Authority and the Greater Philadelphia Tourism Marketing Corporation.

My understanding is that something could be done within that to... If you're talking about a rebate, something could be done there with -- amongst those organizations or even possibly within the City. But I would think it would be done in cooperation with those organizations.

But to answer your question, I don't believe you would have to go back to Harrisburg.

COUNCILMAN O'NEILL: Okay. Do you have any idea how much money we'd be talking about, within a range, high-low?

MR. GRIMES: Well, unfortunately, like the Revenue Department, I haven't had a chance -- we haven't had a chance to study that.

But for comparison, I believe that one percent of the tax is about two-and-a-half million dollars, that the

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one percent would be about.

MR. BARNETT: I can't speak to industry wide, but in 19- -- I mean, in 2002, the Doubletree Hotel paid approximately $1.8 million in the hotel tax.

COUNCILMAN O'NEILL: But if this proposal had been implemented a year ago. So for the year, you can measure where things have been more down than up, what would it have cost the receiving agencies, PCCA and others?

MR. GRIMES: Well, Councilman, if you're looking at the sheet that I gave you, I'm not sure, unfortunately, I could give you a number, because I'm not sure which idea concept that you're looking at.

My sense, though, is that you could look at it sort of like a TIFF, is opportunity cost. If one of the ideas with the rebate that we have suggested in concept is that you set a threshold level, and then there would be a rebate above that threshold level.

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So in that situation, if you were to look at that idea, you would give those agencies the same amount that they would get in a particular year. And anything over and above would go back to the hotels. So in that essence you might look at it as costing them nothing, beyond opportunity cost, which is like a TIFF.

COUNCILMAN O'NEILL: I think that's very much an oversimplification of what happened to those agencies. But that's okay.

I may have read it too quickly, but it didn't seem to me like you were asking that the tax rebate plan include the GPTMC.

MR. GRIMES: No.

COUNCILMAN O'NEILL: Did I read that wrong?

MR. GRIMES: You read that correctly.

COUNCILMAN O'NEILL: Seems to me they would need at least, based on... to tie into where we can -- where we can see direct benefit.

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MR. GRIMES: Well, let me general stress that what the committee is looking at are some ideas and concepts that we put together, meant as an opening of a discussion.

But when Mr. Barnett and I discussed these concepts initially, our thought was that we would focus on the points of the industry where -- that had been deficient in the past which, frankly, is the Convention Center marketing end.

The GPTMC, I think most people would agree, has been a pretty good success. And because with the leisure bookings --

COUNCILMAN O'NEILL: I would seriously disagree with you on the first part, and especially about most people.

I deal with more people in the hospitality industry than your clients. And I can tell you that that is not the perception at all.

And I think you're walking in and creating your own problem, to start off with, if you don't at least go across the

board and say PCCA and Convention Center, PCBB and the tourism marketing are on the same footing if somebody's going to get a bite taken out.

To make a judgment call that is purely subjective that there's a superior group in here that deserves special status, that they don't get hit by any rebate or affected by any rebate, I think you have everything in order.

If I were to pick one group that could afford to take a hit on a rebate, it would be the one you're leaving out.

And I don't mean any disrespect to that group. But I know how these numbers have worked over the past several years. And the hardest hit group has been the one that is the Convention and Visitors Bureau.

And we don't have to go through the details of it, but I think it's fairly publicly known how they were hit. And so, I would just ask you to take another look at that.

I mean, I think you're starting off

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your proposal digging one foot into a hole in the ground.

MR. BARNETT: At the risk of telling a lawyer what to do, I think the object here was clearly for us to really study what would be the best way to do this; that if there are objections to one way or another, you know, I think everyone is open to --

COUNCILMAN O'NEILL: Maybe I can save you some trouble later by asking you to reevaluate that part of it.

MR. BARNETT: Point well taken.

COUNCILMAN O'NEILL: Okay. Thank you

COUNCILMAN NUTTER: I have a couple questions, Madam Chair, when you get a chance.

COUNCILWOMAN BLACKWELL: Thank you very much. Councilman Nutter.

COUNCILMAN NUTTER: Thank you, Madam Chair.

Mr. Grimes, I had actually not planned to too much join in the fray on

this.

I just saw the proposal. I do at least, from at least two different perspectives -- and let me again state very strongly for the record -- I mean, I am a... I consider myself to be a strong supporter and friend of the hotel industry and the hotel association specifically. And it has been supportive of a number of efforts that I've been involved in.

And I think, as the gentleman indicated, maybe this is just the start of a conversation. But I would, sitting in two different places, one here in City Council, as well as relationship with the Pennsylvania Convention Center Authority, I do want to add some caution to designs, I guess, on hotel tax revenues.

I would at least like to make one clarification, for the record. The gentleman stated that the Doubletree paid... Did you say $1.4 million?

MR. BARNETT: 1.8.

COUNCILMAN NUTTER: $1.8 million in

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hotel tax.

This is somewhat similar to when the cable companies tell us how much in franchise fees they've paid.

The hotel tax is actually generated by the customer; is that correct?

MR. BARNETT: That's correct.

COUNCILMAN NUTTER: Okay. So it's not out of hotel revenues.

MR. BARNETT: Well, it's out of general revenues, but nonetheless that's not the issue. I was just stating a fact.

COUNCILMAN NUTTER: You don't get the revenue unless the customer pays the bill.

MR. BARNETT: That's correct.

COUNCILMAN NUTTER: All right. Okay. So, I mean, I just -- Again, the statement was made earlier -- I just want to make sure the record is clear -- the hotel tax is paid by customers.

MR. BARNETT: That's correct.

COUNCILMAN NUTTER: Not by the hotel.

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MR. BARNETT: In no way did I imply that that was coming out of the bottom line of the hotel, nor did I mean to.

COUNCILMAN NUTTER: I know you didn't. We have a record.

Second, there's been some recent discussion and I think some great concern by the hotel community about the hotel tax and its current rate, as compared to any other rate.

And so, I know that in 1995 this City Council actually was asked by the hotel community to increase the hotel tax.

And presently there are a variety of ideas floating around. And the hotel community may ask us not to do anything with the hotel tax, as it relates to proposed expansion of the Convention Center.

So I just want to put out a word of caution about the hotel tax and any designs or creative ideas about that particular tax, that it is dedicated to go to a variety of places.

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The Convention Center Authority is in a position where it is also trying to figure out its long-term funding streams.

The City of Philadelphia is affected by any downturn in hotel tax revenues because we have the ultimate responsibility for any operating deficits over at the Pennsylvania Convention Center Authority.

So, many of these things are tied in to each other in ways that... I like as much creativity as the next person. But I did just get this today. And I'd be glad to be a part of any future discussion.

But I think that there is clearly a need -- And when you think about Councilman O'Neill's comments, there's clearly a need for much more conversation and in-depth discussion, before we jump into a public forum about how, you know, how many more slices there are going to be in this pie, and where these revenues are going, and what they're going to, and what they're going for, and who's taking something from home to go where.

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MR. BARNETT: We couldn't agree with you more.

COUNCILMAN NUTTER: Okay.

MR. GRIMES: Councilman, if I may just sort of address sort of the germination of some of these concepts, when we looked at this Bill -- and we believe that assistance is needed for hotels like the Hyatt Regency at Penns Landing and some of the other hotels who will benefit under this.

However, we also believe that other hotels are in equal need of assistance who will not be helped by this.

We approached it before we sought to testify today, we approached that Council and the City would probably not look favorably on many ideas that would cost more off the City's bottom line, in terms of the General Fund.

So we looked at other ways that we might try and have this discussion. And where some of these ideas came up is that some other cities, to spur new economic

development for hotels, have looked at the sources that we're discussing, specifically Houston and Salt Lake City for the 2000 Olympics and the State of Texas.

And we're not coming today suggesting that anything is the answer. But we thought it was better than to come say, help everyone or give everyone a ten-year rebate, to sort of come forth with some concepts that might be worth talking about. And that's really all this was meant to be.

COUNCILMAN NUTTER: All right. I appreciate it. Thank you.

Let me make mention -- This is not your issue. But the issue was raised about how we conduct some of the affairs of government.

And I alluded to it earlier, but it has, I think, now been raised in a more direct way by some earlier testimony.

The concern was how the Bill came forward, the timing, and the like. We faced the same issue, I believe earlier

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this year, and I know Councilman Cohen has some concerns about this, in a completely different situation, involving primarily residential tax abatement.

More specifically, there was a community built in my District a few years back, 78 properties. And I believe the first 27 were built under the three-year tax abatement.

During the course of the construction, having nothing to do with that particular development, Councilman DiCicco who is the dean of tax abatements here in Council, decided to extend the new construction tax abatement from three years to ten years, having nothing to do with this particular development.

And this goes back to the fairness discussion, and whenever you pick a date there's always going to be someone who a week before or two weeks before did something, who will not benefit from it.

We passed a ten-year tax abatement on new construction. The development

project continued on. The developer then, realizing what had happened, promoted the rest of the development for people to get the ten-year tax abatement. Benefit doesn't go to the developer; goes to the occupant.

The initial purchasers of the homes in a planned community I believe had a legitimate argument that going in first and dealing with all that happens in a new planned development sought relief from us.

And we introduced a Bill which is the same date that's now being used in this particular Bill, to grant the ten-year tax abatement to those homeowners in that same development.

You literally have people across the street from each other, one with a three-year, one with a ten-year: Same development, same house, same neighborhood, same everything. But by an action of the government, this was the result.

This Council approved that particular Bill because we thought it was

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the right thing to do.

And so, I guess all I'm saying here in a fairly roundabout way is there is some precedent to us doing this, which I guess is now the result of this particular Bill here, although it was done primarily in a residential context.

So I just wanted to make sure that that information was on the record. That was a recent action taken by this Council. Thank you.

COUNCILWOMAN BLACKWELL: Thank you. Councilman Cohen.

COUNCILMAN COHEN: Yes. Don't hotels produce financial statements at the end of a given time, say yearly?

MR. BARNETT: Certainly.

COUNCILMAN COHEN: It seems to me that before we consider anything, we have to get a picture of the industry. And all we're doing is taking the off-the-cuff statements of industry here, that it's needed. We don't know what they mean. It could be an investor may not be satisfied

with the return or profit of a hundred percent. He may need two hundred percent, as he sees it; or you may have somebody where the business is operating at a loss, and he just wants a reasonable profit.

It seems to me we need that information. The simplest little community bank would require it. I think government's going to begin using some common sense, instead of sending out a notice to everybody: If you don't come to us for money and you don't get it, you're a fool. So why don't you join in this taxpayer spree? Why don't you take some money from the taxpayer?

Now, that does not apparently apply to Doubletree which has a pretty good record, if the record is there.

But I would like to see your financial statements, and that holds true of all of the hotels. I don't know what they mean when they say they're in need. Maybe they're in need of 50 percent profit instead of 49 percent, and they look to the

taxpayer to provide that.

So I think that before we can go further on anything, we need some verification of need. And then we've got to find out whether the money is being wasted or not, because certainly the City of Philadelphia doesn't want to have taxpayers responsible for covering wastage.

Why does one hotel make money and another one not? Maybe because of location, maybe because of services, maybe because of efficiency or wastefulness. We don't know that.

But it seems to me government money is precious and ought to be used only where it's really absolutely necessary, and at a time when it's necessary, to provide a needed service that private industry cannot provide in the ordinary business world.

And I think none of that's been dealt with here. We're acting as if the City of Philadelphia is loaded with money, and all we have to do is decide on how to spread it, provided it goes to certain

business groups.

Because if there's an expenditure of a hundred thousand dollars for drugs or to get rid of lead paint poisoning, I can tell you here, it would invoke calls for enormous debate, with severe questions: Where's the money coming from for this expenditure of fifty or a hundred thousand dollars? We're very tight on anything. We cannot spend it, because we don't have it.

But if we talk of millions for business, then it seems that the overwhelming body is prepared to give it total consideration. And I think that's the wrong way for the City of Philadelphia to do business.

We ought to know what the facts are. And I hope the tourism industry is going to be prepared today or at a later time to give us all of the facts, give us the time to study those facts so we can develop our questions instead of putting us in a position of telling us: Oh, there's a terrible problem. Maybe it won't be

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recovered for three or five years, but in meantime, help us till the time of recovery. And if it's not three to five years, maybe it will be longer. But whatever it is, you need us, so give us the help.

Well, I don't think we can have a sound tax policy or rebate policy or a TIFF policy based on that.

So I'm asking all of the people that are seeking consideration by the City to cooperate. Perhaps the tourism industry can work together as a unit to get all the financial statements.

So let's see what the situation really is like. For example, are you ready to tell us, Doubletree, when was the last financial statement?

MR. BARNETT: We produce one every year.

COUNCILMAN COHEN: By year?

MR. BARNETT: By year.

COUNCILMAN COHEN: When was the last year's full statement?

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MR. BARNETT: I'm sorry?

COUNCILMAN COHEN: When did the last year's statement come out?

MR. BARNETT: Let's see. I think the mortgage companies require it by usually March the 1st or April the 1st of each year, so I suspect that was when.

COUNCILMAN COHEN: Would that be available? Could you present that to us?

MR. BARNETT: If necessary, yes.

COUNCILMAN COHEN: I don't know what --

MR. BARNETT: Councilman Cohen, keep in mind that I -- in my remarks I did state that, you know, whatever relief that would be forthcoming would be by demonstration of financial need.

COUNCILMAN COHEN: All right.

MR. BARNETT: So I think that is not an unreasonable request, any more than when you think your real estate taxes are too high, you show the Board of Adjustment what your income and expenses are to justify a decrease, if you wish one.

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COUNCILMAN COHEN: Ou know, things that come about at the last minute... This Council adjourns for its current four-year term in less than two weeks. And we're very suspicious if anything comes in at the last minute, and we're told suddenly there's an emergency and we need to act on it, even when we, as in this case, when the facts seem to contradict that entirely. We're told of three to five years which is a very vague general period of time and recovery is going to be needed.

So I hope the movers of this Bill understand the suspicion which they developed, that they don't really have a good cause because they're trying to get it through when there's no time to really study it, when no materials were made available.

But if there is a need, I think all of us are interested in knowing about the need and helping to do something about it, something reasonable and something in the interests of the City of Philadelphia.

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Thank you, Madam Chair.

COUNCILWOMAN BLACKWELL: You're welcome.

Mr. Peter Kelson and Howard Werzack from the Hilton.

MR. KELSON: Good afternoon, Members of Council. Peter Kelson, Blank Rome.

Thank you so much for allowing us to testify. We're really here very briefly to confirm a couple things. And I think Councilman Kenney just may give you some information.

This representation that I have with Mr. Werzack is for the Hilton at City Avenue, a hotel that basically is at the Gateway of Philadelphia. We employ 210 employees.

COUNCILMAN COHEN: Which hotel is that?

MR. KELSON: This is the City Avenue Hilton Hotel, Councilman Cohen.

MR. WERZACK: Used to be the Twelve Cesar's.

MR. KELSON: That is correct. We

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employ 210 employees. And we paid last year $2.8 million in payroll to those employees.

Our employees are a valuable asset. And it is our intention and we will make all efforts to maintain that employment complement.

Briefly, I wish to testify before Council with a very minor but technical issue, and that is to confirm that the ordinance which calls for qualified building for which a certificate of occupancy was issued after October 27, 1999, relates to the issuance of a -- what we call a final certificate of occupancy.

As Council well knows, that there are numerous occasions where temporary certificates of occupancy are issued, and it is my understanding that this Bill will look to the final or the official certificate of occupancy. And I believe the Chairman Glancey, of the Board of Revision will also confirm that that's the operative document that the Board uses for

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the purpose of registering the start date of the abatement.

And with that, I thank Council for their consideration. And if you have any questions, we'd be happy to answer.

COUNCILWOMAN BLACKWELL: Thank you. Councilman Nutter.

COUNCILMAN NUTTER: Thank you, Madam Chair. Thank you, Mr. Kelson. Thank you, Mr. Werzack.

Just very briefly, Mr. Werzack, when did the Hilton City Avenue open or when did you receive your certificate of occupancy?

MR. WERZACK: We received the certificate of occupancy in December of 1999, and we opened in January of 2000.

COUNCILMAN NUTTER: Okay. And in accordance with that, since you received your certificate after -- clearly after October 27, 1999, you're of the impression, if not the belief, that you would then be covered by this particular provision; is that correct?

MR. WERZACK: That is correct.

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COUNCILMAN NUTTER: Okay. And I guess your concern may have been spurred by news accounts that laid out a list of hotels in the paper this morning that were in accordance with this particular provision, but your hotel was not listed; is that correct?

MR. WERZACK: That's correct.

COUNCILMAN NUTTER: Okay. And do you have any reason or know of any reason why you would not have been listed or is there any other issue outstanding?

MR. WERZACK: No, there's no other issue outstanding, and I have no idea why we wouldn't have been listed.

COUNCILMAN NUTTER: Okay. Madam Chair, if I could just ask Mr. Glancey a question, I think we'll be finished.

COUNCILWOMAN BLACKWELL: Certainly.

MR. GLANCEY: David Glancey, again, from the Board of Revision of Taxes.

COUNCILMAN NUTTER: Mr. Glancey, you heard the questions I asked both Mr. Werzack, and you heard Mr. Kelson's

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statement.

On behalf of the Board of Revision of Taxes, with that information and a final certificate of occupancy having been issued after October 27, 1999 -- I believe the date is December 3, 1999 -- do you have any reason to think that this particular facility would not be subject to Section C here in the Bill?

MR. GLANCEY: I do not, as it is written. It would be part of that legislation.

COUNCILMAN NUTTER: Okay. Thank you very much.

MR. GLANCEY: Quite welcome.

COUNCILMAN NUTTER: Thank you, Madam Chair.

COUNCILWOMAN BLACKWELL: Thank you. Any other questions for this witness, these witnesses?

(No response.)

COUNCILWOMAN BLACKWELL: Thank you. Joshua Vincent, Center for the Study of Economics.

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After Mr. Vincent, Harriet Lessee, you're next.

And finally, Richard Fader. I assume there's no one else here to testify. And we may want to -- We do have the information we requested from Ms. Kammerdeiner. All Members of the Committee have them. If you'd like us to bring her back or if you're satisfied with the written form, then we can move on. Thank you.

MR. VINCENT: Thank you, Madam Chairman.

I read about this today in the Inquirer. So I started writing my testimony when I got on at Upsal Station, and I finished it at Suburban Station.

I'm Joshua Vincent, Philadelphia taxpayer, and the Director of the Center for the Study of Economics.

We've had a great interest in the tax structure of the City of Philadelphia. We've worked with the Tax Reform Commission, City Controller, and of course

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yourself over the past two years, discussing essentially the property tax.

We support in principle the idea of giving tax relief to businesses that provided needed employment and good use of land in the City of Philadelphia. And Councilman Kenney is to be commended for recognizing this need.

However, as media reports have noted, the renewal of these abatements will result in a $4 million loss in each of the next seven years.

That loss will be borne, as always, by others with no eligibility for abatements when times get bad, homeowners and older business enterprises.

I do believe that this is a good Bill, simply because we have a lousy system. And we have to find an alternative.

However, as Mr. Barnett of the Doubletree noted in today's Inquirer, it should be the entire hotel industry they should look to help.

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As now thousands of Philadelphians now know, a restructuring of the property tax would give the City a revenue neutral approach to cutting taxes on needed hotel and hospitality jobs.

This approach, land value taxation, would give these hotels mentioned a permanent tax abatement, without punching yet another hole in City and school budgets.

The 62 properties listed as hotels by the BRT now pay, after the current abatements are taken into account, about 23 and a half million dollars a year in property taxes.

If the City Controller's proposal to adopt a land tax that garnered 50 percent of revenue each from land and buildings were adopted, that amount would drop to about $10 million a year, in other words, an annual savings of nearly $14 million.

The Doubletree, which does not enjoy abatement status, and I just found out was built totally with free market private

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funds, would save $500,000 annually under land value taxation.

When the abatements that are discussed today end, the savings for those properties would increase because, of course, the abatements are nearly entirely on the improved portion of the improvements.

Again, and in conclusion, a land tax permanently rewards development that now has to be attracted by costly abatements, district zones, and other strategies, to get out from under a terrible tax system.

I just want to thank you for giving me a chance. Thank you.

COUNCILWOMAN BLACKWELL: Thank you very much. Any questions?

(No response.)

COUNCILWOMAN BLACKWELL: Thank you. Harriet Lessee.

Thank you all for your patience for coming to a conclusion of our testimony.

MR. LESSEE: Harriet Lessee, Public Affairs Director of the Greater

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Philadelphia Hotel Association. We have 72 members, approximately 46 in the City of Philadelphia.

As an organization, they chose not to take a position on this Bill, thinking it was an owner's issue because our organization or association is made up of general managers.

However, there are some competitive issues that you should be made aware of. In general, our hotels in Philadelphia paid collectively 79 million in taxes in 2002.

Our hotel occupancy dropped from -- is projected to drop from 66,000 -- 66 percent in 2002 to 61 percent in 2003.

In 1996 the room rates, the average room rates, in Philadelphia were $115 a night. In 2002 they are 139, and this year they're down to 129. That's the average room rate.

So, whatever is done for one hotel or whatever injures one hotel injures all of us. And we wanted to make sure that our voice as a competitive organization is

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heard. Thank you. Are there any questions?

COUNCILWOMAN BLACKWELL: What did you say that figure was for your total taxes for '02?

MS. LESSEE: 79 million.

COUNCILWOMAN BLACKWELL: That's what I thought you said.

MS. LESSEE: Real estate taxes we have as 24 million.

COUNCILWOMAN BLACKWELL: Okay. We have a figure, but we don't have real estate taxes included.

Thank you very much.

MS. LESSEE: You're welcome.

COUNCILWOMAN BLACKWELL: Any questions?

(No response.)

COUNCILWOMAN BLACKWELL: Thank you very much. Richard Fader.

MR. FADER: Thank you, Madam Chair, Members of the Committee. My name is Richie Fader. I'm the Chief Deputy City Solicitor for Legislation and Appeals in

the City of Philadelphia Law Department.

I understand that certain legal issues were raised earlier in the hearing today, so I thought it would be appropriate for the Law Department to come in and state our views on the Bill.

It's the Law Department's opinion on this Bill that the City Council is not authorized to enact these abatements in a retroactive manner.

And there are essentially three reasons why it seems clear to us that Council doesn't have the power to grant the retroactive abatement.

First of all, the Pennsylvania Constitution authorizes Council only to grant abatements pursuant to state legislation.

And the state legislation expressly states that the reason their abatement authorization has been given to us is to encourage improvements of deteriorated property. And it's difficult for us to see how an abatement that's been granted to a

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property that's already been developed constitutes --

COUNCILMAN COHEN: Point of information, Mr. Fader. I wonder if you could go over that a little more slowly.

MR. FADER: Sure, Councilman.

COUNCILMAN COHEN: I did not follow what it was you were saying. I didn't understand the retroactivity aspect that you talked about, particularly.

MR. FADER: It's the Law Department's view that an abatement that is granted to a property after it's already been constructed constitutes a retroactive abatement.

COUNCILMAN COHEN: I see.

MR. FADER: The Constitution and the implementing legislation from the General Assembly authorized this Council to grant abatements going forward to encourage development, but not to grant abatements after a property has already been developed because that no longer can constitute an encouragement going forward. It's a

Bill 030769 - Finance retrospective look-back for property that's already been built.

COUNCILMAN COHEN: Thank you for explaining that.

MR. FADER: More particularly, the state legislation specifically says that applications for abatements must be filed at the time that construction commences.

It seems apparent to us that if an application has to be filed at the time construction commences, then it can only be for an abatement that's in existence at the time construction commences.

The abatements we're talking about here are being granted to properties long after the construction has commenced, and in fact long after the construction is completed.

Most particularly, however, there's a third provision of the statute which we think is explicit. The relevant statute is the Local Economic Revitalization Tax Assistance Act, commonly known as LERTA.

And Section 6B of LERTA says that

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the schedule of taxes exempted existing at the time of the initial request for tax exemption shall be applicable to that exemption request.

And subsequent amendments to the ordinance, if any, shall not apply to requests initiated prior to their adoption.

Law Department reads that as very clearly stating that the only abatements that the Council is authorized to grant are at the time that the initial application -- is with respect to the schedule that exists at the time of the initial application for abatement, and that the General Assembly has expressly told us that amendments to the ordinance subsequent to the initial application, in other words, subsequent to the construction of the properties, Council doesn't have the power to grant those abatements.

So for those three reasons, it will be the Law Department's view that Council does not have the power to extend these abatements beyond their initial time

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period.

COUNCILWOMAN BLACKWELL: Councilman DiCicco.

COUNCILMAN DiCICCO: Thank you, Madam Chair.

Good afternoon, Mr. Fader. Did we not have a situation where we rolled back the date, if you will, on the ten-year tax abatement about a year or two ago, to incorporate properties that -- I think you were here during the time of Councilman Nutter's testimony.

There were some homes that were being built or had been built that were prior to the ten-year period -- ten-year abatement bill, but we went and rolled back so we can incorporate or capture some of those properties.

And so hasn't a precedent been set to roll back, if you will, prior to the legislation -- enactment of the legislation?

MR. FADER: Two answers to that question, Councilman DiCicco. The simple

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answer is, I think I sat here in this same seat and gave the same testimony then.

So the precedent has been set that the Law Department's view is consistent: Council doesn't have the power to grant that abatement.

And the second answer to that question is, I think it was a somewhat different situation, because at least in that situation there was an argument that there was a perceived unfairness.

There were these neighbors living right across the street from each other, and there was a feeling that there was some legitimate unfairness, that he got it and I didn't, and I was in the same position. And the taxpayers felt they were unfair -- unfairly treated.

It was our position that Council did not have the power to grant that abatement either. I just note that it was a different situation.

COUNCILMAN DiCICCO: Yeah. And I understand and appreciate that because, you

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know, where does it begin and end? We've always had that discussion. And Councilman Nutter talked about that a little bit earlier.

And someone is always going to say, why not me? I mean, it was my Bill, the ten-year bill, and I only got three years. So I'd like to go back to 1997 or '96, whenever I started building my house, but unfortunately I can't. However, my neighbors next door --

MR. FADER: We would tell you that you don't have the power to do that either.

COUNCILMAN DiCICCO: They got the ten years. They got the ten years, and they built a couple years after me.

So I just -- You know, I understand your position, and I understand that your testimony is very similar to the testimony when we were dealing with the rolling back the abatement dates.

But I just wanted to for the record establish that even though the Law Department says we do not have the power,

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we in fact enacted those bills, and we are -- Those properties that we were looking to incorporate have benefited by the ten-year abatement.

MR. FADER: I don't know what actually happened with those properties. But I do know that it was, as I said, a somewhat different situation because of the perceived unfairness and a lot different dollar amount.

COUNCILMAN DiCICCO: Thank you. Thank you, Madam Chair.

COUNCILWOMAN BLACKWELL: Thank you. Further discussion?

Yes, Councilman Cohen.

COUNCILMAN COHEN: Mr. Fader, is your opinion in writing?

MR. FADER: We could certainly provide an opinion in writing, if you wanted one, Councilman.

COUNCILMAN COHEN: I would like to have that because I would intend to do whatever I could to see that a lawsuit was initiated to prevent such an abatement from

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becoming effective, if it were unwisely, in my judgment enacted by the City Council.

MR. FADER: I will be happy to provide you an opinion, and I'll let you decide what you want to do with it, Councilman.

COUNCILMAN COHEN: Thank you.

COUNCILWOMAN BLACKWELL: Thank you very much, Mr. Fader.

COUNCILMAN COHEN: But please try to make it as clear as your explanation of your original statement.

MR. FADER: I'll do my best, Councilman.

COUNCILMAN DiCICCO: Lack of power to add something?

COUNCILMAN COHEN: What's that?

COUNCILMAN DiCICCO: Lack of power to add something?

COUNCILMAN COHEN: Yeah. That's a switch. That's new for me.

COUNCILWOMAN BLACKWELL: Thank you very much.

COUNCILMAN DiCICCO: Two historical

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moments today.

COUNCILMAN COHEN: Council are going on tracks that are very dangerous.

COUNCILWOMAN BLACKWELL: Thank you. Commissioner Kammerdeiner, would you come forward.

Councilman Cohen, she's able to answer your question.

COUNCILMAN COHEN: Who did?

COUNCILWOMAN BLACKWELL: She's going to answer your question about the Windham Franklin Plaza and the million dollar abatement. And then we will invite back Mr. Witt, Mr. Tom Witt.

MS. KAMMERDEINER: I can't speak to whether this is still happening currently and would have to get this information, but the Windham Franklin Plaza situation is a bond covenant.

And if they don't meet certain conditions under the bond, the City is responsible for paying that debt service. And so it's not an abatement. It's not a tax issue.

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It was an agreement entered into as an economic development incentive that resulted in the City guaranteeing the bonds and covering the debt service. That's my recollection from a number of years ago when I was in the Office of the Director of Finance and was familiar with this issue.

COUNCILMAN COHEN: May I ask for a record of what payments have been made?

MS. KAMMERDEINER: We can get that for you. I don't know that. And I didn't realize until I was really called up that I was going to be giving more detail.

I had just answered a question asked by staff as to whether this was a tax abatement, by indicating that it was a bond covenant and a guarantee on debt service.

And I can check with the Director of Finance and/or the Treasurer's Office to update that information, in terms of what's been paid. Thank you.

COUNCILWOMAN BLACKWELL: Thank you. If you get that to us, we will get it to the other Members of the Committees.

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COUNCILMAN COHEN: The dates of payments, when they were made, and what amounts. Whether I... My question was not clear because I did not know whether it fit under the abatement or whether it was a separate agreement.

All we were told at the time, that's early 1980s, the payment would be a million dollars a year, and that it was likely would only be effective for a year or two.

But I understood about 10 or 15 years ago that the payments were going on regularly each year.

MS. KAMMERDEINER: I just can't say whether they are still going on. I know they were a few years ago. It went on longer than was anticipated at the time that the program was established.

COUNCILMAN COHEN: When you make payments, they always go on longer. When you're expecting revenue, it always is shorter. Thank you.

MS. KAMMERDEINER: Thank you.

COUNCILWOMAN BLACKWELL: Thank you

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very much, Mr. Witt. And we would also like to thank the Commissioner for the chart we received.

COUNCILMAN COHEN: If you could send the information to the Chair of the Committee, she will see that I get it. Thank you.

COUNCILWOMAN BLACKWELL: Thank you. Thank you for the tax analysis we received for years 2000, '02 and '02.

Mr. Witt?

MR. WITT: Chairman Blackwell, Members of the Committee, Tom Witt of Wolf Block Schorr and Solis-Cohen.

As to the Pennsylvania authorizing statute, the statute in question authorizes you to grant abatements for up to ten years.

It does not require that you grant them in a single step. It doesn't expressly provide that you could initially grant a three year and extend it to ten, but neither does it prohibit it.

Now, to turn to the section that the

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Solicitor focused on particularly, that when you amend, the cost of construction of the improvements to be exempted and the schedule of taxes from which the exemption is granted should not change, even when you amend after an abatement's been granted.

Well, the cost of construction of the improvements to be exempted is established for each of these hotels in their initial application, and nobody's suggesting it could be changed.

The schedule of taxes exempted is not, in our view, from reading this ordinance, the statute, a time schedule.

It is, rather, a list of what are the taxes and what is the percentage of exemption granted.

Now, in Philadelphia we really have only one Consolidated City and School District Real Estate tax, and you've chosen from the beginning to exempt it one hundred percent.

But this statute applies throughout the Commonwealth, and so that in a

municipality in Montgomery County, there is a county real estate tax, a township real estate tax, and a school district real estate tax.

They could adopt an ordinance and on their schedule they could list one or two or all three of those taxes.

And once they've done that, if they were to be doing what you're doing now and extending the time of an exemption, they could not add taxes to that schedule, once the exemption had been established initially.

Similarly, that schedule could contain percentages other than one hundred percent. They could say, the school district tax is exempted -- abated 20 percent, the county tax 50 percent, the township tax a hundred percent.

Those percentages would not apply to any subsequent extension. That's the schedule that's talked about in the statute. Nothing that you're doing here is contrary to that, in our view.

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COUNCILWOMAN BLACKWELL: Thank you. Further questions?

Councilman Kenney.

COUNCILMAN KENNEY: What I would like to do, if it's the Chair's pleasure, is to take the opportunity to for the record talk about the amendment which would be offered in the public meeting.

COUNCILWOMAN BLACKWELL: Certainty.

COUNCILMAN KENNEY: Thank you, Madam Chair.

The amendment, as was discussed earlier, is an amendment to Section D2C, and each Member of the Committee has it.

C reads, the Board of Revision of Taxes shall extend to ten years and ten years will be taken out, and replaced with eight years, the term of any three-year real estate tax exemption issued, pursuant to this Section 19-1303(3) upon any improvements to a qualified building for which a certificate of occupancy was issued after October 27, 1999.

And this language is additionally

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added: At the end of the extended period, Council shall consider whether the qualified buildings suffer sufficient economic distress to justify a further extension of the abatement for an additional two years.

So in effect what I am recommending is that the abatement be extended from three years, as it currently is, to eight, with a review period at the end of the five years, to determine whether or not it's still necessary. And I will be intending to offer that in the Public Meeting.

COUNCILWOMAN BLACKWELL: Is there any discussion of that?

COUNCILMAN COHEN: Yes. I would like to discuss it, because it seemed to me that that course does not even limit the further extension of two years.

At the time they've considered the two years, in the wisdom and generosity of this Council, they might equally decide to extend it for eight more years or ten more years.

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This amendment does not have the power to limit the future conduct of the City Council in any way at all, so I think it's just a waste of time, and is a good effort by the Councilman to modify the proposal to make it sound like eight years instead of ten, but it think it opens the door, actually, to many more years than the ten originally.

COUNCILWOMAN BLACKWELL: Thank you very much.

Any further discussion with regard to this amendment?

Councilman Nutter.

COUNCILMAN NUTTER: One question. Councilman Kenney, I heard what you said, and I know what the intention is.

I do just want to raise a question. Your goal, obviously, is to extend it to a total of eight.

COUNCILMAN KENNEY: Correct.

COUNCILMAN NUTTER: With the expectation that there in essence would be a review after five.

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COUNCILMAN KENNEY: Correct. No. Actually, the eight includes the extended five plus the three that's already existed. Actually scaling it back two. Instead of extending it ten --

COUNCILMAN NUTTER: You know, these are not big numbers.

COUNCILMAN KENNEY: Instead of extending it ten...

COUNCILMAN NUTTER: Right.

COUNCILMAN KENNEY: ...I'm suggesting we extend it eight, with a review at the end of the --

COUNCILMAN NUTTER: But it's a total of eight. It's not eight plus the three.

COUNCILMAN KENNEY: No, it's not eight plus three.

COUNCILMAN NUTTER: Right. So that the three is --

COUNCILMAN COHEN: It's eight plus an indefinite amount, from my view.

COUNCILMAN NUTTER: Okay.

COUNCILMAN COHEN: Might want to extend it even further.

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COUNCILMAN KENNEY: Well, that will be up to that Council, whoever's --

COUNCILMAN NUTTER: Thank you, Councilman, for providing further confusion. It's a total of eight.

COUNCILMAN KENNEY: Correct.

COUNCILMAN NUTTER: It's the second part where I'm raising the question. At the end of the extended period, on first blush what I took that to mean was at the end of...

COUNCILMAN KENNEY: The upcoming five.

COUNCILMAN NUTTER: Yeah. I was reading it as --

COUNCILMAN KENNEY: Do you have a suggestion on how to make it more specific for your purposes?

COUNCILMAN NUTTER: Well, you could say at the end of... I think what you really want to say is, at the end of five years, right? Five years from the...

COUNCILWOMAN BLACKWELL: So instead of the period, you'd say at the end of five

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years.

(Councilman Nutter, Councilwoman Blackwell, Councilman Kenney speaking simultaneously, not reportable.)

COUNCILMAN KENNEY: The suggestion came from the Law Department.

COUNCILMAN NUTTER: Right. I see he's shaking his head. Didn't he testify against the Bill?

(Laughter.)

COUNCILMAN KENNEY: You know there's always been an impossible situation representing both us and the Mayor.

COUNCILMAN NUTTER: I understand.

Hey, look: If you think it's clear and not subject to an additional interpretation, it's certainly fine with me. But I read it to be after eight.

COUNCILMAN KENNEY: Can we give Mr. Fader an opportunity if he would like to just clarify for the record what he believes the amendment says.

MR. FADER: Councilman Kenney, I believe the amendment says what you've

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suggested, which is that after the completion of the full eight years, the three that have already passed plus the five additional, at that time Council shall consider whether to extend it for two more.

COUNCILWOMAN BLACKWELL: Mr. Witt, would you like to speak.

COUNCILMAN NUTTER: Before... Could I ask...

COUNCILWOMAN BLACKWELL: Yes; sure.

COUNCILMAN NUTTER: Mr. Fader, are you taking this -- Is the concept here in the context of a sunset provision or let's say the five years comes and at that particular point Council doesn't do anything.

Then a year later or two years later, are you saying at that point we can then decide to do it another two, and what happens to any break?

MR. FADER: Well, I'm not suggesting that Council has that power. I'm suggesting that we just --

COUNCILMAN NUTTER: I understand

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that. We're having a hypothetical discussion.

COUNCILMAN KENNEY: Just for a second --

(Mr. Fader, Councilman Nutter and unidentified voices speaking simultaneously, not reportable.)

COUNCILWOMAN BLACKWELL: If we had the power.

COUNCILMAN NUTTER (singing): If I only had a brain.

MR. FADER: If Council had the power to grant ten years even after the construction is completed, I don't know that Council would have the power if there were a break.

I think what this is suggesting -- I don't think anybody contemplated that there would be an additional break. What this contemplates is that when you get close to the end of that full eight-year period --

COUNCILMAN NUTTER: Right, you --

MR. FADER: -- Council will decide --

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COUNCILMAN NUTTER: -- take some other action.

MR. FADER: -- if it wants to go for the next two. If Council does nothing, it stops after eight.

COUNCILMAN NUTTER: No problem. Okay. Thank you.

COUNCILWOMAN BLACKWELL: Mr. Witt.

COUNCILMAN NUTTER: If we only had the power.

MR. WITT: Just suggest to you that abatement years are not real years. You might want to use an actual date for the date you're going to review it, say a date in 2008 because every property has its own abatement commencement date. And they need not all be the same. So if you picked July 1, 2008, you'd know.

COUNCILMAN KENNEY: Mr. Fader.

MR. FADER: I think that's probably technically correct, that every property would have a different abatement date. It would probably serve Council's purpose to pick a particular date.

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COUNCILMAN KENNEY: At this suggestion of the two attorneys, one the Law Department, and one Wolf Block, we'll add the July 1, 2008 date, and would ask in the Public Meeting that we do so, Joe. You want to correct that in the copy.

COUNCILMAN COHEN: I'd like to note that that in no wise changes the opinion of the Deputy City Solicitor with respect to the legality of the whole section.

MR. FADER: That is correct, Councilman Cohen.

COUNCILWOMAN BLACKWELL: Thank you very much.

If there is no other discussion, we will end the hearing part of this meeting and we will go into our formal Stated Meeting.

(Public Hearing concluded at 4:45 p.m.)

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CERTIFICATE

I HEREBY CERTIFY that the proceedings and evidence are contained fully and accurately in the stenographic notes taken by me upon the public hearing of The Philadelphia City Council, taken on December 8, 2003, and that this is a true and correct transcript of same.

_____

DAVID A. DEIK, RPR and
Commissioner of Deeds

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