



PHILADELPHIA CITY COUNCIL SPECIAL INVESTIGATING COMMITTEE

REPORT ON CITY DEMOLITION PRACTICES & PROCEDURES



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September 17, 2013

As Philadelphia continues to address challenges to strengthening its local economy, building and development remains paramount in creating a stronger tax base and increasing revenues. Demolitions are an integral part of community development, as demolition and construction are two sides of the same coin. The tragic June 5 incident of the building collapse at 21st and Market Streets revealed that the policy and practice of demolitions and construction in Philadelphia did not always align to ensure safe processes.

Immediately following the tragedy, Council President Clarke formed a Special Investigative Committee on Demolition Practices, consisting of myself, Councilwoman Maria Quinones-Sanchez, Councilwoman Jannie Blackwell, Councilman Bobby Henon and Councilman Jim Kenney. The goal of the committee was to create better policy, so that our demolition practices are all performed under a consistent standard that balances smart development and community revitalization with safety.

This report bears fruit of the work of a 5-member committee that convened from June through September 2013, holding five (5) public hearings, hosting experts, advocates, and members of the community, as well as deliberating numerous internal meetings with the administration and L&I. The report contains background on prior Philadelphia demolition policy, current policy established under the administration and L&I, and a list of more than 70 recommendations based on hearing testimony, expert opinion, insight from departmental leadership and extensive document review.

The report leads the way to focused legislative action and budget prioritization to create a safer demolition policy and practice in Philadelphia, and to prevent another incident like Market Street from ever happening again.

Councilman Curtis Jones, Jr.
Chair, Special Investigative Committee on Demolition Practices

SPECIAL INVESTIGATING COMMITTEE ON DEMOLITION PRACTICES

MISSION STATEMENT

We resolve to investigate, analyze, research best practices, and propose legislative solutions and operational reforms to the legal and regulatory framework to improve public safety, to promote general welfare, and to protect adjacent property during demolition in the City of Philadelphia.

The following members committed leadership, experience, expertise, and service to the Special Investigating Committee on Demolition Practices:



Curtis Jones, Jr., Chair

Special Investigating Committee on Demolition Practices;
Committee on Public Safety



Maria D. Quiñones-Sánchez

Chair, Committee on Licenses &
Inspections



Bobby Henon

Chair, Committee on Public Property &
Public Works



James F. Kenney

Chair, Committee on Labor
& Civil Service



Jannie L. Blackwell

Chair, Committee on Housing,
Neighborhood Development & the
Homeless

The Special Investigating Committee on Demolition Practices held a series of public hearings at City Hall on the following dates and topics:

Hearing Date	Hearing Topic	Hearing Transcript
June 19, 2013	Background on Department of Licenses & Inspections Existing Policies, including: <ul style="list-style-type: none"> • Applicable Code Provisions and Regulations • Organizational Charts • Current Practices and Policies related to Permitting • Inspector Staffing Issues 	Hearing Transcript Hearing Video
June 27, 2013	Local Industry Standards & Practices <ul style="list-style-type: none"> • OSHA Regulations • Labor Union Safety Training • NTI Public Property Safety Training • General Construction Worker Hiring & Safety Training 	Hearing Transcript Hearing Video
July 18, 2013	Demolition Case Study & National Best Practices <ul style="list-style-type: none"> • Armory Building Demolition Analysis • NY Standards for Demolition Safety • National Demolition Association Safety Guidelines • Engineers Club 	Hearing Transcript Hearing Video
Aug. 1, 2013	Intergovernmental Cooperation in Demo Permitting & Enforcement <ul style="list-style-type: none"> • Former L&I Commissioners • Fire Department • Health Department • Revenue Department • Utility Companies • Miscellaneous departments 	Hearing Transcript Hearing Video
Aug. 15, 2013	Public Comment and Suggestions for Changes to Demolition and Construction Policy	Hearing Transcript

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INTRODUCTION

SUMMARY OF THE COMMITTEE'S FINDINGS ON PAST AND PRESENT DEMOLITION PRACTICES

On June 5, 2013, the demolition of a building at 2136 Market Street went horribly awry. A four-story wall collapsed onto an adjacent one-story building housing a Salvation Army Thrift Shop that was open for business. Crushed by the debris, six people in the shop lost their lives and 13 others were seriously injured.

This tragedy was soon followed by more partial building collapses and structural failures at demolition and construction sites throughout Philadelphia. Consider the following:

- On June 10, 2013, the temporary shoring to a retainer wall at a demolition site in the Bella Vista section of South Philadelphia failed, resulting in damage to four neighboring properties and the displacement of eight people.
- On July 11, 2013, a structural failure on the fifth floor of a seven-story construction project at 12th & Berks Street in North Philadelphia resulted in serious injury to one construction worker and left five other workers temporarily trapped.
- On August 8, 2013, a vacant home at 36th Street & Fairmount Avenue in West Philadelphia collapsed before a scheduled demolition commenced, requiring the evacuation of several residents from nearby homes.

Each of these project sites was permitted and inspected by the Philadelphia Department of Licenses and Inspections. The unavoidable conclusion was that the City's permitting and inspection process fell short of what was necessary to protect the public.

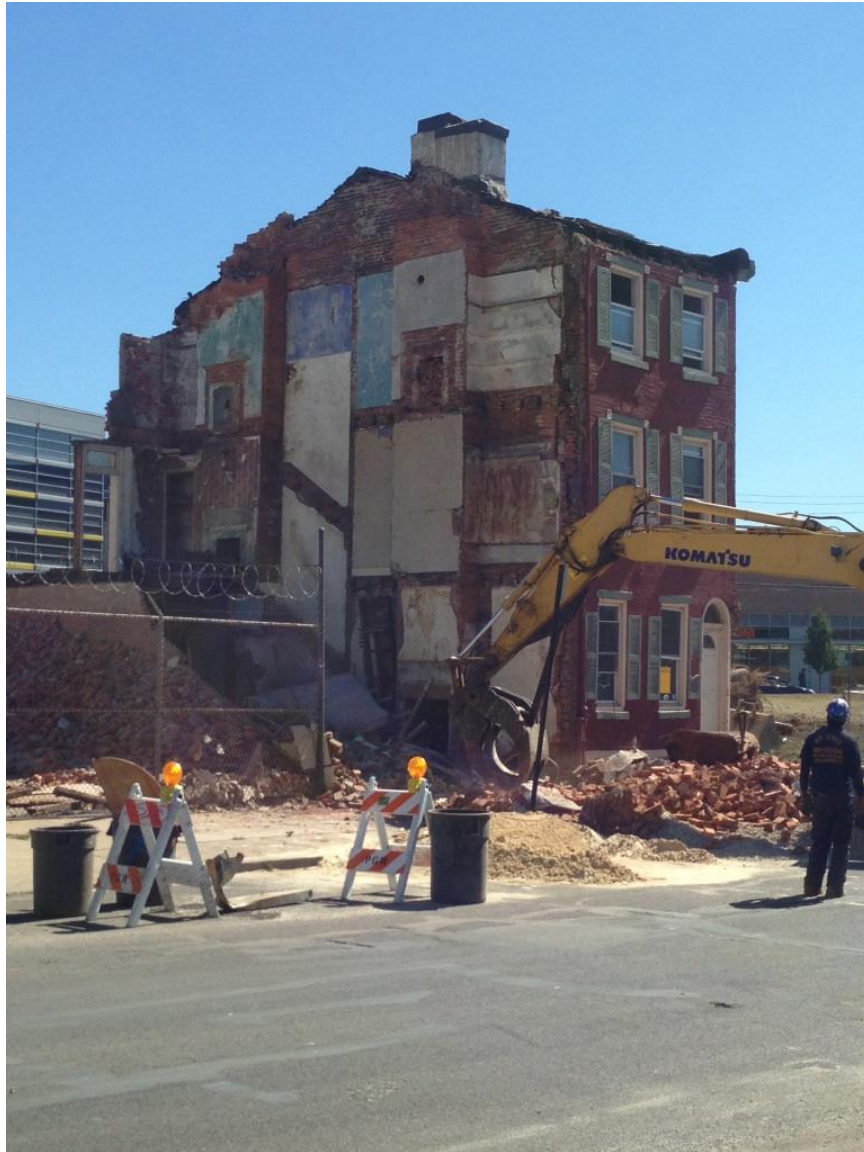
City Council President Darrell L. Clarke led a legislative response to the June 5 tragedy by introducing [Resolution No. 130546](#) authorizing the creation of a Special Investigating Committee on Demolition Practices in the City of Philadelphia. The Committee was directed to investigate problems and identify solutions related to the oversight of demolition projects in the City. Council unanimously adopted the Resolution on June 12, 2013.

The report of the Special Investigating Committee on Demolition Practices summarizes the Committee's findings regarding past and present demolition practices based on extensive document review and on public hearing testimony and briefings provided by City department leaders, staff, and outside experts and practitioners with knowledge of demolition practices. The Committee owes a tremendous debt of gratitude to all of those who took the time to provide essential information and suggestions for reform. The Committee also thanks the Nutter Administration for its guidance and cooperation.

This report proposes extensive legislative, procedural, and operational reforms to improve demolition practices and procedures in Philadelphia. The Committee believes these reforms are both workable and essential if the City is to avoid future catastrophes.

CHAPTER 1

BACKGROUND ON DEMOLITION POLICY IN PHILADELPHIA



I. PREVIOUS RULES & REGULATIONS

Prior to the Market Street tragedy on June 5, 2013, demolitions in the City of Philadelphia were held to three different sets of rules and regulations. Which set of rules and regulations governed the demolition was largely determined by who owned the structure and who was conducting the demolition.

Demolitions undertaken by the City, regardless of whether the property was publicly or privately owned, have traditionally been governed by one of two protocols. Until recently, the policy for demolition of publicly owned structures followed a standard commonly known as the Neighborhood Transformation Initiative (NTI) protocols. Currently, the City follows the Master Demolition Program Specification standards developed by the Philadelphia Procurement Department, last revised July 1, 2012 for the demolition of City-owned property. If, however, City-owned property was determined to be imminently dangerous by L&I, a separate set of rules known as Emergency Abatement/Curbside Demolition protocol applied.

The policies and procedures pertaining to demolition of privately owned structures, regardless of condition, are governed by provisions of the Philadelphia Code. The condition and stability of structures being demolished can vary greatly as it relates to the structural integrity of the building and its potential for failure. The Philadelphia Code, however, is silent on technical demolition mandates or methods regarding levels of structural deterioration. The Code leaves significant discretion regarding demolition methods and safety precautions to private property owners and the contractors they hire to perform demolitions regardless of building condition.

Chapter 1 discusses the separate demolition policies adopted by the City of Philadelphia prior to the June 5, 2013, Market Street tragedy, including: the retired NTI policy, the current Master Demolition policy (last revised July 1, 2012), the rules and regulations governing demolition of private property, and policy deviations for imminently dangerous buildings.

II. NEIGHBORHOOD TRANSFORMATION INITIATIVE

In 2001, Mayor John F. Street launched a citywide anti-blight strategy targeting dilapidated residential buildings called the Neighborhood Transformation Initiative (NTI). Under NTI, the City razed nearly 5,000 abandoned and derelict structures using approximately 66 demolition construction firms by way of a competitive bidding process administered by the Procurement Department.¹ Despite the inherently dangerous work of demolition, no significant physical injuries to workers or civilians were reported during NTI's period of extensive citywide demolition. This exemplary safety record was a result of NTI's strong focus on Occupational Safety and Health Administration (OSHA) training and the City's enforcement of public safety rules and procedures at project sites.

Demolition rules were governed by the City of Philadelphia's [*Standard Specifications for NTI Demolition Bid Packages*](#) (Standard Specifications) in conjunction with the [*Project Manual*](#) for a specific demolition project, as well as the demolition provisions of the Philadelphia Code and workplace safety regulations set forth by OSHA. The Standard Specifications set forth technical requirements which exceeded the requirements under the Philadelphia Code and included details on exactly how buildings were to be demolished.²

Contractors were required to be pre-certified through the City's assessment of contractor qualifications, which included past demolition experience and evidence of financial responsibility.³ The contractor's financial responsibility was determined in part by submission of documents evidencing statutory minimum insurance coverage limits and City bonding requirements. A contractor's qualifications and experience were determined by a thorough review of detailed questionnaires regarding his or her years of experience, types of work performed, job size, number of projects completed in a five-year period, and previous contracting history with the City, along with the criminal and civil adjudication background of the contractor.⁴ This comprehensive background check reduced the City's liability exposure by documenting the level of competence, capability, and experience of contractors before awarding a contract to demolish structures under NTI.⁵

Once awarded a demolition contract, the contractor was required to submit at least three written plans detailing the methods, timeline, and safety measures by which structures would be demolished.⁶ The failure to submit any mandatory plan prior to the commencement of demolition was subject to withholding payment for the value of the work.⁷ The first mandatory submittal occurred within seven (7) days of NTI contract award. Contract recipients submitted to the City for review and comment an initial demolition schedule detailing the timeline for completion of the work, the number of workers that would perform the work and contact information of subcontractors that would complete any work related to the project.⁸

Before work commenced on a NTI demolition project, the contractor was next required to submit a Site Specific Safety Plan for review and approval by the City's Department of Risk Management.⁹ NTI Standard Specifications established minimum safety measures for such plans, requiring each project site to be continuously staffed by a Safety Representative who had completed OSHA 30 training, was certified in CPR and First Aid and had completed

specific training in safety and loss control practices for the industry.¹⁰ Among other information, this plan required the contractor to establish and report on an employee drug testing policy. The Site Specific Safety Plan further listed hazardous materials used on site, required an emergency communication and response plan for exigencies such as security, fire and worker rescue to be established and required contact information including cell phone numbers for the contractor and jobsite Safety Representative to be reported within the Plan and publicly posted on the site.¹¹

Finally, NTI required the submission of a written Engineering Survey completed by a competent person for each property as required by OSHA Regulation 1926.850(a).¹² A competent person is defined by NTI as “a person who has the ability to recognize existing and predictable hazards and has the authority to correct them.”¹³

The purpose of the Engineering Survey is to identify any hazards and determine the condition of the structure and to provide information about adjacent structures. The Survey further details any necessity and appropriate methods for stabilizing the structure during demolition as well as preventing property damage to adjoining buildings by bracing and shoring of walls, floors, beams and other structures if needed. The Engineering Survey also provides critically important information on the location of utility service lines. Demolition workers received information and guidance on potential hazards at a specific property as well as instructions on mitigation methods and strategies to counter such hazards in advance of conducting work on the site. Thus the Engineering Study equipped contractors with a plan for safely demolishing the building while protecting neighboring properties and demolition workers. The NTI Project Safety Manual requires a competent person responsible for recognizing and correcting safety risks/hazards be on site and have authority to stop work should any potential safety concern arise.

NTI projects that met the thresholds for regulated hazardous materials such as asbestos and lead-containing materials triggered additional report submissions to the Philadelphia Air Management Services Division a minimum of 10 days prior to the commencement of work. The plan must detail the exhaust method to be utilized when performing asbestos abatement as well as waste shipment information and evidence of disposal of the hazardous waste at an approved facility.¹⁴

Demolition under NTI Standard Specifications was performed by hand demolition methods for all buildings attached to another building that was not being demolished.¹⁵ Buildings that are completely detached from others not being demolished are the only structures that may be demolished by machine under NTI.¹⁶ The Standard Specifications further required horizontal operation method, demolishing the structure from top to bottom, one floor at a time unless specific written approval from L&I to the contrary was obtained.¹⁷ These technical demolition methods are considered by demolition experts to be the safest manner to demolish structures that share a party wall with another building that is not planned to be demolished.

Enforcement of safety provisions under NTI was achieved through a number of regular progress meetings between City representatives and the contractor as well as random site safety inspections. The Agreement between the City and the demolition contractor required mandatory project meetings, including a pre-construction and regular progress meeting as well as random weekly inspections of the work site. During the pre-construction meeting, City representatives discussed important safety matters with the contractor such as critical work sequencing, utility notification for utility service terminations, traffic concerns regarding pedestrian and vehicular maintenance and street closure permits. Regular progress meetings covered issues such as review of the demolition work schedule, field observations, maintenance of quality standards, site safety measures and violations. Weekly site inspections were conducted by Independent Safety Inspectors contracted by the City of Philadelphia Risk Management Department. These third-party inspectors verified compliance with the site safety plan. L&I Building Inspectors observed the site to determine whether the property was being demolished in conformity with the Philadelphia Code and other laws governing demolition. Regional OSHA inspectors randomly conducted site visits to assess compliance with federal regulations at the work site.

NTI has been lauded for its extraordinary achievements in protecting overall public safety and accomplishing thousands of demolitions without a single serious worker injury. The priority that NTI placed on public safety and its emphasis on OSHA worker safety regulations is considered by many to be a model of best practice for assuring public safety while performing inherently dangerous work in the demolition and construction industries.

III. MASTER DEMOLITION PROGRAM

The Master Demolition Program Specification (Specifications) outlines the current standards and contractual terms by which contractors demolish public property in Philadelphia. It requires contractors and subcontractors to be preapproved by the City and to provide contact information for a competent person who can be reached 24 hours a day, seven days a week before starting any demolition work on a publicly owned property.¹⁸ The general rules for demolishing structures require hand demolition by horizontal operations, one floor at a time. Hand demolition is considered the safest manner for demolishing a building, although it is labor intensive. The failure to complete a demolition within 30 days of the demolition order can result in the contractor being removed from the bidder list for the Master Demolition Program until the work is completed.¹⁹ The Specifications permit mechanical demolition only when the building or group of buildings are detached from other structures not being demolished.²⁰ For buildings that exceed six floors, a dust removal plan must be submitted to the Health Department's Air Management Services for approval.²¹ Smaller projects must sprinkle the debris with water for dust control.²²

The Specifications include mandates designed to protect adjacent properties from damage resulting from demolition. For example, under specified conditions, shoring and bracing to maintain integrity of party walls is required.²³ Similarly, shoring is required for common porch roofs when the adjoining structure is demolished. Support columns, preferably finished with like materials, are required when a beam that supports sections of an adjacent structure is cut. Interior walls that become exterior as a result of demolition and basement walls must be sealed with like materials and waterproofed.²⁴ Any damage that results from demolition activity must be repaired within 72 hours of notice from L&I or the City will file a claim against the contractor's insurance policy.²⁵ The City also has authority to withhold payment to contractors who fail to comply with these Specifications.

Under the Specifications, a contractor must submit written certification that materials used for backfill meet all applicable laws before payment is tendered for the demolition.²⁶ The City may require the contractor to complete test digs on the site to verify the use of appropriate backfill material.²⁷ Evidence of improper or illegal backfill immediately defaults the contract. The contractor then is required to remediate inappropriate backfill at the contractor's expense within three days or the contractor risks termination of the contract, loss of surety and suspension of all open permits.²⁸

The Specifications provide minimum standards for completing demolition in a competent and safe manner and requires specific safety precautions to protect adjacent properties and pedestrian right of ways. Unlike NTI, the contractor does not submit a demolition work schedule or an engineering survey or a safety plan at anytime during the demolition. The Specifications circumvent the necessity of these documents by building into the contract specific requirements for the methods, manner and timeline by which demolition must be completed. The Specifications provide the City with strong enforcement authority by withholding payment, the performance bond, filing insurance claims against the contractor's policy for failure to remediate damage in a timely manner and by removing the contractor from the bidder's list temporarily if a demolition project is not completed within 30 days.

IV. PRIVATE PROPERTY DEMOLITIONS

Private property demolitions are completed in accordance with the Philadelphia Code, the provisions of the Uniform Construction Code (UCC), the International Building Code (IBC) adopted by the City of Philadelphia, and OSHA regulations; however, the requirements for demolition are vague and the provisions are located in multiple sections of the Code. Unlike most jurisdictions, the Philadelphia Code requires the completion of a building permit application for demolitions rather than a separate demolition application. Currently, the application of a building permit requires the primary contractor name and all licenses required to complete the demolition, which at minimum include a contractor license and business privilege license.

The building permit also requires submission of certificate of insurance, demolition work schedule and confirmation of a PA One Call.²⁹ Under certain conditions, an asbestos inspection report must also be submitted. The permit applicant pays a fee of \$10 per 100 square feet or fraction thereof, but no more than \$25,000 for a demolition permit.³⁰ This fee is waived when the permit application includes the construction and erection of a new structure on the same site.³¹

L&I has up to 30 days to grant or deny the application for commercial demolition and 15 days for residential application unless the building is classified imminently dangerous.³² Any denial of a request for permit must be made in writing.³³ The contractor is required to give L&I at least 24 hours notice of the commencement of work authorized under the permit.³⁴ Demolition permits expire if the work is not commenced in 21 days from the date of permit issuance.³⁵

V. EMERGENCY ABATEMENT/CURBSIDE DEMOLITIONS

When any structure or portion of a structure or appurtenance thereof is damaged to the extent that the structural strength or stability is likely to fail, collapse or become detached or dislodged and injure a person or damage property, the Department of Licenses & Inspections will classify the site as “imminently dangerous.”³⁶ L&I will serve the property owner with oral or written notice describing the imminent danger and stipulating the time for repairing or demolishing the structure or portion thereof.

When a structure is classified as imminently dangerous, mandatory notice to neighboring property owners about demolition is substantially different. Only the abutting property owners are provided written notice and the premises of the structure are conspicuously posted by L&I inspectors when the building is imminently dangerous.³⁷ Generally, demolition of a structure that has not been classified as imminently dangerous requires notice to each of the three neighboring properties on each side of the demolition property as well as to the seven nearest properties across the street and seven directly in the rear of the project site.³⁸

Imminently dangerous status alters demolition application procedures and expedites the process by which a structure may be demolished. Publicly owned imminently dangerous buildings must be demolished in 10 days and a completed application for a demolition permit for a privately owned building classified as imminently dangerous must be approved by L&I in one day. L&I will stipulate on the notice of imminent danger, the time limit for completion of repair or demolition. The private property applicant must submit his or her plan and time schedule for approval by L&I for remediating the conditions creating the imminent danger.³⁹ The work must commence within 48 hours if the building is imminently dangerous and within 10 days if it is classified as an unsafe structure or unsafe condition.⁴⁰ If the property owner fails to cure the conditions within the stipulated time stated on the original notice of imminent danger, L&I has authority to abate the danger by itself or by contract and pass the cost to the property owner for collection by lien or otherwise.⁴¹

VI. CONCLUSION

Demolition policy in Philadelphia for many years has been based on the ownership of the property. L&I Commissioner Carlton Williams stated, “Primarily, there is a different process for the private demolition project versus a public demolition project.”⁴²

COUNCILMAN JONES: Why is there a difference between public and private other than the fact that you are the job holder? Why do you hold yourself to that standard?

COMMISSIONER WILLIAMS: I think you just echoed it, Councilman. We are the actual job holder. The contractor is the job holder of a private demolition site.⁴³

The rules applicable to the demolition of publicly owned property and the information required on demolition contractors are much more stringent than the nebulous rules applicable to private property demolition. For example, both the former NTI program and the Master Demolition Plan require contractors to submit to a criminal background check and to provide evidence of their competency and experience performing demolition. This is not required of private property demolition contractors who merely complete a building permit application which requests information pertaining to the erection of buildings and requires little, if any information related to demolition. The permit requests no information whatsoever about the contractor’s level of competency or experience in performing demolition as noted by the testimony excerpted below:

COUNCILWOMAN QUINONES-SANCHEZ: I want to talk about the -- the demo permit application process. And are -- were there any departmental regulations or other written standards that provided guidance as to when a permit request was received, if there were any need for supplemental documents, engineering plans? Was there a checkoff list when people came in? Was there something written that the staff had? Was there something written that was given as an expectation to the person who is receiving the permit?

COMMISSIONER WILLIAMS: Outside of the building permit, no.

COUNCILWOMAN QUINONES-SANCHEZ: If I am asking for a residential demo, was there a standard, an expectation that was given to me with a permit? Was that different than when a commercial, large size demolition request was issued?

COMMISSIONER WILLIAMS: Based on the code, no.

COUNCILWOMAN QUINONES-SANCHEZ: Was there requirement of -- is part of the permit request for a safety plan? A pedestrian plan? Who made the determination to what supplemental documents were requested?

COMMISSIONER WILLIAMS: Again, based on the code, there was no documents required affecting that.

COUNCILWOMAN QUINONES-SANCHEZ: There were no specified procedures or protocols. Were there any informal processes that people generated with experience? You know, one of the things I appreciate about our staff, particularly the L&I staff is, after a while you get into a rhythm. Was there any practice that was established when a review of a permit was done?

COMMISSIONER WILLIAMS: I think it's difficult to answer, Councilwoman. I will say we have some of the best trained inspectors in the City of Philadelphia. They are trained to identify hazards. But if you are asking, specifically, was there any written procedure; based on the code, the answer is no.⁴⁴

Engineering surveys and site safety plans are requirements under both NTI and the Master Demolition Plan but neither document is required for private demolitions. The engineering survey compels contractors to assess and evaluate the condition and structural integrity of a building scheduled for demolition prior to beginning any work on the site while the site safety plan considers potential hazards to performing demolition at the site and proposes preventive strategies and an exigency plan to mitigate such safety hazards. The survey provides valuable information about the current condition of the framing, floors, and walls to prevent a possible premature collapse of the structure and further determines if there are any chemicals, gases, explosives or flammable materials previously used or stored at the work site, which may still present a hazard. The site safety plan prepares workers to protect themselves while performing the demolition work. Engineering studies and site safety plans provide information and instructions on safely demolishing a structure while promoting safe working conditions and preventing property damage to adjoined structure that are not to be demolished. Both documents are an indispensable tool for the safe demolition of either public or privately owned structures.

Regardless of ownership, these important documents should be a prerequisite to the issuance of any demolition permit, especially imminently dangerous structures. "But to own admission here, we do treat whether it's NTI or public demolitions currently, we treat those demolitions with a higher standard -- apparently, a higher standard of safety than we treat the private demolitions," observed Councilman James Kenney at one of five hearings conducted by the Special Investigating Committee on Demolition Practices.⁴⁵ Safety demands that standard information is obtained from demolition contractors to ensure that minimum competency levels are satisfied as a prerequisite to granting a permit to perform inherently dangerous demolition work.

The next Chapter discusses changes to demolition policies that became effective immediately following the unfortunate collapse at 22nd and Market Street. Many of the changes countervail the discrepancies in assessment of contractor qualifications and in submission of demolition planning documentation for private property demolition that existed prior to the tragic collapse.

CHAPTER 2

CURRENT DEMOLITION POLICY IN PHILADELPHIA



I. THE NUTTER ADMINISTRATION

Mayor Michael A. Nutter, under the Philadelphia Home Rule Charter, Section 8-407 issued an Executive Order on June 7, 2013, just two days after the deadly building collapse directing the Philadelphia Department of Licenses and Inspections (hereinafter, “L&I”) to take immediate action to protect public safety, adjoining properties and vehicles located near demolition sites.⁴⁶ [Executive Order No. 4-13](#) suspended the mandatory 30-day public notice period for promulgating rules. Important changes in demolition policies and procedures became effective immediately and provided a measure of relief of public angst and fear about other derelict buildings being demolished throughout the City.

In response to the Mayor’s Executive Order, L&I released [Code Bulletin B-1302, Demolition Standards and Activity Controls](#) on June 12, 2013. *Code Bulletin No. B-1302* (hereinafter, “B-1302”) outlines new demolition procedures aimed to increase public safety, to protect adjoining structures and other property nearby. B-1302 accomplishes the objective by (a) requiring evidence of demolition contractor qualifications prior to issuing a demolition permit, (b) by requiring demolition planning information to be submitted with the application for permit; and (c) by creating uniform regulations and standards for demolition activities regardless of property ownership. The regulations introduced by B-1302 significantly changed demolition policies by (i) detailing standardized operation methods for demolition activities; (ii) providing guidance for what constitutes “workmanlike manner,” (iii) delineating new document submission requirements for demolition permit applications and (iv) summarizing mandatory demolition permit inspections protocols.⁴⁷

B-1302 introduces a number of safety controls that are similar to NTI Standard Specifications previously discussed and removes some of the loopholes in the Philadelphia Code that are highlighted in Chapter One of this Report. This Chapter discusses the provisions of *Code Bulletin B-1302* in further detail and analyzes the impact that such provisions may have on public safety. Chapter Three introduces additional recommendations for comprehensive policy reforms to further strengthen demolition standards and to promote public safety.

II. QUALIFICATION OF DEMOLITION CONTRACTORS

Code Bulletin No. B-1302 requires demolition contractors to satisfy several new requirements to establish their qualifications to perform demolition competently. Prior to the issuance of B-1302, all demolition contractors were required to submit a certificate of insurance coverage and certification of tax clearance from the Revenue Department showing that City taxes are current. These requirements are restated by B-1302.⁴⁸ Additionally, all contractors seeking a demolition permit must now submit evidence of the contractor's ability to perform demolition work competently. The qualification requirement under B-1302 parallels the scrutiny of a contractor's background and experience under NTI. As owner of the property being demolished, the City required contractors to complete the *NTI Prime Contractor Qualification Application for Demolition Projects* which solicited substantial information about the contractor's background and experience. This information facilitated a determination of contractor's ability to competently and safely perform demolitions before such contractor was registered as a responsible party eligible for City demolition contracting opportunities.

B-1302 establishes a uniform standard of minimum qualifications for demolition regardless of public or private ownership of the property demolished. Requiring similar evidence of qualifications from all demolition contractors also may reduce the number of demolition permits granted to contractors who do not actually perform the work specified in the permit. This new standard will reduce the number of permits in the hands of contractors lacking the requisite experience, staff, and financial responsibility to adequately protect the public and adjacent properties from the potential hazards of inherently dangerous demolition work.

B-1302 exceeds NTI's inquiry into a contractor's background by introducing two new criteria to satisfy minimum qualifications. The first requires the contractor to provide evidence of at least two employees, with details of their past work history, who will perform work under the demolition permit.⁴⁹ Temporary and seasonal non-employee status is common in all areas of the construction industry, including demolition. Employee status does not necessarily assure either competence or safety in work performance. The requirement for two employees creates barriers for contractors using seasonal workers or independent contractors. Similarly, requiring details of work history creates hurdles for new workers. Because these two requirements create difficult barriers without providing sufficient assurance of competence or safety in performing demolition work, they should not be a minimum qualification requirement for demolition contractors.

The second new criterion requires that demolition contractors have "no current violations related to other construction or demolition projects."⁵⁰ Not all violations are equally hazardous to public safety; therefore, not all violations should automatically disqualify a demolition contractor from getting a permit for a new demolition project. It is likely that there will be times when the risk to public safety is greater by denying and delaying the issuance of a demolition permit for a derelict building than the potential harm to public safety created by an existing violation. There should be a hierarchy of Code violations ranked by public safety hazard. Only those violations that create a real risk of danger to public safety should justify the denial of a demolition permit.

III. SITE SAFETY DEMOLITION PLANS

Code Bulletin B-1302 requires the completion of a *Site Safety Demolition Plan*, which must be available at the project site prior to the commencement of work and remain on the project site through the duration of the demolition.⁵¹ The minimum contents of the *Site Safety Demolition* under B-1302 exceed OSHA requirements. Under NTI, however, demolition contractors were required to submit all of the demolition planning information specified by B-1302 to the City for written approval of the plan or risk nonpayment for the work. This section compares and contrasts the demolition planning information mandated by *Code Bulletin B-1302* to the demolition planning information required under OSHA and NTI and then analyzes the impact that B-1302 mandates may have on public safety.

The *Site Safety Demolition Plan* mandated under B-1302 (the “Plan”) can be summarized as a timeline for performing demolition work that also details the demolition methods and proposed measures for protecting adjoining structures, nearby property as well as pedestrians and vehicular traffic. The Plan must be developed and signed by a competent person unless the project involves a commercial structure that exceeds three stories which then requires the Plan to be sealed by a professional engineer licensed in Pennsylvania.⁵² All Site Safety Demolition Plans must be submitted to L&I for review and approval prior to commencing demolition. Additionally, Plans are reviewed on site with the L&I building inspector during the *Initial Inspection* which occurs prior to demolition work and the Plan must remain at the project site through demolition completion.⁵³ Each Plan must include the following minimum information:

1. Inspection details on the structural condition of adjoining properties;
2. Description of the means and methods for protection of the adjacent structures;
3. Description of the method of demolition to be applied;
4. Details on potential structural hazards such as collapse or structural failures;
5. Underground utility confirmation number from PA One Call; and
6. Description of any safety exposures and environmental issues.⁵⁴

Demolition preparatory operations are regulated by OSHA’s Safety and Health Regulations for Construction under Subpart T which provides minimum work site and worker safety standards applicable to demolition project sites.⁵⁵ Under this section, completion of an engineering survey by a competent person is required for every demolition project.⁵⁶ The contractor must have written evidence that the survey exists. The content of the survey includes an analysis of the structure to determine the condition of the framing, floors, and walls, and evaluates the possibility of unplanned collapse of any portion of the structure as well as any adjacent structure where employees may be exposed to safety risks.⁵⁷ Under OSHA construction regulations, a competent person is defined as “one who is capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt corrective measures to eliminate them.”⁵⁸

In sharp contrast to B-1302, OSHA does not require prior review or approval of the engineering survey by any party at any time during the demolition process. The engineering survey will be reviewed by OSHA only if a site inspection is conducted by OSHA regional inspectors to verify workplace and worker safety compliance with OSHA regulations. These inspections occur randomly and can be infrequent. OSHA does not require a licensed professional engineer to complete or review an engineering survey for commercial structures over three stories as required by B-1302. The engineering survey required under OSHA 1926.850(a) is not scaled to elicit more information for variations in the size, complexity, or potential hazards of the demolition project and it does not require a timeline for the completion of the work. Both OSHA and B-1302 require the document to be completed by a competent person. OSHA provides minimum standards for the competent person as, “one who is capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt corrective measures to eliminate them.” B-1302 provides no criteria for what constitutes competency for the completion of the *Site Safety Demolition Plan*.

Under *NTI Standard Specifications*, three separate demolition planning documents – a demolition schedule, a site safety plan and an engineering survey are submitted to the City’s Risk Management Department for review and approval of each document. The failure to submit any mandatory plan prior to the commencement of demolition was subject to withholding payment for the value of the work. The demolition schedule detailing the timeline and number of workers to complete the work was submitted within seven (7) days of an NTI contract award.⁵⁹ Then before work commenced on the project, a Site Specific Safety Plan was submitted for review and approval by the City’s Department of Risk Management.⁶⁰ This document identifies potential safety hazards and proposes resolutions for preventing such hazards or mitigating the harm if any hazard manifests during demolition. Finally, NTI required the submission of a written engineering survey completed by a competent person for each property.⁶¹ The survey evaluates the structural integrity of the project structure as well as adjacent buildings and provides instructions for safely demolishing the structure.⁶² The engineering survey remains at the project site for the duration of demolition work.

NTI requires three separate plans to be approved by the City, however, nearly identical information is required as content of the one plan mandated by B-1302 and both NTI and B-1302 require the engineering survey to be located on site for the duration of demolition activity. Under NTI, a competent person is defined as “an individual who, by way of training and/or experience, is knowledgeable of applicable standards, is capable of identifying workplace hazards relating to the specific operation, is designated by the employer, and has authority to take appropriate actions.”⁶³ Although B-1302 is void of a similar definition as related to demolition activities, the Philadelphia Code provides a definition of a competent person for the purpose of operating tower cranes.⁶⁴

Overall, between NTI and the provisions of B-1302, the chief difference in demolition planning documents is enforcement. Under NTI, the City’s ability to withhold payment for work provides a strong incentive for compliance unparallel to enforcement measures available through B-1302 or existing Code.

IV. DEMOLITION STANDARDS & REQUIREMENTS

Code Bulletin B-1302 institutes a number of provisions to prevent the unintended collapse of structures during demolitions. For example, demolition is to be conducted using hand demolition methods unless mechanical demolition is specifically authorized by L&I in writing. Under B-1302 “the use of power-operated wrecking equipment may only be approved where a building or group of buildings being demolished... is detached from other structures.”⁶⁵ Mechanical demolition also requires contractors to sprinkle water on the debris to control and limit the amount of dust and dirt resulting from power equipment demolition activities. This dust abatement procedure is not required for hand demolitions. Demolition contractors are further instructed to demolish the building one floor at a time, from top to bottom. The new mandates under B-1302 also specify that masonry is to be demolished piecemeal, and lateral support or bracing is now required for any wall standing more than one story as a result of demolition activities.⁶⁶

B-1302 establishes stringent procedural rules for mechanical demolition. A demolition contractor must receive separate written authorization to perform a mechanical demolition. Mechanical demolition will be permitted only when the structures being demolished are not adjoined to other buildings that will not be demolished. This rule creates a uniform and predictable approach to demolition in Philadelphia by requiring hand demolition methods for all structures adjoined to buildings that are not being demolished. While this method has been longstanding protocol for demolishing publicly owned property, the policy did not apply to private property demolitions.⁶⁷

The new requirement for hand demolition eliminates private property owners’ discretion to choose demolition methods that are less time intensive, less expensive and generally less safe to the public, adjoining properties and nearby vehicles. Hand demolition, although labor intensive, is considered the safest manner for demolishing a building. Therefore this limitation on demolition method will improve public safety as well as protect adjoining property and vehicles located nearby from risk of damage during demolition. The uniform standard imposed by B-1302 may enhance public safety while reducing the adverse impact unscrupulous contractors have on the public and the City’s coffers by not seeking the requisite permit for mechanical demolitions. As the general public becomes aware of the restriction on demolition methods, mechanical demolition will be recognized as an anomaly which may result in increased reporting of non-permitted mechanical demolition methods.

Hand-demolition is significantly more labor intensive and time consuming to perform compared to some alternative methods of demolition. Thus the mandate for hand demolition under B-1302 will likely increase demolition costs in Philadelphia while simultaneously increasing labor opportunities for competently skilled and efficient demolition laborers. The predictable cost increase may reduce the number of derelict structures demolished in Philadelphia. Conversely, some property owners may invest in property maintenance in order to prevent the deterioration of buildings and effectively avoid costly demolition. The preservation of human life and property during demolition or the improvement to property maintenance in order to effectively avoid demolition justifies B-

1302 mandates for hand demolition despite predictable cost increase. However, the benefit of a uniform and predictable approach to demolition will be greatly diminished, without enforcement by L&I. Therefore, L&I must prepare to respond adequately to any increase in reporting related to mechanical demolition and other violations.

A. Workmanlike Manner

In addition to the new rules and requirements previously discussed, Code Bulletin B-1302 clarifies existing demolition provisions under the Philadelphia Code by providing additional guidance for “workmanlike manner.”⁶⁸ Under B-1302, workmanlike manner requires safety measures to protect adjacent properties such as shoring and bracing party walls, breaking concrete cellar and basement floors prior to backfilling to provide adequate drainage at the site; and appropriately weatherproofing interior walls that become exterior walls as a result of demolition.⁶⁹ The additional guidance for workmanlike manner will promote better quality demolition work, and facilitate greater enforcement by L&I by establishing a protocol for completing routine procedures related to demolition in a satisfactory manner. To further the effectiveness of the additional guidance, educational information about finishing party walls and adjoining structures in a workmanlike manner should be provided to adjacent property owners.

B. Demolition Permit Application

Code Bulletin B-1302 significantly changed the permit application requirements by requiring submission by a licensed demolition contractor, evidence of the contractor’s qualifications and substantial information about the project also must accompany the application. Ancillary documents must support the permit application including a blueprint of the site mapped to scale that identifies height and materials of existing structures, property lines, public right of ways, pedestrian protection measures, the location and size of utilities lines and details about how much of the site is to be demolished.⁷⁰ The application must also include daily start and stop work times and certification by the contractor that demolition will not commence before a pre-demolition site inspection has been completed by L&I.

The additional application requirements under B-1302 provide significantly more information to the City about pending demolition projects and the qualification and competency of the contractor performing the work. This empowers L&I to use proactive and preventive measures to protect the public and adjacent properties from inherently dangerous demolition work.

C. Required Demolition Permit Inspections

Code Bulletin B-1302 restates L&I’s longstanding policy to conduct a minimum of five demolition permit inspections. The contractor is responsible for scheduling each of the required inspections a minimum of 48 hours prior to each inspection.⁷¹ The first required inspection is conducted before demolition work begins. At this time, the inspector reviews the *Site Safety Demolition Plan* with the contractor and verifies utility terminations.⁷² The second series of *Under-Slab/Floor Inspections* verifies that the contractor is following all of the safety procedures detailed in the Plan and completing the demolition in a workmanlike manner. This series of inspections is required for each floor of the building being demolished. Prior to backfilling, the Framing/Close-In inspection examines whether the

adjacent foundation and party walls are properly closed and weatherproofed in a workmanlike manner and the *Prefinal/Wallboard* inspection verifies that debris and improper fill is removed from the project site. The Final *Building* inspection checks for final compliance with permitted demolition and proper grading of the site.⁷³

By restating demolition permit inspection regulations in B-1302, L&I reinforces its longstanding inspection policy and increases awareness and notice of demolition contractors' responsibility to schedule required inspections a minimum of 48 hours prior to each inspection. This notice requirement for contractor may result in greater compliance and increase L&I's ability to protect public safety and property adjacent to demolition sites through enforcement. However, the titles for the inspections are the same as inspection conducted under building permits for the construction or erection of a structure. These titles are inappropriate for demolition site inspections and may cause confusion.

Public safety is preserved by L&I's authority to issue a Stop Work Order during any of the mandatory inspections. For example, when required pedestrian protections are not in place consistent with provisions of the Building Code, a stop work order will be issued. If demolition work has begun prior to the *Initial Inspection*, L&I has authority and discretion to issue a stop work order if the condition of the building will not create additional public safety hazards. If preservation of public safety requires demolition to continue, L&I has the discretion to issue a Code Violation Notice (CVN) in lieu of a Stop Work Order.⁷⁴ With multiple enforcement methods and clearer rules on the methods and workmanlike manner demolition should occur for privately owned property, B-1302 makes tremendous strides toward protecting the public and adjacent properties from inherently dangerous demolition work.

V. CONCLUSION

The Mayoral Executive Order 4-13 and Code Bulletin B-1302 created an immediate stopgap after the tragic buildings collapse at Market Street provide an increased measure of public safety regarding demolitions underway. The provisions also stepped up oversight of the 385 active demolition permits that L&I had issued at the time of this investigation.

Code Bulletin B-1302 requires information on all demolition site safety factors in one demolition planning document that addresses all of the salient public safety and technical issues related to demolition methods. B-1302 aims to proactively prevent public safety hazards by requiring L&I review and approval of the Plan twice prior to the start of any demolition work, once by Plan Review staff and a second time during the *Initial Inspection* at the project site. However, B-1302 does not go far enough to establish minimum criteria for a competent person responsible for completing the *Site Safety Demolition Plan* and goes too far in requiring the review of the Plan by a professional engineer licensed in Pennsylvania.

Not establishing minimum standards for a competent person, creates a risk that demolition methods and safety precautions will not be adequately identified nor exigencies remediated properly during the demolition thereby diminishing protection of public safety. L&I Plan Reviewers cannot determine the appropriateness of proposed safety measures when hazards are not properly identified despite double review of such Plan.

The thresholds that trigger the completion or review of the *Site Safety Demolition Plan* by a professional engineer arbitrarily increase the cost of demolition planning. As long as OSHA requirements are satisfied, a demolition that imposes relatively low risk of harm to public safety may not warrant the additional cost of a professional engineer review. An example of a demolition that imposes relatively low risk of harm to public safety may include a detached commercial structure that exceeds three stories, such as a parking garage or warehouse that is not located in close proximity to residential units or other occupied buildings. Conversely, the thresholds under B-1302 may not capture some demolitions that impose a significant risk to public safety, such as the demolition of a single story structure located in close proximity to occupied buildings and formerly utilized as a gas station. To avoid arbitrarily increasing the cost of demolition, a *Site Safety Demolition Plan* by a professional engineer should be triggered by realistic factors that impose an increased risk to public safety.

Together, B-1302 and the work of the Special Investigating Committee on Demolition Practices set forth a number of best practices and strategies that will further enhance public safety, promote general welfare, and protect adjacent properties. Many of the expedient changes to demolition policies and procedures introduced by B-1302 must be codified through the legislative process to vest the City with full enforcement authority over contractors who fail to comply with the new reforms. Several of the Committee's proposed reform initiatives require additional time and financial resources that were unavailable when B-1302 was released. The following Chapter will summarize the provisions of B-1302 for which legislative action is necessary and will provide additional recommendations for further demolition reforms proposed by the Special Investigating Committee on Demolition Practices.

CHAPTER 3

RECOMMENDATIONS FOR DEMOLITION POLICY REFORMS



I. DEMOLITION APPLICATIONS & PERMITS

The Special Investigating Committee on Demolition Practices proposes more than 70 specific recommendations and comprehensive reforms to further improve demolition policies, procedures, and enforcement methods in Philadelphia. These recommendations are divided into five areas of reform: demolition applications and permits, contractor and worker safety, notice requirements, L&I operations and enforcement, and interagency cooperation. Some recommendations do not have unanimity of the Committee and are so indicated in the section on *Comprehensive Recommendations*.

The recommendations related to demolition application and permits are as follows:

1. Create a separate demolition permit application.
2. Expedite the demolition process for applicant review of imminently dangerous buildings with demolition to be completed within 7 days.
3. Provide an online process for submitting demolition permit applications.
4. Establish a demolition permit fee structure that includes demolition complexity and safety factors.
5. Increase permit application fees proportionate to the cost of implementing demolition reforms and information technology upgrades for the submission, verification and enforcement of demolition permit applications.
6. Increase demolition permit application fee to include a fee to fund future OSHA training and certification of contractors and construction workers.
7. Require the contractor's insurance policy to be submitted with permit applications.
8. Require evidence of an active City wage account and tax compliance from the City Revenue Department obtained within the last 30 days to be submitted with permit applications.
9. Require an engineering survey completed by a competent person to be submitted with each demolition permit application for structures that are three or fewer stories in height.
10. Require an engineering survey to be submitted by a qualified professional engineer licensed in Pennsylvania and registered with L&I with each demolition permit application for structures greater than three stories.
11. Require the asbestos lab report to be submitted with the demolition permit application for projects that are subject to asbestos testing requirements.

12. Require a site-specific safety plan to be submitted with each demolition permit application.
13. Require the site-specific safety plan to include safety precautions for a demolition impact zone measured by the collapse or fall zone for full external demolitions.
14. Include a space to enter a contractor registration number on demolition permit applications and enforce the longstanding policy to require a contractor registration number on all permit applications.
15. Revise all applications to require a physical address for the contractor in addition to any post office box address.
16. Issue demolition permits differentiated by demolition technical methods utilized for demolishing the structure.
17. Limit demolition permit period to 30 days with requests for permit extensions to be reviewed and approved in writing by an L&I Deputy Commissioner.
18. Require the property owner as well as the contractor to sign all permits to ensure responsible parties agree to the provisions of the permit.
19. Require the name and contact information of the on-site, independent site safety manager to be provided on the permit application for projects that require such agent.

Demolishing structures is inherently dangerous work. An overarching goal of the proposed reforms to demolition permits and application procedures is to protect public safety by preventing inadequately trained and inexperienced contractors from performing demolition. At the same time there must not be excessively stringent standards that create barriers excluding individuals from doing the work and developing the expertise and proficiency that comes with real life hands-on experience in demolition work.

II. CONTRACTOR & WORKER SAFETY

20. Establish a municipal construction worker identification system for the purpose of tracking contractor and worker experience and safety compliance, complete with a violation and penalty structure including fines, penalties and revocation for fraud or misuse. [Recommendation lacks unanimous Committee support. Further discussion and negotiation will occur during the legislative process.]
21. Require OSHA 10 certification as a prerequisite for any worker on a construction or demolition site. [Recommendation lacks unanimous Committee support. Further discussion and negotiation will occur during the legislative process.]
22. Require construction and demolition license applicants to evidence completion of OSHA 30 training within the last five years of the application for licensure or application for license renewal. [Recommendation lacks unanimous Committee support. Further discussion and negotiation will occur during the legislative process.]
23. Require independent contractors working on demolition site to have a Philadelphia demolition license. [Recommendation lacks unanimous Committee support. Further discussion and negotiation will occur during the legislative process.]
24. Require L&I to provide OSHA training to the public on an annual basis at free and reduced costs.
25. School District of Philadelphia is requested to provide OSHA training and certification in the curriculum at Overbrook High School and night and day programs at West Philadelphia High School.
26. School District of Philadelphia is requested to provide OSHA training and certification in the curriculum at all career technical education programs.
27. OSHA curriculum and certification training in all regional public school CTE programs is requested of the appropriate school district.
28. The Community College of Philadelphia is requested to provide OSHA-approved training and certification programs.

29. L&I shall develop precertification standards for demolition contractors based on criteria including but not limited to: safety training, safety performance, years of experience, and degree of difficulty in demolition.
30. L&I shall establish a registration system for site safety managers. The site safety manager shall evidence completion of a minimum of OSHA 30 training within the last five years of the registration application or renewal application.
31. An independent site safety manager shall be required on the demolition project site for structures greater than three stories for the duration of demolition.

Worker safety is a prerequisite to creating a safe work site. A safe work site is imperative to the protection of public safety and adjacent property to demolition activities. OSHA regulations establish the minimum worker safety requirements and awareness training for construction and demolition workers. Completion of OSHA training and certification helps to ensure that workers return home uninjured at the end of the work day. It further assures that preventable hazards on a construction or demolition worksite do not escalate to public safety atrocities.

“There is a construction adage that older construction workers have taught to younger construction workers. And that is, “plan your work and work your plan.” Demolition safety requires professional planning, a qualified and experienced contractor and meaningful oversight from a professionally led city agency.”

Robert Mongeluzzi, Esq.

III. DEMOLITION NOTICE REQUIREMENTS

32. The Philadelphia Code shall be amended to improve the quality of notice and information requirements to nearby property owners.
33. L&I shall revise demolition notice information provided to adjoining property owners to include educational information about the contractor's obligation to waterproof and close breaches in interior walls that become exterior walls due to adjacent demolition work and other methods for finishing the demolition in a workmanlike manner.
34. Require signage at construction and demolition sites to include the following: full address of the site; contractor name, address and telephone number; and instructions to convey complaints to 3-1-1 or 9-1-1. Instructions for complaints shall be written in both English and Spanish languages.

Improving information about planned demolition activity enhances an individual's opportunity to make informed decisions about his or her safety and to better protect people from hazards related to demolition. Improving notice to abutting property owners and occupants empowers people to plan to voluntarily vacate one's premises during a scheduled demolition.

IV. L&I OPERATIONS & ENFORCEMENT

35. Amend the Philadelphia Code to expressly require that OSHA and other federal laws must be followed for construction and demolition.
36. Expressly require code inspectors to comply with the Standards of Conduct and Ethics of the Philadelphia Code.
37. The L&I budget shall be adjusted to adequately fund the implementation of demolition policy reforms.
38. All L&I inspectors shall be OSHA 30 trained and certified.
39. A minimum of 20 percent of L&I Inspectors shall be OSHA 500 trained and certified.
40. L&I shall revise hiring qualifications, job descriptions and continuing education requirements for code inspectors and permit application reviewers to develop competencies consistent with reforms.
41. Hire additional inspectors and permit application reviewers as necessary to fully implement reforms.
42. Prioritize the demolition permit application processing system according to public safety risk factors.
43. Amend the Philadelphia Code to detail the process and procedure to vacate occupied buildings adjoined or adjacent to imminently dangerous structures during demolition.
44. Amend the Philadelphia Code to provide additional information for situations that require Stop Work Orders.
45. Amend the Philadelphia Code to include standards for the height and materials for mandatory construction and demolition fencing.
46. Require L&I inspectors to complete specialized inspections in areas of expertise and training rather than conducting general inspections in all areas and specialties.
47. Assign inspectors to districts and periodically rotate inspectors.
48. Provide a written report complete with cost-benefit analysis to City Council evaluating L&I technological needs.
49. Utilize technology to reduce the number of site visits necessary to satisfactorily perform mandatory inspections.
50. Provide information for demolition license and permit requirements on the L&I website.

51. Provide access to construction permits, demolition plan, site safety plan, engineering study and asbestos documents -- redacted as necessary to comply with provisions of the Uniform Commercial Code -- on the L&I Property History website.
52. Establish a penalty system for worker safety violations.
53. Increase expeditor license fee and establish penalties, including license revocation and a \$2,000 fine for each offense of falsification of information.
54. Separate L&I Code enforcement functions from L&I revenue-generating functions with enforcement personnel directly reporting to the Department of Public Safety.
55. L&I shall provide a written report to City Council on the status, execution and implementation of construction and demolition reforms contained in this report annually during budget hearings.
56. Provide a written report to City Council conducted by an independent auditor on all L&I procedures from hiring to enforcement of the Code, including an analysis of every aspect of the permitting and enforcement process.
57. Provide outreach and education as necessary to advise contractors and construction workers of new laws, regulations and other requirements.

Demolition of private property was a self-policing endeavor with significant discretion regarding safe demolition methods resting upon the judgment of contractors and the property owner. It is imperative that L&I intervene when private party interest in reducing the cost of demolition employs unsafe methods that impede upon public safety, general welfare and protection of adjacent properties.

V. INTERGOVERNMENTAL COOPERATION

58. Amend the Philadelphia Health Code to require asbestos testing for all structures built prior to Dec. 31, 1980, by a Certified Asbestos Investigator for permit applications for full external demolition.
59. Form a special work group to consider amending the Philadelphia Health Code to include the inspection and abatement of additional hazardous substances including but not limited to: lead paint, oil, solvents, PCB transformers, and hazardous waste before demolition.
60. The Health Department shall provide electronic copies of all asbestos permits to the Fire Department Battalion Chief on the day of permit issuance.
61. The Health Department, Philadelphia Fire Department and L&I shall collaboratively promulgate regulations for non-combustible flame-resistant enclosures, proper egress at abatement sites and develop a checklist to facilitate site inspections.
62. Provide authority to issue violations for noncompliance with the Building and Health Codes to the Fire Department.
63. Develop enforcement procedures in collaboration with L&I and the Fire Department for the demolition of imminently dangerous structures and provide a written report on the same to the Special Investigating Committee on Demolition Practices.
64. L&I shall provide electronic copies of demolition permits to the Fire Department on the day of permit issuance.
65. Provide authority to issue stop-work orders to Fire Department Battalion Chief.
66. Require site inspections for imminently dangerous buildings to be performed by the Fire Department.
67. Develop a plan for cross-training fire personnel and building inspectors in relevant structural and fire-safety issues.
68. Revise firefighter hiring, training and job descriptions, as necessary, to ensure that comprehensive construction and demolition policy reforms are incorporated.

69. Provide written guidance to 3-1-1 for handling calls related to construction and demolition sites. Utilize technology to establish a special complaint resolution system with built-in auditing for tracking complaints involving construction and demolition sites that may affect public safety.
70. Require utility companies to post utility termination in a manner searchable by property address on their websites.
71. Develop a collective strategy for encouraging the Legislature, Uniform Construction Code Review Advisory Committee and the Governor to make changes to the codes adoption process and to support the passage of a resolution urging the Legislature to make such changes.

The inherently dangerous nature of demolition demands more collaboration and cooperation from other areas of government. For example, remediating toxic substance at a project site should involve the Health Department. Similarly, it makes sense that first responders, especially fire fighters are involved in the regulatory oversight, inspection, and enforcement of imminently dangerous buildings. These professionals are specifically trained to protect themselves and to rescue others in dangerous building conditions in ways paramount to the training provided for L&I code inspectors.

VI. COMPREHENSIVE RECOMMENDATIONS

This section discusses the comprehensive demolition reforms proposed by the Special Investigating Committee on Demolition Practices. The rationale for each recommendation will be explained and include a summary regarding how such recommendation is likely to improve public safety, promote general welfare and/or protect adjacent properties through demolition endeavors. The recommendations that lack unanimous consent of the Committee are specified below.

A. Demolition Permits & Applications

1. Create a separate demolition permit application.

The Department of Licenses and Inspections building permit application serves multiple purposes, among them is full building erection, partial construction, rehabilitation, partial and full demolition.⁷⁵ However, the information solicited from the application focuses on the erection of a building rather than the tearing down of a structure. Thus, the building permit application inadequately addresses or requires pertinent information regarding demolition methods and techniques to enable L&I to make a good determination as to the appropriateness of the contractor completing the project as proposed.

The Special Investigating Committee on Demolition Practices strongly recommends that L&I create and use a separate demolition permit application. This will facilitate the collection of information directly related to demolition such as contractor demolition experience and the technical methods and safety provisions necessary to complete the project safely.

2. Expedite the demolition process for applicant review of imminently dangerous buildings with demolition to be completed within 7 days.

Currently, L&I stipulates the time period for repairing or demolishing an imminently dangerous building at the time that notice of the classification of imminently dangerous status is provided to the property owner. Such notice further includes a description of the conditions and abatement necessary to mitigate the hazard. To ensure that derelict conditions are abated promptly, discretion should be limited to repairing or demolishing the structure in seven days or less in order to reduce the risk of harm to public safety as soon as practicable. The Special Investigating Committee on Demolition Practices will introduce legislation to amend the Philadelphia Code to require the demolition of imminently dangerous structures to be completed with seven days of notice.

3. Provide an online process for submitting demolition permit applications.

At this time, L&I's demolition permit applications through paper submissions only. Councilwoman Quinones-Sanchez, who chairs Council's Committee on Licenses and Inspections remarked, "there is a significant commitment to invest in our IT systems. There is a real need for real-time ability, both by our inspectors on the ground, plus our offices internally need to be able to see visually what's going on."⁷⁶

The current review period for applications is 30 days for commercial structures and 15 days for residential structures. Technology upgrades that facilitate electronic submission of demolition application materials may dramatically improve the efficiency in demolition permit application submission, review and enforcement procedures while simultaneously reducing the review and processing timeframe. Any reduction in the period for materials review could shorten the timeframe in which dilapidated structures are demolished; thereby diminishing the risk to public safety from such structures. Additionally, such technology upgrades will facilitate increased transparency, oversight, and tracking. The Special Investigating Committee on Demolition Practices recommends that L&I investigate technology upgrades to provide an online process for submitting demolition permit applications.

4. Establish a demolition permit fee structure that includes demolition complexity and safety factors.

The demolition permit fee structure is set forth in the Administrative Code § A-902.2.2. To summarize the provision, a uniform rate of \$10 per 100 square feet or fraction thereof is assessed not to exceed \$25,000, regardless of the condition of the structure or the complexity of the project.⁷⁷ The fee is waived altogether for any demolition permit at a site for which the erection of a new structure is included on the building permit application.⁷⁸ Both public and private contractors must satisfy the same minimum insurance limits which are listed in the Contractor License application.⁷⁹

This fee system fails to adequately incorporate factors that impose public safety risks, such as the proximity of the dilapidated structure to residential units, highly trafficked pedestrian and vehicular public right of ways or attachment to adjoining structures. Under the Master Demolition Plan, such risks are factored into the contract award amount which also impacts the amount of the performance bond. There are no parallel protections against private demolition contractors built into the City's fee structure.

A number of municipalities require additional financial safeguards for private property owners. For example, Trenton, NJ requires the demolition contractor to purchase a performance bond on behalf of the owner of the subject property when a project will cost more than \$5,000.⁸⁰ A copy of the performance bond must be submitted with the application for a demolition permit. This protects the property owner as well as the public by assuring that monies are available to finish an incomplete or poorly performed demolition project. The Special Investigating Committee on Demolition Practices will introduce legislation to amend the Philadelphia Code require a performance bond in the amount of the project for demolition projects that exceed \$10,000.

5. Increase permit application fees proportionate to the cost of implementing demolition reforms and information technology upgrades for the submission, verification and enforcement of demolition permit applications.

Technology can greatly improve quality assurance and its costs are an indisputably related to the review, processing and inspection of demolition and construction projects. Such costs are an ordinary cost of doing business with L&I and appropriate technology upgrades further enhance public safety by improving overall efficiency, accuracy and enforcement. The Special Investigating Committee on Demolition Practices will introduce legislation directing L&I to assess and report its technology needs in writing to City Council and to further set aside a portion of all permit application fees to fund necessary technology upgrades that improve departmental efficiency, quality assurance and enforcement to enhance public safety. In addition, the Committee recommends that L&I determine the financial impact that comprehensive demolition reforms proposed herein will have upon its personnel, technology and other factors related to the review, process and inspection of demolition projects. The Committee will introduce legislation directing L&I to adjust the demolition permit application rate as necessary to fully execute demolition policy reforms. It is essential to public safety that L&I is appropriately staffed to provide the requisite time reviewing, processing and enforcing demolition applications and permits.

6. Increase demolition permit application fee to include a fee to fund future OSHA training and certification of contractors and construction workers.

Worker safety is the first step toward protecting public safety once demolition work has commenced. OSHA has set forth minimum worker safety training requirements recommended for construction workers. Appropriate levels of OSHA training were fleshed out at the June 27, 2013, hearing as excerpted below:

COUNCILMAN HENON: Can you explain OSHA training, OSHA training 30, OSHA training 10, and how important that is?⁸¹

MR. MERK: I'll give you just a short story. OSHA requires you or each training entity to address certain topics - fall protection, struck by, caught in between, electrical, and you have at your leisure to choose other topics that fit your particular trade group.⁸²

MR. GREEN: I think one of the important things to look at about the OSHA 10 or the OSHA 30, is the proper site-specific training for what the worker is going to do on the job and not only how that affects that person's health and safety but the possible danger not knowing how to do it properly is to people that are working around them and the general public.⁸³

The Special Investigating Committee on Demolition Practices will introduce legislation to require a portion of the demolition permit fees to be collected and utilized to provide annual, free and reduced cost OSHA training to the public. This minimum, low-cost safety training will decrease work site hazards, reduce worker injuries and improve overall public safety.

7. Require the contractor's insurance policy to be submitted with permit applications.

It has been longstanding policy to require the submission of the certificate of insurance with any permit application. The policy has failed to reveal or address issues such as falsification or omissions of important information which has then voided the contract for insurance coverage. In other situations, the insurance policy coverage has lapsed due to nonpayment or other factors. The submission of the insurance policy in entirety reveals contractual exceptions and waivers in insurance coverage that may be inappropriate for the real hazards associated with project. By requiring the submission of the insurance policy in entirety, some of these discrepancies are reduced if not eliminated. In addition, this process will provide an opportunity for L&I to randomly verify that the policy has not lapsed to insure that adjacent property owners and the general public are financially protected from inherently dangerous demolition work. The Special Investigating Committee on Demolition Practices will introduce legislation to require the submission of the contractor's insurance policy with the application for permit.

8. Require evidence of an active City wage account and tax compliance from the City Revenue Department obtained within the last 30 days to be submitted with permit applications.

It has been a longstanding policy to require tax compliance as a prerequisite to obtaining a permit for construction and demolition. Enforcement of this provision was insufficient due, in part, to incompatible computer systems at L&I and the Revenue Department. By requiring applicants to affirmatively submit evidence of an active City wage account and tax compliance within the last 30 days of the permit application date, enforcement of this longstanding policy will improve. One council member described the correlation between tax compliance and public safety as follows:

COUNCILMAN HENON: You see a direct correlation or a tie with properly trained employees who abide by the rules and the law such as getting, you know, safety training, pulling permits, being – having the license to do the work and having trained workforce on the job site... I'm a firm believer if somebody is not paying their taxes, they don't get their license, they are not pulling the permits, chances are, they are not really trained.⁸⁴

If somebody is cheating on their taxes, I guarantee you they're cheating on other things, and I'm not sure if the information that they report is true. So you may be serving an empty building. I guarantee that happens a lot in the City of Philadelphia. So it all does kind of speak to working

together to provide the best service that we can provide to the citizens of Philadelphia.⁸⁵

The Special Investigating Committee on Demolition Practices will amend the Philadelphia Code to require a written statement of tax compliance from the Revenue Department within the last 30 days and evidence of an active City wage account to be submitted with permit applications. This proactive strategy demonstrates financial responsibility among contractors whom are granted a permit by L&I and helps protect the public from unscrupulous contractors.

9. Require an engineering survey completed by a competent person to be submitted with each demolition permit application for structures that are three or fewer stories in height.

Code Bulletin B-1302 requires the submission of a written engineering survey for every demolition project as required by OSHA Regulation 1926.850(a) unless the structure is greater than three stories. For demolition projects on structures over three stories, the engineering survey must be sealed by a professional engineer under B-1302.

The purpose of the engineering survey is to determine the condition of the structure, to provide information about adjacent structures and identify any potential hazards that are likely to manifest during demolition. The survey further details any necessity and appropriate methods for stabilizing the structure during demolition as well as preventing property damage to adjoining buildings by bracing and shoring of walls, floors, beams and other structures if needed. Therefore, the content of an engineering survey provide invaluable public safety information and guidance to demolition workers on remediating potential hazards at a specific project site. The Special Investigating Committee on Demolition Practices adopts the provisions of Code Bulletin B-1302 and will introduce legislation to further codify the requirement for an engineering survey completed by a competent person to be submitted with each demolition permit application for structures that are three or fewer stories in height.

10. Require an engineering survey to be submitted by a qualified professional engineer licensed in Pennsylvania and registered with L&I with each demolition permit application for structures greater than three stories.

The purpose of an engineering survey is to determine the condition of the structure, to identify any hazards, and to provide information about adjacent structures. The Survey further details any necessity and appropriate methods for stabilizing the structure during demolition as well as preventing property damage to adjoining buildings by bracing and shoring of walls, floor, beams and other structures if needed. The engineering survey also provides critically important information on the location of utility service lines. An engineering survey is a demolition plan that prepares contractors to safely demolish a building while protecting neighboring properties, pedestrian and vehicular public right of ways and demolition workers. Dr. Robert Brehm, Drexel University College of Engineering Professor, explained the necessity for a plan as follows:

Safety is the number one concern, but the demolition plan would also require, in my mind and my recommendation, is be signed off by a structural engineer. Demolishing the building in some ways is similar to building it. When we build a structure, we go through periods of instability. This building is stable and we're able to safely sit here because it's stabilized because all of the members are in place. When we build it, we have to do temporary bracing and other things to maintain that stability in the control of the structure.

When we demolish it, we have to reverse that process. As we take a structure down, as the gentleman to the right indicated, we have to always be concerned with stability of the structure, because we are starting to remove components that provide that lateral stability. We have to be careful and there has to be a plan as to how we're going to remove the stabilizing elements in a way that we have a controlled demolition, that things fall inward or in the direction that we want them to fall or collapse as opposed to outward or in a way that may cause damage to adjacent structures. That means that occasionally not only do we have to look at how we take it apart, but we also have to look at a plan to provide stabilization in which may require some temporary bracing, because we're removing the permanent bracing that was in place.

It's like cutting a tree down. There's a way we cut a tree down so that it falls in the right direction. Same thing with demolition.⁸⁶

Code Bulletin B-1302 requires the submission of a written engineering survey for demolition permits for any structure greater than three stories above ground or higher than 40 feet to be completed by a qualified professional engineer licensed in Pennsylvania and registered with L&I. The Special Investigating Committee on Demolition Practices will introduce legislation to codify the provisions of Code Bulletin B-1302 requiring the submission of an engineering survey completed by a professional engineer for structures greater than three stories. This will ensure that the structural integrity of the building has been evaluated by a qualified professional and reduce the risk of collapse, damage to abutting property or other hazards in order to protect public safety during inherently dangerous demolition work.

11. Require the asbestos lab report to be submitted with the demolition permit application for projects that are subject to asbestos testing requirements.

The Health Code requires asbestos samples to be conducted on commercial and residential properties with more than three dwelling units if the structures were built prior to December 31, 1980.⁸⁷ When this threshold is met, an asbestos investigator certified by the Health Department completes a visual inspection of the project site looking for “asbestos material” and collects samples only if the visual inspection finds suspect material. The asbestos investigator then submits a report to Air Management

Services on his visual inspection prior to demolition. If any collection samples are taken, they are submitted to a lab for a thorough evaluation of asbestos.

Microscopic asbestos fibers can lead to mesothelioma, a rare and fatal cancer if asbestos is inhaled. The *Philadelphia Inquirer* reported that remnants of asbestos were found in the debris of the collapsed buildings on Market Street. Approximately 125 firefighters and provided rescue at scene without wearing protective gear for asbestos and were likely exposed to the toxin. In testimony provided at hearing held August 1, 2013, it was discovered that some materials that contain asbestos are impossible to determine by visual inspection alone. According to expert witness Richard Nalbandia, *"building materials made with asbestos include: roofing and siding shingles, walls, ceiling, and floor tiles, and their adhesives, boiler, furnace, pipe and duct insulation, and sprayed coatings on ceilings and walls."*

To ensure greater accuracy regarding the presence of asbestos, the Special Investigating Committee will amend the Health Code to require collection of samples to be submitted to a lab if the structure was built prior to December 31, 1980 and the lab report shall be submitted with the demolition permit application. Enforcement procedures will also be amended to include increased penalties, fines and contractor license revocation for the failure to comply with asbestos laws. The current requirements undermine public safety regarding this hazardous material because it does not sufficiently insure that asbestos is properly identified or abated prior to demolition.

12. Require a site-specific safety plan to be submitted with each demolition permit application.

Code Bulletin B-1302 requires the submission of a site safety plan with the submission of a demolition permit application. A site-specific safety plan evaluates the condition of a project site and exposure to safety risks then provides a protection plan for workers, exigency instructions and emergency response information for the location. The plan further details hazardous materials used on site and requires the job site supervisor's contact information, including cell phone numbers. The Special Investigating Committee vetted whether the plans was a requirement for every demolition as mandated by B-1302, in the following excerpt:

COUNCILMAN JONES: So in what level of demolition would you recommend a municipality requiring a safety plan?

DR. BREHM: For me it would be all.

COUNCILMAN JONES: All of them?

DR. BREHM: Yeah. I mean, our number one responsibility is to protect the public. I'm a licensed professional engineer. That's my number one priority under our code of ethics, is to protect the welfare and safety of the public. So the first thing I do when I look at a demolition is, I ask the contractor what's your safety perimeter and how are you protecting that.⁸⁸

The Special Investigating Committee on Demolition Practices will introduce legislation to codify the provisions of B-1302 requiring a site-specific safety plan completed by a competent person with the submission of each demolition permit application.

13. Require the site-specific safety plan to include safety precautions for a demolition impact zone measured by the collapse or fall zone for full external demolitions.

A site-specific safety plan is critical for projects in which demolishing a structure and the removal of materials poses risk to the safety of people or adjacent properties. Due to the inherently dangerous work of full external demolitions, safety plans are necessary to mitigate precarious conditions. Extending the protection plan beyond the property line to include a collapse or fall zone, insures that additional safety precautions for the general public, such as sidewalk sheds and protective fencing are planned for project sites performing full external demolitions. The Special Investigating Committee on Demolition Practices will introduce legislation to require that minimum contents of the site specific safety plan include details of the parameters of impact should an unplanned collapse of the structure occur during a full exterior demolition. Such safety perimeter will be measured in proportion to the height of the structure.

14. Include a space to enter a contractor registration number on demolition permit applications and enforce the longstanding policy to require a contractor registration number on all permit applications.

It has been a longstanding policy to register contractors with the City of Philadelphia; however, enforcement of the requirement to include the contractor registration number on the permit application has been weak. The failure to enforce the provision limits L&I ability to enforce several other provisions of the Philadelphia Code. Improving enforcement of this provision will hold contractors accountable for the work authorized by the permit and it will facilitate the enforcement of insurance, bonding, and tax compliance as well as the new qualification and experience requirements for demolition contractors.

Better enforcement also may reduce the common practice of non-licensed contractors and expeditors completing applications for and receiving permits for projects on which they do not intend to work. L&I will be able to monitor contractor competence, experience and safety compliance by enforcing the license number requirement on demolition and building permits applications and improve protection of public safety. The Special Investigating Committee on Demolition Practices recommends that L&I include a space to enter a contractor registration number on demolition permit applications and improve enforcement of the longstanding policy to require a contractor registration number on all permit applications.

15. Revise all applications to require a physical address for the contractor in addition to any post office box address.

Requiring a physical address provides the City and the private parties, alike, with the opportunity to serve formal notice to contractors if necessary. This increases the likeliness that any unresolved disputes that may arise regarding work performed pursuant to a building or demolition permit may be adjudicated or otherwise settled. The Special Investigating Committee on Demolition Practices will introduce legislation to require that all building permit applications require a physical address for the contractor in addition to any post office box address.

16. Issue demolition permits differentiated by demolition technical methods utilized for demolishing the structure.

There is a hierarchy of safe demolition methods related to the material and condition of the structure to be demolished and its proximity to the public nearby properties according to the following testimony:

COUNCILMAN JONES: Under public jobs how do you delineate what is done by crane or by hand demolition?

COMMISSIONER WILLIAMS: For public jobs all demolitions are done by hand.

COUNCILMAN JONES: So is there a reason, -- why is it that you only use the hand demolition versus crane in public jobs?

COMMISSIONER WILLIAMS: Most of our demolitions are done in residential communities. And it's the safest practice to employ in a residential community when you have pedestrians and citizens nearby.⁸⁹

Under Code Bulletin B-1302 effective June 12, 2013, demolition methods are restricted to hand demolition unless other methods are expressly permitted in writing by L&I. In order to empower the City with full enforcement authority regarding this provision, the Special Investigating Committee on Demolition Practices will introduce legislation to codify these provisions into the Philadelphia Code. This will insure the greatest level of compliance and protection of public safety that is practicable for inherently dangerous demolition work.

17. Limit demolition permit period to 30 days with requests for permit extensions to be reviewed and approved in writing by an L&I Deputy Commissioner.

Completion of demolition projects as soon as possible reduces risks to public safety. Under the Master Demolition Program, the City takes measures to insure that demolition of derelict structures are completed in 30 days or less when the property is publicly owned.

Former Philadelphia Managing Director, Jay McCalla emphasized that privately owned property also should be demolished within 30 days of issuance of the permit in order to increase overall public safety.

MR. MCCALLA: It's my view that L&I must set a specific near-term start date and completion date for demolition activity, with permits automatically expiring after 30 days. Once the physical trauma of demolition commences, the integrity of the structure may change. Structural integrity can also be negatively impacted by weather conditions such as heavy rain, excessive wind or weight of snow. Thus, public safety is best protected by an expeditious commencement and completion of the work.

Expiration after 30 days will sharply reduce the tendency of some contractors and property owners to drag their feet or abandon demolition once started. Some property owners, once ordered to demolish by L&I, will get a demo permit merely to placate the department, but without any serious intention of vigorously proceeding. The mere existence of a partially demolished property is a danger in a community. A significant fine should be attached to any renewal after the 30 days of a demolition permit, thus adding incentive to complete the work under the terms of the initial permit. And, again, I suggest that authorization for the renewal of the demolition permits should be made in writing at the Deputy Commissioner level upon proper review.⁹⁰

The Special Investigating Committee on Demolition Practices will introduce legislation limiting demolition permits to 30 days to encourage contractors to demolish dilapidated structures as soon as practicable. The Committee further recommends that L&I limit extensions to a demolition permit by requiring a Deputy Commissioner to review and determine whether the circumstances warrant a request for extension and impose an additional fee for any extension granted.

18. Require the property owner as well as the contractor to sign all permits to ensure responsible parties agree to the provisions of the permit.

It has been a longstanding policy to require contractors to present evidence of the property owner's consent for work to be completed on the property subject to a permit as a prerequisite to the issuance of the permit. However, the policy has been minimally enforced by L&I. Councilman Kenney stated, "I think one of the safety precautions is to have the person who is pulling the permit be responsible for work they are asking us for permission to do as opposed to an engineer or architect and licensed contractor pulling a permit."⁹¹ A new policy that holds the property owner, as well as the contractor, accountable for the specifications of the permit will increase the likelihood of compliance with the provisions specified in the permit.

Therefore, to assure the greatest level of compliance with permit specifications, the Special Investigating Committee on Demolition Practices will introduce legislation to require the property owner to sign the permit in addition to the contractor. A waiver will be granted for record property owners who are not Philadelphia residents. Non-resident property owners will be required to submit an affidavit with the demolition permit application certifying that the demolition planning documents, including the site-specific safety plan, the demolition schedule and the engineering survey were reviewed and approved by the property owner.

19. Require the name and contact information of the on-site, independent site safety manager to be provided on the permit application for projects that require such agent.

The presence of a site safety manager on the work site of construction and demolition project sites that are sizable, complex or otherwise hazardous is a best practice for reducing worker injuries, work site hazards and risks to public safety. For example, New York requires the continuous presence of an independent, licensed site safety manager who has obtained OSHA safety training and can demonstrate the requisite experience to competently identify and abate safety hazards on construction and demolition job sites. Similarly, in Philadelphia the continuous presence of a safety representative hired by the contractor was required on every demolition project site under the *NTI Standard Specifications* which resulted in the completion of 5,000 demolitions citywide without a serious physical injury to demolition workers or to members of the public.

Councilwoman Blackwell explained, “My suggestion is that we have independent inspectors so a contractor and the contract manager or developer can’t say, “Well, we need you to work on this job, not just stand around while were working.”⁹² The Special Investigating Committee on Demolition Practices will introduce legislation requiring the inclusion of the contact information of the project site independent site safety manager to be provided on the permit application for projects that require such agent.

B. Contractor & Worker Safety

20. Establish a municipal construction worker identification system for the purpose of tracking contractor and worker experience and safety compliance, complete with a violation and penalty structure with fines, penalties and revocation for fraud or misuse.

A municipal identification carrying card system by the City registering and assigning a safety number to construction and demolition workers upon evidence of completion of OSHA 10 worker safety training and certification will improve worker safety as well as overall public safety. This system would empower L&I to monitor safety violations and issue penalties to the worker committing such violation. Personal accountability for workplace and general public safety will yield greater compliance with safety requirements on inherently dangerous construction and demolition project sites by implementing a safety compliance identification system for tracking worker safety

violations. The Special Investigating Committee on Demolition Practices will introduce legislation to require L&I to establish a municipal construction worker identification system complete with a violation and penalty structure, including fines, penalties and revocation for fraud or misuse for the purpose of tracking contractor and construction worker experience and safety compliance. [Recommendation lacks unanimous Committee support. Further discussion and negotiation will occur during the legislative process.]

21. Require OSHA 10 certification as a prerequisite for any worker on a construction or demolition site.

The OSHA 10 hour Construction Industry Outreach Training Program is intended to provide an entry level construction worker with a general awareness in recognizing and preventing hazards on a construction site. It is considered to provide minimum training to prevent a construction or demolition worker from injuring him or herself or other workers on a job site. By requiring OSHA 10 training and certification in order to be on either a construction or demolition site, public safety is greatly enhanced because workers are trained to recognize and prevent perilous conditions.

The Special Investigating Committee on Demolition Practices will introduce legislation to require any worker on a construction or demolition project site to have completed OSHA 10 training and certification. Due to the inherently dangerous nature of demolition, OSHA worker safety training shall have an immediate effective date upon the passage of the legislation. Construction worker training requirements will become effective 18 months from the date of enactment. [Recommendation lacks unanimous Committee support. Further discussion and negotiation will occur during the legislative process.]

22. Require construction and demolition license applicants to evidence completion of OSHA 30 training within the last five years of the application for licensure or application for license renewal.

The OSHA Outreach Training Program provides training for workers and employers on the recognition, avoidance, abatement, and prevention of safety and health hazards in workplaces. The 30-hour Construction course is appropriate for supervisors, foremen and construction workers with some safety responsibility. It includes training on everything from electrical hazards to fall prevention and helps to ensure that workers are more knowledgeable about perilous project site conditions and how to appropriately abate such conditions. Requiring OSHA 30 training and certification will insure that licensees are able to recognize and prevent perilous conditions that are inherent to construction and demolition projects in order to reduce the risk of hazards to the public and toward adjoining or adjacent property.

The Special Investigating Committee on Demolition Practices will introduce legislation to require construction and demolition license applicants to evidence completion of OSHA 30 training within the last five years of the application for license or license renewal. Due to the inherently dangerous nature of demolition, the OSHA 30 safety

training requirement for demolition contractors shall have an immediate effective date upon the passage of the legislation. The OSHA 30 safety training requirement for construction contractors will become effective 18 months from the date of enactment of the legislation.[Recommendation lacks unanimous Committee support. Further discussion and negotiation will occur during the legislative process.]

23. Require independent contractors working on demolition site to have a Philadelphia demolition license.

L&I will be able to monitor contractor competence, experience and safety compliance by requiring independent contractors to have a demolition license. Requiring the contractor license will end the common practice of non-licensed contractors and subcontractors completing applications and receiving permits for projects on which they do not intend to work. The Special Investigating Committee on Demolition Practices will introduce legislation to require that all independent contractors have a demolition license to work on any demolition project. This will protect the public by assuring that demolition contractors satisfy the minimum fitness and competency requirements, maintain financial responsibility by satisfying minimum insurance and bonding requirements under the Philadelphia Code and pass a criminal background check. [Recommendation lacks unanimous Committee support. Further discussion and negotiation will occur during the legislative process.]

24. Require L&I to provide OSHA training to the public on an annual basis at free and reduced costs.

OSHA 10 training and certification will be a new minimum standard for safety awareness training to empower individuals to enter construction or demolition site. All Philadelphia construction and demolition workers must have evidence of this training to work on a project site. Construction and demolition license applicants must show evidence of OSHA 30 training obtained within the last five years of their license applications. Independent contractors performing demolition also must satisfy the licensure requirements for OSHA 30. To maintain ready and capable supply of construction and demolition workers, the public must receive access to training. The Special Investigating Committee on Demolition Practices will introduce legislation to require that L&I, by itself or by contract, shall provide OSHA training annually to the public at free and reduced costs.

25. School District of Philadelphia is requested to provide OSHA training and certification in the curriculum at Overbrook High School night and day programs and at West Philadelphia High School.

It is incumbent upon the School District of Philadelphia to prepare students for employment and civic responsibility upon graduation. Because OSHA 10 training and certification will become a new minimum standard of safety awareness for construction

and demolition site workers, career technical education programs must incorporate this training into their programs to successfully prepare students for employment. The Special Investigating Committee on Demolition Practices will introduce legislation to require a pilot program OSHA 10 training and certification at Overbrook High School night and day programs and West Philadelphia High School.

26. School District of Philadelphia is requested to provide OSHA training and certification in the curriculum at all career technical education programs.

Employment on construction or demolition project sites will require a worker to have OSHA training and certification as a minimum standard for safety awareness and hazard abatement. Therefore, the School District of Philadelphia must incorporate this training into the curriculum at all high schools to prepare students for work opportunities upon graduation. The Special Investigating Committee on Demolition Practices will introduce legislation to require OSHA training and certification district wide by the School District of Philadelphia.

27. OSHA curriculum and certification training in all regional public school CTE programs is requested of the appropriate school district.

Soon in order to work on a construction or demolition site in Philadelphia, workers must have completed an OSHA training and certification course. Therefore it is important that all regional school districts offer OSHA certification opportunities in construction and demolition vocational training programs. The Special Investigating Committee on Demolition Practices strongly recommends that all regional school districts incorporate OSHA curriculum and certification training into their vocational program curriculums.

28. The Community College of Philadelphia is requested to provide OSHA-approved training and certification programs.

OSHA 10 will become the minimum safety awareness and hazard abatement training acceptable for any worker on construction and demolition project sites. Therefore students must receive OSHA 10 training and certification to work in the construction industry. It is critical to student success that Community College of Philadelphia and other post secondary technical and vocational programs incorporate OSHA training into their program curriculum so that students are successfully prepared for employment opportunities in Philadelphia. The Special Investigating Committee on Demolition Practices will introduce a Resolution to encourage Community College of Philadelphia and other institutions that provide technical and vocational training to incorporate OSHA training and certification into the curriculum.

29. L&I shall develop precertification standards for demolition contractors based on criteria including but not limited to: safety training, safety performance, years of experience, and degree of difficulty in demolition.

The Special Investigating Committee on Demolition Practices explored the concept of precertification for private contractors in the following excerpt:

COUNCILMAN KENNEY: I know in New Jersey a lot of times and in Pennsylvania a lot of times also the government requires a pre-qualification process for contractors, other design professionals, architects, engineers. They need to be pre-qualified and on a list of pre-qualified, acceptable candidates for selection to do public work. What is your view on pre-qualifying construction firms, general contractors, demolition firms so that we have on file, updated on an annual basis, the qualifications of the company, their financials, their training of their employees, their insurance requirements, all the things that a reputable company like yourself requires of yourself? What would be your opinion on the City imposing a pre-qualification list, that you can't get a permit in L&I unless for whatever work you're applying for a permit for unless that firm has been pre-qualified and renewed on an annual basis?

MR. DAVIS: I think that will be a great proposal from the City to present that, because right now it's almost what we may call an open field, and this is the reason why things are the way they are now. If we had something on that order, I believe it will scan out the good and the bad.

DR. BREHM: I also echo that. I'm a strong advocate of that. When I was in New Jersey, we actually had a pre-qualification of our specialty contractors before they were allowed to even bid the job. Whether you do that or you qualify them at the time that they submit a permit, it's essential...If you have a good contractor who is competent, he's going to do it right. He has all the incentive to do it right. If you have a contractor that's not qualified, oftentimes they get in trouble, not because it's intentional, because they don't know better.⁹³

Under NTI and the Master Demolition Plan, public demolition contractors are prequalified. Moreover, information related to contractor experience is required by Code Bulletin B-1302. Scrutiny of private property demolition contractor qualifications, safety training and performance, years of experience and financial responsibility is equally as important to public safety. Therefore, the Special Investigating Committee on Demolition Practices will introduce legislation to require L&I by itself or by contract, to develop a precertification system for all demolition contractors. Such precertification should include a process for reevaluating contractors capabilities, level of mastery based on complexity of demolition and adherence to public safety protocols during renewal periods.

30. L&I shall establish a registration system for site safety managers. The site safety manager shall evidence completion of a minimum of OSHA 30 training within the last five years of the registration or renewal application.

The presence of site safety managers on demolition and construction project sites is recognized as a national best practice. Safety representatives who were responsible for inspecting the jobsite to abate safety hazards were a requirement under NTI and resulted in to thousands of successful demolitions citywide without a single serious worker injury. In New York, third-party site safety managers are licensed by its Department of Building and are required by municipal law to maintain a continuous presence on certain jobsites to insure that projects are completed safely.

Independent site safety managers are trained in OSHA worker and industry safety standards to identify, prevent or abate any jobsite safety hazard. The presence of independent site safety managers is recognized as a best practice for dramatically improving public safety during the performance of inherently dangerous demolition work especially when the work is conducted in inner cities. Therefore, the Special Investigating Committee on Demolition Practices will introduce legislation requiring L&I by itself or by contract, to establish a registration system for site safety managers. The site safety manager among other qualifying criteria shall evidence completion of OSHA 30 training within the last five years of the registration or renewal application.

31. An independent site safety manager shall be required on the demolition project site for structures greater than three stories for the duration of demolition.

The presence of site safety managers on Philadelphia public demolition sites during NTI resulted in the successful completion of thousands of demolitions conducted citywide without injury to workers or public safety. Site safety managers are professionals who are at minimum OSHA 30 trained and certified to identify, prevent or abate any construction industry safety hazards. The presence of independent site safety managers on inherently dangerous demolition project sites reduces the risk of injury to demolition workers and decreases the risk of harm to public safety. Therefore, the Special Investigating Committee on Demolition Practices will introduce legislation to require the continuous presence of an independent site safety manager on the project site for structures greater than three stories above ground for the duration of the demolition.

C. Demolition Notice Requirements

32. The Philadelphia Code shall be amended to improve the quality of notice and information requirements to nearby property owners.

The Philadelphia Code requires L&I to publicly post notice on demolition sites. L&I officials are further required to hand deliver notice of the demolition to each of the three property owners on both sides of the project site as well as to the seven nearest property owners in front and in rear of the subject property. The quantity of property owners who receive hand-delivered notice of demolition restricts the quality of

information about the demolition project that L&I officials are able to provide to each property owner or occupant. Amending the quantity of property owners who receive hand-delivered notice of demolition will empower L&I officials to improve the quality of information by educating adjoining property owners or occupants about necessary protections such as shoring or bracing to protect party walls as well as waterproofing interior walls that become exterior walls due to demolishing an adjoining property. Amending notice requirements will reduce safety risks and property damage to adjoining or adjacent properties. Therefore, the Special Investigating Committee on Demolition Practices will introduce legislation to amend notice requirements to nearby property owners.

33. L&I shall revise demolition notice information provided to adjoining property owners to include educational information about the contractor's obligation to waterproof and close breaches in interior walls that become exterior walls due to adjacent demolition work and other methods for finishing the demolition in a workmanlike manner.

Due to the inherently dangerous nature of demolition, the risk of injury to occupants and damage to the property of adjoining structures is particularly high. The risk can be greatly diminished by providing safety information and educational materials to adjoining property owners about the contractor obligations regarding party walls. Adjoining property owners should receive information about safety shoring or bracing that may be necessary to protect their property from damage during the demolition. Additional information on waterproofing and closing breaches in interior walls that become exterior walls due to adjacent demolition work and other methods for properly finishing the demolition should also be provided to adjoining property owners. The Special Investigating Committee on Demolition Practices will introduce legislation instructing L&I to provide information to adjoining property owners that includes information about the contractor's obligation to waterproof and close breaches in interior walls that become exterior walls due to adjacent demolition work and other methods for finishing the demolition in a workmanlike manner.

34. Require signage at construction and demolition sites to include the following: full address of the site; contractor name, address and telephone number; and instructions to convey complaints to 3-1-1 or 9-1-1. Instructions for complaints shall be written in both English and Spanish languages.

Identification of the address of partially constructed or demolished project sites is difficult for the general public when there is cause to report complaints and safety concerns. The address is often missing. Members of the public are frequently confused about whether to call 9-1-1, or 3-1-1 or L&I to report their concerns about the project site. This confusion can often result in delayed responses to the project site and create a significant risk to public safety. Therefore, the Special Investigating Committee on Demolition Practices will introduce legislation to amend the Philadelphia Code to require the building owner or his or her agent to post publicly

visible signage at construction and demolition sites to include the following information: full address of the site; contractor name, address and telephone number; and instructions to call complaints to 3-1-1 or 9-1-1. Instructions for complaints shall be written in both English and Spanish languages.

D. L&I Operations & Enforcement

35. Amend the Philadelphia Code to expressly require that OSHA and other federal laws must be followed for construction and demolition.

Construction and demolition activities are governed by Pennsylvania and federal laws and regulations. To maximize public safety it critically important that contractors adhere and comply with all local, state, and federal rules and regulations. Moreover, it is important that L&I have the ability to seek compliance through the appropriate channels of enforcement in order to maintain public safety on inherently dangerous construction and demolition sites. Therefore, the Special Investigating Committee on Demolition Practices will introduce legislation to expressly require that OSHA and other federal laws must be followed for construction and demolition.

36. Expressly require code inspectors to comply with the Standards of Conduct and Ethics of the Philadelphia Code.

In order to preserve the public trust and effectively protect public safety, code officials must maintain a high standard of conduct and ethics in addition to technical expertise. There can be no question of financial benefit to code inspectors directly or indirectly in the construction, demolition or rehabilitation of a structure or property for which they have been delegated complete or partial enforcement responsibilities. Therefore, the Special Investigating Committee on Demolition Practices will introduce legislation to expressly require L&I inspectors and staff to comply with standards of conduct and ethics.

37. The L&I budget shall be adjusted to adequately fund the implementation of demolition policy reforms.

Many of the recommended reforms to demolition policy will have a direct financial impact of the operating budget of the Department of Licenses and Inspections. Some of these costs justify increases in the permit fees and fines for violations; however, most of the changes require funding to hire additional personnel, training and technology upgrades that cannot be offset entirely by increasing L&I fees and fines. Therefore, the Special Investigating Committee on Demolition Practices will introduce legislation to increase the L&I Operating Budget as necessary to adequately fund the implementation of demolition policy reforms.

38. All L&I inspectors shall be OSHA 30 trained and certified.

The OSHA Outreach Training Program provides training on the recognition, avoidance, abatement, and prevention of safety and health hazards in workplaces. The 30-hour construction course is appropriate for supervisors, foremen and construction workers with some safety responsibility. It includes training on everything from electrical hazards to fall prevention and helps to ensure that workers are more knowledgeable about perilous project site conditions and how to appropriately abate such conditions. Requiring OSHA 30 training and certification will insure that L&I inspectors are able to recognize and prevent perilous conditions from persisting at construction and demolition project sites. It also will assist inspectors in recognizing violation of worker safety regulations. In order to reduce the risk of hazards on construction and demolition sites, and to improve worker safety compliance, the Special Investigating Committee on Demolition Practices will introduce legislation to require all L&I inspectors to be OSHA 30 trained and certified.

39. A minimum of 20 percent of L&I Inspectors shall be OSHA 500 trained and certified.

The purpose of the OSHA 500 training course is to prepare individuals to teach OSHA 10 and 30 certification classes. Course time is spent cultivating a thorough knowledge of OSHA Construction Standards (CFR 1926) and learning and practicing adult training techniques. L&I inspectors who complete OSHA 500 will train additional L&I staff members as well as members of the public at free or reduced cost to improve worker worksite safety. Increasing worker safety knowledge as well as federal construction and demolition standards at L&I improves overall enforcement of public safety in Philadelphia. The Special Investigating Committee on Demolition Practices will introduce legislation to require 20 percent of L&I inspectors to be OSHA 500 trained and certified to teach OSHA courses.

40. L&I shall revise hiring qualifications, job descriptions and continuing education requirements for code inspectors and permit application reviewers to develop competencies consistent with reforms.

In order to improve public safety through comprehensive demolition reform policies, L&I personnel must be properly trained and new hires should possess the requisite OSHA credentials to fully enforce the new reforms. Ongoing continuing education on technical changes in the field as well as legislative updates must be provided to insure a competent and capable workforce at L&I. Therefore the Special Investigating Committee on Demolition Practices recommends that L&I revise its hiring qualifications, job descriptions and continuing education requirements as necessary to fully implement and enforce new reforms.

41. Hire additional inspectors and permit application reviewers as necessary to fully implement reforms.

Code Bulletin B-1302 and the comprehensive demolition policy reforms proposed by the Special Investigating Committee on Demolition Practices require significant changes to

the demolition permit application. Many changes will increase staff and L&I inspector review time. It is essential to public safety and to economic development that L&I hire additional staff to avoid delays in issuing permits and completing site inspections. Therefore, the Committee strongly recommends that L&I hire additional inspectors and permit application reviewers as necessary to fully implement demolition policy reforms.

42. Prioritize the demolition permit application processing system according to public safety risk factors.

Public safety concerns demand that the most hazardous, and dilapidated buildings are demolished first. This may require L&I to deviate from a first-in application review process to review application submissions on structures for which there are numerous L&I violations or citizen complaints. The Special Investigating Committee on Demolition Practices strongly recommends that L&I develop and promulgate clear standards in order to prioritize the demolition permit application processing system according to public safety risk factors.

43. Amend the Philadelphia Code to detail the process and procedure to vacate occupied buildings adjoined or adjacent to imminently dangerous structures during demolition.

The current provisions of the Philadelphia Code lacks express authority for L&I or the Fire Department to require occupants to vacate a building that is adjoined or adjacent to a structure classified as imminently dangerous during demolition activities. In order to promote public safety, it is essential that both L&I and the Fire Department affirmatively evaluate whether there is imminent danger requiring that occupants of adjacent buildings vacate, and that both departments are expressly authorized to require neighboring properties to be vacated when demolition activity is likely to cause an imminent injury to persons or property. The Special Investigating Committee on Demolition Practices will amend the Philadelphia Code to grant clear authority to L&I and the Fire Department to vacate the occupants of any abutting premises when demolition activity is likely to cause an imminent injury to persons or property.

44. Amend the Philadelphia Code to provide additional information for situations that require Stop Work Orders.

L&I has the authority and discretion to issue a Stop Work Order in situations when a structure is likely to cause imminent injury to people or property. This authority currently extends to the project site as well as adjoining properties if the risk of imminent danger to extends to those neighboring properties.

The protection of public safety recognizes the need, in certain circumstances, for L&I to issue a Stop Work Order preventively, before the conditions and circumstances rise to the level of imminent danger to persons or property. Therefore, the Special Investigating Committee on Demolition Practices will introduce legislation authorizing additional hazards for which L&I may issue a Stop Work Order.

45. Amend the Philadelphia Code to include standards for the height and materials for mandatory construction and demolition fencing.

When the site-specific safety plan or Philadelphia Streets Department requires fencing to protect the pedestrian right of way from demolition activities, public protection requires that the fence is made or built of sturdy material and built to a height to adequately close off public access. The Special Investigating Committee on Demolition Practices will introduce legislation to amend the Philadelphia Code to specify the height and materials for mandatory construction and demolition fencing.

46. Require L&I inspectors to complete specialized inspections in areas of expertise and training rather than conducting general inspections in all areas and specialties.

Internal organizational restructuring of L&I during the recession resulted in the inspectors taking on full generalist duties rather than inspecting project sites only for compliance in the inspector's respective fields of training and expertise. Testimony received by the Committee suggests that this has contributed to inadequate inspections that can result in unsafe or poor quality buildings. Therefore, the Special Investigating Committee on Demolition Practices strongly recommends that L&I inspectors complete specialized inspections in areas of expertise and training rather than conducting general inspections in all areas and specialties.

47. Assign inspectors to districts and periodically rotate inspectors.

In order to preserve the public trust and effectively protect public safety, code officials must maintain a high standard of ethics and impartial conduct in addition to technical expertise. This is better achieved when an inspector is rotated among different districts. The Special Investigating Committee on Demolition Practices strongly recommends that inspectors that are assigned to district are periodically rotated to other districts.

48. Provide a written report complete with cost-benefit analysis to City Council evaluating L&I technological needs.

Technology upgrades that facilitate electronic submission of demolition application materials and assist in effective enforcement for Code violations may dramatically improve the efficiency in demolition permit application submission, review, and other enforcement procedures. Technology advancements historically have not been well funded at L&I. Therefore the Special Investigating Committee on Demolition Practices recommends that L&I investigate and evaluate its technology needs and provide a written report complete with cost-benefit analysis to City Council.

49. Utilize technology to reduce the number of site visits necessary to satisfactorily perform mandatory inspections.

Technology improvements that facilitate project site inspections, such as the use of time and dated photograph or video submission of cellar floor cavity and debris removal from project sites that could be submitted online would dramatically increase efficiencies at L&I. Currently five or more mandatory inspections are required for demolition projects. Contractors must provide a minimum of 48 hours notice to L&I to conduct certain inspections which could potentially delay work on a project until an inspector visits the site. Noncompliance with mandatory inspections may result in the issuance of a violation. The Special Investigating Committee on Demolition Practices recommends that L&I evaluate ways to utilize technology to conduct mandatory inspections to promote efficiency and public safety.

50. Provide information for demolition license and permit requirements on the L&I website.

Providing online access to the license and permit information improves public safety by facilitating earlier and more complete submission of permit applications for demolishing dilapidated buildings and improves transparency in government. The Special Investigating Committee on Demolition Practices will introduce legislation to require demolition license and permit information on the L&I website.

51. Provide access to construction permits, demolition plan, site safety plan, engineering study and asbestos documents -- redacted as necessary to comply with provisions of the Uniform Commercial Code -- on the L&I Property History website.

Providing online access to active construction and demolition permits protects the public by providing information that may help them to protect themselves and their property. It also improves government transparency. The Special Investigating Committee on Demolition Practices encourages L&I to provide, to the greatest extent possible, access to full permit application materials on the L&I Property History website.

52. Establish a penalty system for safety violations.

The Special Investigating Committee explored best practices in other jurisdictions for maintaining and enforcing worker safety issues in order to prevent exacerbation of public safety hazards.

COUNCILMAN KENNEY: Now, if you were at a demolition site or a construction site with a safety plan, are you authorized to examine the credentials of the people operating cranes?

MR. ALBUNIO: Absolutely.

COUNCILMAN KENNEY: What level do you go down -- what level of workforce do you go down to certify credentials?

MR. ALBUNIO: Everybody down to the laborer.

COUNCILMAN KENNEY: What's a laborer need?

MR. ALBUNIO: He has to have a 10-hour OSHA and a 4-hour scaffold. He also, depending on the site might need a hazwoper, might need confined space. That's what the site safety manager determines.

MR. GALLO: Even the security guards who work on those sites has to at least have a 10-hour OSHA.

COUNCILMAN KENNEY: Are those documents kept on the individual workers, or they're kept in the trailer?

MR. ALBUNIO: The worker must have that document on him.

Because worker safety failures create public safety hazards, it is important to public safety that workers engaged in unsafe worksite practice and behavior are penalized to encourage safety compliance. Therefore, the Special Investigating Committee on Demolition Practices will introduce legislation directing L&I to establish a safety violation penalty system.

53. Increase expediter license fee and establish penalties, including license revocation and a \$2,000 fine for each offense of falsification of information.

Expediter permit applications have not been adequately monitored or enforced which has resulted in a number of straw purchases of building permits that are turned over to unlicensed and unqualified contractors who haphazardly complete projects, if they are completed at all. By increasing the license fee, and improving L&I review of all license applications, but especially expediter applications, this widespread abuse will be eliminated. The Special Investigating Committee on Demolition Practices will amend the Philadelphia Code by increasing expediter license fees and penalties.

54. Separate L&I Code enforcement functions from L&I revenue-generating functions with enforcement personnel directly reporting to the Department of Public Safety.

Under the Philadelphia Home Rule Charter § 5-1002, the Department of Licenses and Inspections is required to perform the following duties:

- (a) Building Safety and Sanitation, Signs and Zoning. It shall, except as otherwise specifically provided in this charter, administer and enforce all statutes, ordinances and regulations for the protection of persons and property from hazards, in the use, condition, erection, alteration,

maintenance, repair, sanitation (including the maintenance and condition of plumbing and drainage facilities and the maintenance of sanitary conditions in housing accommodations), removal and demolition of buildings and structures or any parts thereof and the grounds appurtenant thereto, in the operation of equipment therein, and of outdoor signs.⁹⁴

The issue was best summarized by Bennett Levin, former L&I Commissioner, at the hearing held on August 1, 2013 as follows:

MR. LEVIN: The current organization of the department is dysfunctional. It is not based upon the department's basic core functions as defined by the City Charter. L&I is not an Economic Development entity. L&I is not a revenue entity. Its first and primary responsibility is dealing with the safety of the general public. It may have revenue responsibilities. But in those areas, those responsibilities are and should be subordinate to the primary function as a guardian of some of the most critical life safety functions born by the city government. The first and primary responsibility is dealing with the safety of the general public.⁹⁵

Current L&I Commissioner Carlton Williams explained the core duties of L&I as follows: "Our responsibilities in terms of what we do for the City of Philadelphia is to inspect buildings to ensure public safety."⁹⁶ However, Mayoral Executive Order No. 3-08, *Relating to the supervision of, and coordinating among the City's departments, boards and agencies*, caused the Department of Licenses and Inspections (L&I) to report to the Deputy Mayor for Planning and Economic Development, who is also the Director of Commerce.⁹⁷ The Deputy Mayor manages all departments, which responsibilities are to carry out economic development activities for the City. In addition to L&I, departments under the Deputy Mayor umbrella include the Office of Housing and Community Development, the Philadelphia City Planning Commission, the Office of Sustainability, and the Philadelphia Historical Commission.⁹⁸ All quasi-public agencies dealing with economic development, including the Philadelphia Industrial Development Corporation (PIDC) and the Redevelopment Authority of Philadelphia (RDA) also report to the Deputy Mayor to ensure comprehensive planning and coordination of the City's development resources. Former L&I Commissioner Fran Burns remarked, "I do think it reinforces the mission of L&I to have it in a structure of public safety. Sometimes that gets lost if it's not there."⁹⁹

The Special Investigating Committee on Demolition Practices appreciates the role that L&I plays in promoting economic development in the City, but believes that this role is secondary. L&I's core objective and most important function is public safety. Therefore, the Committee recommends the issuance of a Mayoral Executive Order to bifurcate L&I functions. Specifically, and under a Mayoral Executive Order, all L&I revenue related functions should directly report to and operate in the Finance Department and all functions relating to public safety should directly report to and operate in the Department of Public Safety. The Special Investigating Committee further recommends that legislation is introduced seeking an amendment to the

Philadelphia Home Rule Charter to further codify a Mayoral Executive Order bifurcating L&I functions.

55. L&I shall provide a written report to City Council on the status, execution and implementation of construction and demolition reforms contained in this report annually during budget hearings.

To ensure that appropriate execution and enforcement of the comprehensive demolition policy reforms, the Special Investigating Committee on Demolition Practices will introduce legislation requiring L&I to provide annually a written report to City Council on the status of the recommendations contained herein. Such report shall be annually submitted with the Department's operation budget detail.

56. Provide a written report to City Council conducted by an independent auditor on all L&I procedures from hiring to enforcement of the Code, including an analysis of every aspect of the permitting and enforcement process.

To ensure that L&I policies and enforcement procedures are aligned with national best practices, the Special Investigating Committee on Demolition Practices will introduce legislation requiring L&I provide a written report to City Council conducted by an independent auditor on all L&I functions. This will help to assure that the promotion of public safety and the protection of property remains the core objective of L&I.

57. Provide outreach and education as necessary to advise contractors and construction workers of new laws, regulations and other requirements.

It is of utmost importance that demolition policy reforms are communicated to contractors. In order to promote public safety, L&I must provide direct outreach and education to apprise contractors of new laws and procedures. The Special Investigating Committee on Demolition Practices recommends that L&I provide guidance materials, direct mailings and educational workshops to facilitate the execution of demolition policy reforms.

E. Interagency Cooperation

58. Amend the Philadelphia Health Code to require asbestos testing for all structures built prior to Dec. 31, 1980, by a Certified Asbestos Investigator for permit applications for full external demolition.

Microscopic asbestos fibers can lead to mesothelioma, a rare and fatal cancer, if inhaled. Under the Philadelphia Health Code, asbestos inspections are conducted on commercial and residential properties with more than three dwelling units if the structures were built prior to December 31, 1980. According to expert witness, Richard Nalbandian, "this exception is insufficient to protect the health of the public, especially that of the nearby residents, for the cumulative effect of multiple small demolitions is just as much of a

hazard to health as a single large demolition failure, if not worse, because they go largely unnoticed except by the people nearby who are most impacted.”

The Special Investigating Committee on Demolition Practices will introduce legislation to amend the Health Code to apply asbestos provisions to all structures built prior to December 31, 1980 when a permit for full external demolition is sought. By closing this loophole, there will be greater assurance that asbestos is properly abated thereby reducing the risk of public exposure to this hazardous substance.

59. Form a special work group to consider amending the Philadelphia Health Code to include the inspection and abatement of additional hazardous substances including but not limited to: lead paint, oil, solvents, PCB transformers, and hazardous waste before demolition.

Some hazardous materials that are easily identifiable do not require abatement prior to demolition such as lead paints, abandoned, un-drained fuel oil tanks, solvents, PCB transformers, and hazardous waste. The most popular method of demolition in these cases is to simply collapse the building in upon itself, filling the basement and foundation with the debris, carting away the excess debris. In such a demolition, clouds of asbestos and lead paint dust will almost invariably be generated, any tanks will be crushed with their residual contents, and any un-removed hazardous materials such as left-over paints, cleaners, solvents, etc. can contaminate the soil and be released into the subsurface, potentially impacting groundwater quality.

After reflecting on losing her mother to asbestos related illness, Councilwoman Blackwell stressed the need for additional information about hazardous materials:

We are really concerned about public safety, and even in issues where the laws have change, but people are around concrete and other areas where they're doing construction and a person could walk by or be jogging and not realize that they're passing a scene and breathing toxins. They think they're becoming healthy and they're becoming ill. I think if we do nothing else, we should be able to inform people about these things. We should be able to protect people, whether we close off an area, whatever it is, to make sure that people know...We have to do what we can to protect people and their families so they don't have to lose parents and loved ones and members of the community or anyone to condition that could have been prevented.¹⁰⁰

The Special Investigating Committee will introduce legislation to form a Hazardous Materials Policy Group to consider hazardous materials that should be removed or abated prior to conducting full external demolition. The work group will report on its final recommendations to this Committee.

60. The Health Department shall provide electronic copies of all asbestos permits to the Fire Department Battalion Chief on the day of permit issuance.

Under Chapter 14 of the Fire Code, asbestos abatement work in building must be conducted in compliance with fire safety requirements specified therein; however, the Fire Department does not currently receive notice of issuance of an asbestos permit by the Health Department. In order to protect first responders as well as the general public from asbestos and fire safety hazards related to enclosure of abatement treatment areas, the Special Investigating Committee on Demolition Practices will introduce legislation to amend the Philadelphia Code to require the Health Department to provide an electronic copy of asbestos permits to the Fire Department Battalion Chief on the day of permit issuance. This will protect public safety by giving notice to the local fire so that appropriate emergency response can be provided, if needed.

61. The Health Department, Philadelphia Fire Department and L&I shall collaboratively promulgate regulations for non-combustible flame-resistant enclosures, proper egress at abatement sites and develop a checklist to facilitate site inspections.

The procedures for air and dust management for asbestos abatement, including negative air pressure systems and airtight containment chambers are outlined in the Health Code. Some containment methods for asbestos abatement create an inherent risk of fire hazard. Currently, the Department of Air Management inspects asbestos abatement project sites for compliance with the asbestos provisions. The Fire Department and L&I have authority to inspect buildings and jurisdiction to issue violations for safety hazards that create an imminent danger.

The overlapping authority to inspect buildings by any of these three agencies should be utilized to better promote public safety and to protect nearby property from fire safety hazards and other risks related to asbestos abatement. Therefore, the Special Investigating Committee on Demolition Practices recommends that the Health Department, Fire Department and L&I collaboratively promulgate regulations for non-combustible flame-resistant enclosures, proper egress at abatement sites and develop a checklist to facilitate site inspections.

62. Provide authority to issue violations for noncompliance with the Building and Health Codes to the Fire Department.

The Philadelphia Fire Code currently authorizes the Fire Department and L&I as fire code officials. The Fire Department also has the authority to issue Cease Operation Orders for imminently dangerous conditions. To better promote public safety and the protection of property, the Fire Department should have authority to issue violations under the Building Code and Health Code for conditions before they rise to the level of imminent danger to people or property. Councilman Kenney remarked, “I think it’s critically important that Fire Department be involved in every one of these situations because they look at it with a different eye. That is, I think the kind of integration that we need with other departments...”¹⁰¹ The Special Investigating Committee on

Demolition Practices will introduce legislation granting authority to the Fire Department to issue violations for noncompliance with the Building and Health Codes.

63. Develop enforcement procedures in collaboration with L&I and the Fire Department for the demolition of imminently dangerous private structures and provide a written report on the same to the Special Investigating Committee on Demolition Practices.

Due to the overlapping authority over structures classified as imminently dangerous, L&I and the Fire Department should collaboratively determine specific areas of coverage and enforcement and provide a written report on those areas of enforcement to the Special Investigating Committee on Demolition Practices.

64. L&I shall provide electronic copies of demolition permits to the Fire Department on the day of permit issuance.

Demolition is inherently dangerous work for which it is not possible to alleviate all risks. Thus, first responders should be aware when and where such work is underway. Such notice prepares fire fighters to get to the correct addresses which may not be accurately reported during a crisis because such address is no longer publicly visible on the demolition site. The notice may further prepare fire fighters to adequately prepare for additional site hazards such as asbestos, chemicals or other hazardous materials at the site in order to promote worker safety as well as protect public safety because the information will be disclosed in the demolition permit. Therefore, the Special Investigating Committee on Demolition Practices will introduce legislation requiring the submission of demolition permits to the Fire Department on the day such permit is granted.

65. Provide authority to issue stop-work orders to Fire Department Battalion Chief.

The Fire Department Battalion Chief should have concurrent authority with L&I to issue Stop Work Orders under the Philadelphia Administrative Code. This will promote public safety and protection of property because the fire department is staffed and available to respond to emergency situations at times when L&I personnel are not.

66. Require site inspections for imminently dangerous buildings to be performed by the Fire Department.

The Philadelphia Code provides the Fire Department and L&I with concurrent authority over imminently dangerous buildings and structures. The Fire Department trains personnel on the structural hazards of partially damaged and deteriorated structures as well as how to conduct search and rescue as safely as possible in imminently dangerous buildings. L&I inspectors, who unlike firefighters, generally conduct inspections alone, are not equipped or trained for such hazards. Therefore, in order to promote worker safety, the Special Investigating Committee on Demolition Practices will introduce legislation requiring the Fire Department to conduct inspections for imminently dangerous buildings.

67. Develop a plan for cross-training fire personnel and building inspectors in relevant structural and fire-safety issues.

The Fire Department has concurrent authority with L&I to enter buildings, inspect and mitigate some unsafe conditions under the Philadelphia Code. The Special Investigating Committee on Demolition Practices will introduce legislation to require a plan for cross-training fire personnel and building inspectors in relevant structural and fire-safety issues. This will improve interagency cooperation and create efficiencies that promote public safety.

68. Revise firefighter hiring, training and job descriptions, as necessary, to ensure that comprehensive construction and demolition policy reforms are incorporated.

In order to improve public safety through the comprehensive demolition reform policies, Fire Department personnel must be properly trained to fully implement and enforce the new reforms. Ongoing continuing education on technical changes in the field as well as legislative updates must be provided to insure that a competent and capable workforce provides safety oversight over aged buildings and inherently dangerous demolition sites. Therefore the Special Investigating Committee on Demolition Practices recommends that the Fire Department revise its hiring qualifications, job descriptions and continuing education requirements as necessary to fully implement and enforce comprehensive demolition reforms.

69. Provide written guidance to 3-1-1 for handling calls related to construction and demolition sites. Utilize technology to establish a special complaint resolution system with built-in auditing for tracking complaints involving construction and demolition sites that may affect public safety.

Representatives at 3-1-1 are not sufficiently trained on L&I building and construction terminology and operations to adequately assess and respond appropriately to complaints. Additional challenges are created when a caller cannot accurately report the property address because the site is partially constructed or partially demolished and the address is not publicly visible. The public is frequently confused about whether to call 9-1-1, or 3-1-1, or L&I to report their concerns about the project site. Public trust in the 3-1-1 system is undermined when the public does not see remedial action for the complaint for up to 30 days or more and they receive no follow-up information. Testimony provided at the hearing revealed that calling 3-1-1 for an urgent matter could be catastrophic due to delayed response time.

COUNCILMAN HENON: I want to ask a few questions about 3-1-1.
All right. So, how are 311 complaints transmitted to the inspector?

COMMISSIONER WILLIAMS: Normally, they are -- when a complaint comes into 311, it generates a work order that is transported to our Hansen System. It's assigned to an inspector to follow up given the service level requirement of the priority of the request.

COUNCILMAN HENON: Okay. What is the timeframe? Is there a time frame in, you know, the work order to --

COMMISSIONER WILLIAMS: Some vary. Generally, 30 days response.

The confusion at 3-1-1 can often result in delayed responses to the project site that may pose a significant risk to public safety. Therefore, the Special Investigating Committee on Demolition Practices will introduce legislation to amend the Philadelphia Code to require L&I to work in collaboration with the Fire Department and Police Department to provide written protocols and guidance for handling 3-1-1 complaints regarding construction and demolition sites. The protocols should include a special complaint resolution system with built-in auditing for tracking complaints involving construction and demolition sites that may affect public safety.

70. Require utility companies to post utility termination in a manner searchable by property address on their websites.

Termination of utility service at construction and demolition project sites is imperative to protect the public and nearby properties. On July 29, 2013, a building contractor was working inside a South Philadelphia home when a small natural gas leak sparked an explosion that brought down the two-story brick home and damaged neighboring structures. Eight people were injured and two homes were demolished as a result of the explosion. The Special Investigating Committee on Demolition Practices will introduce a resolution requiring utility companies in Philadelphia to post utility termination in a manner searchable by property address on their websites. This minimal level of transparency will better protect public safety when small repair and rehabilitation is performed.

71. Develop a collective strategy for encouraging the Legislature, Uniform Construction Code Review Advisory Committee and the Governor to make changes to the codes adoption process and to support the passage of a resolution urging the Legislature to make such changes.

The laws governing the Uniformed Construction Code Review Advisory Committee (RAC) process effectively guarantee that the newest building codes recommended by the International Code Council (ICC) will not be accepted by the RAC or adopted by the Commonwealth. The model building codes include the latest building techniques and are updated based on new technology and lessons learned from natural and other disasters. The failure to adopt the model Code creates substandard buildings that could lead to unintended, severe consequences that threaten public safety. The Special Investigating Committee will introduce a Resolution urging the Legislature to make changes to the codes adoption process.

CONCLUSION

The June 5, 2013, building collapse and tragedy threatened to shake the faith of residents in the City's ability to perform one of its most basic core functions: ensuring public safety. In order to complete its mission, the Special Investigating Committee on Demolition Practices has divided its work into four phases:

- Phase I.** Analyze past City demolition policies and procedures; investigate current City demolition practices; receive testimony from contractors and experts in demolition; research local and national best practices regarding demolition; identify whether changes are necessary to the rules and laws governing demolition in the City; make recommendations that are necessary to improve public safety while performing demolition in the City of Philadelphia; and publicly report its findings.
- Phase II.** Propose legislation and other reforms necessary to improve public safety and protect adjacent and adjoining property owners while assuring that demolition, although inherently dangerous, is conducted as safely as practicable in the City of Philadelphia.
- Phase III.** Accept comments in an open and transparent manner on the Committee's final recommendations for changes as well as any proposed legislation or regulations through additional public hearings prior to the enactment of such changes to demolition practices in the City of Philadelphia.
- Phase IV.** Review and follow up annually on the status and implementation of any recommendations enacted to improve public safety, protect adjacent and adjoining property owners while assuring that demolition, although inherently dangerous, is conducted as safely as practicable in the City of Philadelphia.

This Report represents Phase I. In the weeks that follow, the Special Investigating Committee on Demolition Practices will enter Phase II of its work. The Committee looks forward to receiving public comments and feedback on final recommendations and proposed comprehensive reform to demolition policy as it endeavors to ensure that all demolition activities are performed as safely as possible to protect the public, workers, and adjacent property owners in the City of Philadelphia.

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¹ Transcript, The Special Investigating Committee on Demolition Practices (June 27, 2013) p. 21.

² City of Philadelphia Standard Specifications for NTI Demolition Bid Packages (February 12, 2007).

³ NTI Prime Contractor Qualification Application for Demolition Projects.

⁴ Id.

⁵ NTI Standard Specifications, p. 72.

⁶ Id. at 80.

⁷ Id.

⁸ Id. at 72.

⁹ Id. at 78.

¹⁰ Id.

¹¹ Id.

¹² 29 C.F.R. § 1926.850 (a) (1970).

¹³ City of Philadelphia NTI Project Safety Manual (2004) p. 84.

¹⁴ Standard Specifications, p. 113.

¹⁵ Id. at 104.

¹⁶ Id.

¹⁷ Id.

¹⁸ Master Demolition Program Specification, (rev. July 1, 2012).

¹⁹ Id. at § 3.20.2, § 3.20.3.

²⁰ Id. at § 3.6.2.

²¹ Id. at § 3.21.1.

²² Id. at § 3.12.

²³ Id. at § 3.8.

²⁴ Id. at § 3.22.

²⁵ Id. at § 3.25.

²⁶ Id. at § 3.3.6.7.

²⁷ Id. at § 3.6.8.

²⁸ Id. at § 3.6.9.

²⁹ Philadelphia Code Title 4 § A-301.5(R).

³⁰ Id. at § A-9022.2.2.

³¹ Id.

³² Id. at § A-302.2.

³³ Id. at § A-302.1.1.1.

³⁴ Id. at § A-302.11.

³⁵ Id. at § A-303.2.1

³⁶ Id. at § PM-308.1(R).

³⁷ Id. at § A-303.2.

³⁸ Id.

³⁹ Id. at § PM-308.2.

⁴⁰ Id. at § A-302.2.3.

⁴¹ Id. at § PM 308.4.

⁴² Transcript, Special Investigating Committee on Demolition Practices (June 19, 2013) p. 32.

⁴³ Id. p. 33-34.

⁴⁴ Id.

⁴⁵ Id. at 52.

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- ⁴⁶ Mayoral Executive Order No. 4-13, *Emergency Declaration Regarding Demolition Approvals* (June 7, 2013).
- ⁴⁷ Dept. of L&I Code Bulletin of Info. No. B-1302, *Demolition Standards and Activity Controls* (June 12, 2013).
- ⁴⁸ Id. at 2.
- ⁴⁹ Id. at A.2.
- ⁵⁰ Id. at A.5.
- ⁵¹ Id. at B.
- ⁵² Id.
- ⁵³ Id.
- ⁵⁴ Id.
- ⁵⁵ 29 C.F.R. § 1926.850 (a) (1970).
- ⁵⁶ Id.
- ⁵⁷ Id.
- ⁵⁸ 29 C.F.R. §1926.32 (f)
- ⁵⁹ NTI Standard Specifications, § 01323, Part 1.03 (A) 1. p. 76.
- ⁶⁰ Id. at §13024, part 1.04 (B) p. 78.
- ⁶¹ City of Philadelphia NTI Project Safety Manual §6 (re. 8-31-04) p. 31-33.
- ⁶² Id.
- ⁶³ Id. at § 2 p. 2.
- ⁶⁴ Philadelphia Code, Title 9 § 9-3301 (4).
- ⁶⁵ Dept. of L&I Code Bulletin of Info. No. B-1302 p. 3 (*original emphasis*).
- ⁶⁶ Id.
- ⁶⁷ Id.
- ⁶⁸ Id.
- ⁶⁹ Id.
- ⁷⁰ Id. at 4.
- ⁷¹ Id. at 5.
- ⁷² Id.
- ⁷³ Id.
- ⁷⁴ Philadelphia Code, Title 4 § A-506.
- ⁷⁵ Philadelphia Code, Title 4 § A-301.1.1.
- ⁷⁶ Transcript, Special Investigating Committee on Demolition Practices (August 15, 2013) p. 92.
- ⁷⁷ Philadelphia Code, Title 4 § A-902.2.2.
- ⁷⁸ Id.
- ⁷⁹ Contractor License Application, Form No. 81-971(2) (Rev. 6/12).
- ⁸⁰ City of Trenton, NJ Municipal Code § 42-7 D (1).
- ⁸¹ Transcript, (June 27, 2013) p. 92.
- ⁸² Id.
- ⁸³ Id. at 116.
- ⁸⁴ Transcript, (August 1, 2013) p. 274.
- ⁸⁵ Transcript, Special Investigating Committee on Demolition Practices (July 18, 2013) p. 132.
- ⁸⁶ Id. at 71-73.
- ⁸⁷ Philadelphia Code, Title 4 § A-302.10.5(R)2.
- ⁸⁸ Id. at 55-56.
- ⁸⁹ Transcript, (June 19, 2013) p. 64.
- ⁹⁰ Transcript, (August 15, 2013) p. 60-62.
- ⁹¹ Transcript, (June 19, 2013) p. 121.
- ⁹² Transcript, (July 18, 2013) p. 67.
- ⁹³ Id. at 50-52.
- ⁹⁴ Philadelphia Home Rule Charter, Title V §5-1002 (a).

⁹⁵ Transcript, (August 1, 2013) p. 84-85.

⁹⁶ Transcript, (June 19, 2013) p. 11.

⁹⁷ Mayoral Executive Order No. 3-08, *Relating to the Supervision of, and Coordinating Among the City's Departments, Boards and Agencies* (January 7, 2008).

⁹⁸ Id.

⁹⁹ Id.

¹⁰⁰ Transcript, (July 18, 2013) p. 80-81.

¹⁰¹ Transcript, (August 1, 2013) p. 29-30.