

CONSUMER PROTECTION COMMITTEE

of the

SUFFOLK COUNTY LEGISLATURE

Minutes

A regular meeting of the Consumer Protection Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, 725 Veterans Memorial Highway, Smithtown, New York, on January 31, 2008.

MEMBERS PRESENT:

Legislator Lynne C. Nowick, Chairwoman
Legislator Elie Mystal, Vice Chair
Legislator Thomas F. Barraga
Legislator Kate M. Browning
Legislator Jack Eddington

ALSO PRESENT:

George Nolan, Counsel to the Legislature
Ben Zwirn, Deputy County Executive
Charles Gardner, Director of Consumer Affairs
Renee Ortiz, Chief Deputy Clerk of the Legislature
Joe Muncey, Budget Review Office
Kevin Rooney, Oil Heat Institute
Debra Alloncius, AME Legislative Director

MINUTES TAKEN BY:

Diana Kraus - Court Stenographer

(THE MEETING COMMENCED AT 1:09 PM)

CHAIRWOMAN NOWICK:

Will all the Legislators that are on Consumer Protection Committee please come on in to the horseshoe.

Okay. Will everybody rise, please, for the salute to the flag led by our Deputy Presiding Officer and co-chair Legislator Mystal.

SALUTATION

Good afternoon everybody. And welcome to the new Consumer Protection Committee. And this is going to be my first meeting as Chair. And I'm very pleased to be here because this is one of my passions, being a good consumer that I am.

I thought that this would be a good first meeting although we don't have an agenda with resolutions, I thought it would be a good time as a first meeting to bring Charlie Gardner here as the Director of Consumer Affairs just to give us a fast overview of the department. Just one second. Charlie, come sit down. Sit down. I'm sorry, but I see that today we have for the public portion a card that I just received from Kevin Rooney so if you want to come up.

MR. ROONEY:

If it pleased the Chair, would it be okay if I reserved my comments until after Mr. Gardner's presentation?

CHAIRWOMAN NOWICK:

You can, but you can remember that we do have an attention deficit span here so -- sure. Charlie. Charlie, you're going to give us a fast overview of what's going on.

DIRECTOR GARDNER:

Yes. There is a handout with slides that will be fairly brief.

First of all, I just want to let you know that the bad news isn't as bad as it has been. That's the good news, I guess. And that finally home heating oil broke. It has been rising steadily since, oh, late summer actually is when it started going up. It started going up a little bit sooner than normal. And it just kept going up and up even when we had a couple of blips with gasoline dipped, home and heating oil didn't. But as of the last survey it dropped by almost 10 cents a gallon on the average. On the average, so that finally did break; the milder, etcetera having an impact.

CHAIRWOMAN NOWICK:

What is the average per gallon or is it all different --

DIRECTOR GARDNER:

Well, as of the end of last week it \$3.16 a gallon. The lowest in the County was 2.78. The highest was 3.90; round figures. So the spread is about a dollar twelve. Remember that takes into account the COD's as well as the full service. But the average for all of those was about 3.16 per gallon.

CHAIRWOMAN NOWICK:

Just quickly and I know you want to go into your talk here, when I watch on TV and I see crude drops like to 88 cents last week, is that part of the -- does that affect the home heating oil?

DIRECTOR GARDNER:

Sure.

CHAIRWOMAN NOWICK:

But when? Because it didn't affect it on my last delivery, I noticed.

DIRECTOR GARDNER:

No, it doesn't have that immediate -- I mean I'll be perfectly honest with you, it has as much to do with the price, especially in the last couple of years -- naturally the cost of a barrel of crude is kind of the foundation, is the basis. But you know the people on Wall Street and the financial markets and the commodity markets and those traders have a great, great deal to do with the price of what's called futures in the price of home heating oil as well as gasoline. So it's not just the oil companies themselves. It also has a lot to do with trading. And I'm sure Mr. Rooney could be a lot more specific about that than I can.

CHAIRWOMAN NOWICK:

Okay.

DIRECTOR GARDNER:

As far as the office, I'll just briefly run you through and obviously take any questions. There are four main Bureaus in the office: Administration, Weights and Measures, Licensing and General Complaints. The authorized number of employees for the office is 45. We currently have three vacancies. By the way staffing levels, it's the highest and the best it's been in quite sometime now.

Next slide. The administration is typical with most offices. Their biggest contact with consumers is the handling of the FOIL, the Freedom of Information requests. Besides the staffing of the County personnel, etcetera, etcetera. But there are seven positions in this bureau. There's one vacancy, a principal account clerk, which I think is going to be filled very shortly.

Last year just for reference we handled slightly more than 1800 Freedom of Information requests. They're handled in writing. Obviously it's covered under New York State Freedom of Information Law. But these are requests about statuses of licenses that may have been revoked or suspended or violations or complaints.

Over the telephone a consumer is given the information whether or not a contractor needs to have a license for whatever kind of work is being done. If the contractor does have a license, when the license was issued, when it expires. The contractor's name, then business information meaning address and telephone number. That's all available over the telephone.

If -- anything past that we need the request and the answer to be in writing. And we do take e-mail requests. And that has to do with violations and numbers and types and complaints, etcetera. That will be handled in writing. So again more than 1800 last year handled by the office. This Bureau also coordinates our speaking engagements that we give throughout the area.

Now Weights and Measures Bureau, seven employees, currently one vacancy. We go to almost 2900 locations throughout the County. There are approximately 6200 scales that we have to test every year. We go to 570 gasoline stations, 90 marinas. There's approximately 10,000 individual gasoline pumps that need to be tested.

Last Year 2007 there were 212 heating oil companies for which we had the jurisdiction of testing their 757 meters. Understand there are more trucks than that that do business in the County. There would be trucks that are based out of Nassau County, for instance, and there's some that come out of New York City. We have reciprocity with those jurisdictions, where the company is based and where the trucks are based. That is the County or the city that does the inspecting. And they have the appropriate weights and measures seals on them. But just Suffolk County companies 212 with 757 trucks.

There are also 22 propane companies that where the fleet total of 122 truck meters that we also test for the accuracy of. Same thing with LP. We, by the way for whatever reason, I don't really know, but Suffolk County has -- approximately 25% of all the propone sold in the State of New York is in Suffolk County. And we are the only county in the state of New York that has our own propone meter tester. Everybody else relies on the state to come around and test those meters. We have our own.

The Licensing Unit, really the, as far as the contacts with the consumers and contractors, this is the hub and the heart of the office. We have right now 16,070 active licenses. It's about a 2% increase from '06. There are 23 employees there with two vacancies. This Bureau, the Certification Unit handles the new licenses and renewals. We do about seven to 800 on the average renewals per month. We issue 170 to 200 new licenses each month. And about of those seven to 800 renewals, we get returns on about 500. So we do about -- we renew about five so 600 licenses a month and issue one to 200 new ones every single month.

The great majority of our licenses is in the home improvement category. Right now we have 10,283 individual businesses license. That's home improvement contractors. And remember there are many categories there. Roofers and masons and landscapers and window guys and gutter guys and siding, etcetera. All of those categories fall under home improvement. We're 2605 electrical license, both master electricians and restricted electricians. Just under 1400 plumbers are licensed. And electricians. We have the jurisdiction for the entire county. The big distinction with plumbers is that Huntington, Babylon and Islip as well as the Village of Lindenhurst have their own plumbing boards. So if a plumber works only in Islip, for instance, they only need to have an Islip plumbing license. They don't need the county license. But if they work outside of Islip, they work in Brookhaven or Riverhead, then they would need the County license. And we also have reciprocity with two of those of jurisdictions.

The investigations that we conduct we enforce both in a civil nature and a criminal nature. Most of what we do is civil. However, we work very closely with the Suffolk County Police Department and the District Attorney's Office for criminal violations. As a matter of fact we just made two more arrests last night of our infamous -- if you remember the home appliance repair company that we've talked about over and over and over again, last night we made two more arrests. We seized a fourth vehicle. That's in the last six months we have arrested seven people from that company and seized four vehicles. They are still working. They are still out there and we're -- but with the cooperation and the help of the District Attorney and the police department we are not letting up on them. So that's the criminal part.

Remember that doing business without a license is a misdemeanor. The maximum penalty is \$5,000 up to a year in jail upon conviction. We don't do that. We relay information. We fill out criminal information, etcetera, we work with the District Attorney's Office to make an arrest and prosecute criminally. We don't do that. That's the criminal part of our enforcement.

A key part of our office is our licensing boards. People tend to forget them. They don't get a lot of publicity. We could not function without them. We have an electrical, home improvement, plumbing, home appliance repair and liquid waste occupational licensing boards. Those people meet every month. They keep us abreast of what's going on. They help us -- they rule on the fitness of applicants for the licenses. They review applications. They review revocations. They do a great deal of work for us. They help -- they assist us in the preparation of the written and practical exams in each of the categories. They are really indispensable part of the day-to-day operations of our office. These are all industry men, industry members, contractors themselves, union shops, non-union shops. A good mix of people who are very representative of the industry.

General Complaints is, basically takes care of our telephone intake. We had approximately 30,000 phone calls last year just in the intake. That's not all the other phone calls that go to Investigations and things. But just in intake. These are people, consumers and contractors who call on a daily basis to find out information about do they need a license, the status of their license; consumers call

to find out if somebody's licensed or they want to file a complaint or make an inquiry. So the General Complaints in the Intake Bureau, they respond to those inquiries and requests. They mail out complaint forms. They explain the process for Freedom of Information. We make very, very many referrals to other agencies. As you can imagine we get quite a few calls and even complaints about beauticians and real estate agents and lawyers and doctors and teachers and things like that all the time. We know where to refer those people. We have prepared a manual with as many state and federal agencies as we can think of and everybody has those so we know where to refer and how to refer these people, save them an extra step.

Our e-mail inquiries are rising. We get -- last year we had more than 800 e-mail inquiries, not even -- not counting Freedom of Information requests, just people that e-mailing us using the County website and e-mailing us with, again, inquiries and requests and requests for information, etcetera.

Voice mails. Since we don't -- you know, we work -- we have those phones in operation from 9 AM to four. The office is open from 8:30 and 4:30. But we have voice mail on all those intake phones. And those lines are monitored every morning. We don't open our direct phones until nine but from 8:30 'til nine, things that come in overnight are answered. And that's another almost 2000 telephone calls not counting the 30,000 but that's another almost 2000 that we handle throughout the year.

We did receive last year written complaints 2214 written complaints. That's a decrease. We've been showing a -- the trend is downward in a number of complaints received. The good new is, and I think, and I want to emphasize this point is that of our 15,000 or so -- actually 16,000 now licensed businesses -- so keep that number in mind for a second -- 16,000, in the year 2007 there were 50 licensed businesses, 50, with three or more complaints. So, the number of companies that have an exorbitant number of complaints is very small in relation to the total. We deal with those companies. After a while you're not going to have a license anymore if you continue to total up a large number of complaints. But by and by the great majority of our licensed contractors have zero. There are no complaints. That doesn't mean that they're perfect. And it doesn't mean that they don't have their own complaints. But what it means is they take care of business. When the consumer is unhappy, they respond to the consumer and they take care of that complaint.

Our complaints, almost all of them are, you know, I've contacted so and so, you know, 14 times and they haven't got back to me, or, you know, we've been trying to deal with this problem. Those are the complaints that we get. People who really don't take care of business and it winds up in our lap.

Revenues, 75 to 80 percent of our revenue is derived from licensing fees. About 10 percent from inspection fees. Those are weights and measures, our fuel oil, home and heating oil meters, liquid propane meters, all the scales. There's an inspection fee attached to all of those. The scales, it depends on the capacity of the scale, how much the inspection fee is. The home heating oil meter is \$120 per meter. 10 percent is also derived from penalties. Last year we took in just over \$3 million in licensing fees. And about \$300,000 in inspection fees and about \$300,000 in penalties. And that \$300,000 in penalties has collected -- there was an additional approximately \$150,000 in penalties that have been assessed that are not collected. And I'm happy to say that just within the last couple of weeks we signed a contract with a collections agency that is now going to help us get some of that money and go after some of those people that refuse to pay penalties or refuse to pay inspection fees.

Our total revenue for '07 was about \$3.7 million. And the last five years the average net to the County from the Office of Consumer Affairs has been plus \$1.3 million. That's what we've been taking in compared to what we've been spending. So that's a five-year average. And it kind of makes up for the first 20 or so years when we were running a deficit every year. But again the last five years 1.3 million on average is our net revenue to the County.

The Restitution Fund very, very important part of County code. It was enacted in 1987. Part of the fee for each new home improvement license is \$100. And that hundred dollars is deposited directly

into the fund. The fund had been 50. It was increased to 100 back in 1999. To give you an idea in 2007 we had 61 cases. It's the second highest number we've ever had and the highest pay-out overall, the highest average overall. The parameters are set by County code. And you'll see that there. There is a Restitution Fund checklist for anybody who has questions about when the restitution fund applies. The main thing is that a consumer has to have done business or signed a contract with a licensed contractor who then because of whatever reason dies, goes out of business, moves, and has left the consumer stuck, we can then -- we help them, we explain the process.

The consumer has to go to court, get a judgement. The judgement is given to the sheriff. The sheriff attempts to collect it. When they can't the sheriff sends me a letter saying whereabouts unknown, no assets, whatever and then up to \$5,000 of the claim is -- we cut a check and send to the consumer. So obviously anything less than \$5,000, the consumer gets the entire judgement. Anything greater than that the consumer gets the \$5,000. Approximately half of the claims are greater than \$5,000. The balance in that as of the close of the year was about \$300,000 in that fund. So even though we paid out the most number of claims in '07, we're still pretty healthy. Part of the code requires me to make judgements on -- going back and requesting either increases in fees or other ways to finance the fund. But as of right now we're doing very well.

I just want to highlight, the last part is our website which is a dynamic site in that we have control over what -- we can put the information out. We don't have to send it through channels or have other people do it. We currently have 26 different pages. Within the last year you can now enter the license number or telephone number for a contractor and get the licensing status. If it comes back no license or no record, it will say please call Consumer Affairs because there's a chance that you might be using an old telephone number, the contractor might have a new telephone number and you might be entering -- you know, making a typo or something. So the proviso is that, okay, we don't have anything based on what you entered but call Consumer Affairs. If it's valid it will come back. It'll give you the type of license, the date of the issue, the name of the owner, the name of the business right then and there. It kind of saves us phone calls.

We also have links to Nassau and Westchester's businesses to avoid -- there are price surveys, educational links for both contractors and consumers. Consumer alerts can get put up there. We have many different links to other consumer agencies on a local, state and federal level. And we also have within the last year or so now downloadable forms, complaint forms, some various motor fuel distributors and gas station registration forms. They can get them right off the net now. And if they want to renew the license, there are those types of forms.

We don't yet -- and I don't foresee the day when you can do everything over the internet. We need to see people. We need to have them come into the office. Many times we need to interview them. They have to have their picture taken, etcetera. We have to make sure whom it is we're dealing with before we just give a license. But renewals and change of license records and the such there are some of those forms that are now downloadable on the web.

We have a watch list established as well as our ten worst unlicensed businesses. You have a copy of the latest of both. The worst unlicensed businesses as the name applies, these are businesses that do not have a license; either never had one, had one and was revoked or suspended. And we have reason to believe that they are still doing business. And we want to warn consumers to stay away from them. And by the way, that number one there does six businesses that have a total of -- that 900 is now more than a thousand. Those are the people, the two arrests we made last night were from that number one right on top.

Number two, just to give you an idea, Long Island Custom Builders, we're in court with them right now. We have a documented -- more than \$900,000 in consumer losses that that company has scammed homeowners with. But again these are people that don't have a license and for whatever reason we believe they're still operating. We just want to alert people to them.

The Watch List. The Watch List is a little different. I just started that within the past year. All of

the people on the Watch List, they have a license. But there's something going on. We're either getting couple of complaints against them, they're not responding the way we think they should be responding, etcetera. They're on a watch list. And they know they're on a watch list. And we don't have any problem telling people that they're on a watch list because they're having problems with our agency right now. It may or may not lead to a license revocation. Some of them had their -- ultimately had their licenses revoked. But it also helps giving them a little nudge to do what it is they're supposed to do and get off that Watch List and get their license back in good standing.

That's it for the overview. I would say one of our -- one of the biggest problems we have is the expectation of consumers who think that we can make a bad situation better, that we can force a contractor to go back and do things or we can force a contractor to refund money. The great majority of the complaints that we get are resolved fairly efficiently, fairly effectively and to the satisfaction of both parties. The bad ones unfortunately are bad by the time they get to us. And these are the ones, if a contractor doesn't care about being licensed any more, the only power we have in the County is to revoke the license. Well, if they don't care about it anymore, it's not a big deal to them. But that's where -- we can only revoke their license. We cannot make them go back and do the job better. We cannot make them refund any money. Only a court can do that. Now if they want to keep their license, any consumer goes to court and gets a judgement, then they have to pay that judgement. And they got to pay that judgement within 35 days or they lose the license. But, again, even if it gets to that situation, if they don't care about the license, they'll just give it up.

But people expect us to give them \$25,000 back. Or they want to have another contractor come in, fix the work, do the job and then have the first contractor pay them. You know, we can't do that. Those are the unfortunate expectations that -- and that's where we kind of run into some unhappy consumers. There are certain things we just cannot do. And ultimately by revoking somebody's license, you know, we can do that but then we're always trying to look at how can we help the consumer? If we put somebody out of business, well now they can't go back. So we try to work on settlements. We try to work on -- even sometimes our extend settlements, but they're better than what you would get in court so.

CHAIRWOMAN NOWICK:

Okay. That was a great overview. You guys do a lot. Charlie, I just wanted to ask you two questions or maybe three. One of them, and I have to apologize because I don't remember the name of the company and you might remember, there was a company a few weeks ago on the -- a business on the south shore. I'm not mistaken, it had to do with wedding dresses? It closed down. And the brides were out wedding dresses. What happens when a company -- like I see Levitz is going out of business now. What happens when people contract with a company like that? They go out of business. Is there anything that the consumer can do or is that just --

DIRECTOR GARDNER:

Depends what -- depends on the business. For instance, wedding photographers and the like, many of those places, they take in the pictures but they don't actually do the work. Those pictures go somewhere else. We have been successful in the past finding out where those pictures are. Now what happens is they're over here at, you know, contractor a and contractor b. Now contractor "a" says I got 400 photos here from three different people. But, you know, he owes me "X" amount of dollars, you know. We get -- we kind of get rid of the middle man and try to hook the consumers back straight to -- they don't realize that, you know that, the person they paid is not really doing the photos for instance. But in other -- I mean companies that go out of business, they go out of business. I mean, you know, people come to us with gift certificates to restaurants that are now out of business. And they want us to do something.

CHAIRPERSON NOWICK:

What can you do? Nothing.

DIRECTOR GARDNER:

What can we do? We had a fairly grievous case against a home improvement contractor last year,

two complaints, both valid except -- in cooperation with the DA's Office, the guy's gone. He's in Florida. We know where he is but he's in Florida. He's out of business. He's not working here any more and he's in Florida. Well, there isn't much we can do anymore. The fellow's gone. But companies that go out of business, there isn't a lot you can do.

Furniture stores, the one thing we cut down on what used to be a fairly prevalent practice in the furniture industry was that furniture stores would forever have these going out of business sales, and you know, etcetera, etcetera. And they would really just be moving, you know, from Selden to Middle Island or from Middle Island to Riverhead and reopening, same guys, maybe a different name. That doesn't happen as much in that industry anymore because we now license those. Home furnishings used to be our number two complaint every single year after home improvement. Every year. We averaged about 500 complaints a year. Since licensing we now average about 150, 160 complaints. And the best thing is we have a hammer. I mean if they want to stay in business, they're going to do what they're supposed to do or they lose their license.

CHAIRWOMAN NOWICK:

Especially the the big companies. And they do want to stay in business.

DIRECTOR GARDNER:

Yes.

CHAIRPERSON NOWICK:

The other question to you is how your department and your staffing, how is that --

DIRECTOR GARDNER:

Very well.

CHAIRPERSON NOWICK:

You're good?

DIRECTOR GARDNER:

We're at -- right now we're at the highest levels that we have been in in quite a few years. We're basically fully. We have three vacancies but we're we have reason to believe they're going to be filled very shortly. So no, in Weights and Measures, for instance, all of the mandated work by the state was done last year. Every pump, every meter, every scale was inspected. Our complaints -- our investigators year-and-a-half or so ago were carrying an average load of about 125 cases. Right now that average is about 80. So that's a significant improvement. Our response to complainants was only about three years ago maybe? But maybe three years ago we actually increased that response time up to 60 days. I dropped it back to 45. It's now back to the normal 30 days. And in fact in most cases the consumers are responded to within the 30 days. So, no, we're doing pretty well.

CHAIRWOMAN NOWICK:

That's good. The next question, and I don't want to jump the gun but I just wanted to get your feel on something that I read in the paper today. How would this new resolution that I'm reading about with making sure that all licensed -- anybody with a license in Suffolk County hires -- has to prove that their workers are legal? Will that affect your department at all if that should come to fruition?

DIRECTOR GARDNER:

Oh, sure tremendously. But -- and I've had a discussion with the legislator about this and the County Attorney's Office -- I mean the legislative counsel. The implementation of it would not be a burden at all. I mean we now -- part of the licensing requirements, for instance, on the application you have to swear that you have no judgements, you have to swear you're not in arrears in child support, no convictions; or if you have convictions, you have to list them, things like that. This would just be added to that. So the implementation part in making somebody sign a statement,

that would not be a problem. The end result, the end result, if the law said --

CHAIRWOMAN NOWICK:

Well, tell me. Tell me. I just need to hear your view on it.

DIRECTOR GARDNER:

If the law said, for instance, that -- if a company hires whatever parameters we decide to make these people illegal, if a company hires illegal, that's ground for losing their license, we can conduct a hearing and either revoke or suspend or impose penalties. It's the enforcement, the investigation part of it that we would have a big problem. We don't have the knowledge or the expertise. We don't know -- meaning our people, home improvement investigator, Consumer Affairs investigators, we don't know what the requirements are of INS or IRS or tax people or whatever. It's just not our jurisdiction. But if some other agency presented us with the documented proof, we could conduct the hearing. We do similar -- for instance if a home improvement contractor's working in Brookhaven and a Brookhaven building inspector brings us an inspection report that shows that the contractor violated parts of the Town of Brookhaven building code, we don't write the code, we don't enforce the code, we don't amend the code. But if part of the responsibilities of a licensed contractor is to abide by all the building codes that are in effect, wherever it is that they're doing work, so if we get that evidence and it's -- we can conduct a hearing and impose penalties or revoke or suspend, whatever the decision of the hearing officer would be as far as violating a certain town building code. We don't do the investigation. We don't make the determination that the building code was violated. It has to be been done by somebody who has that jurisdiction.

CHAIRPERSON NOWICK:

So your only part in it would be to whether or not to take away the license, to have a hearing. And of course you don't know --

DIRECTOR GARDNER:

That's correct.

CHAIRPERSON NOWICK:

-- if that's going to be a monumental or not. Okay. Now I know that Legislator Eddington has a question.

LEG. EDDINGTON:

Yes. Yeah, I have two now because I want to follow up on that. I know your department does stings. And couldn't that be possibly a thing that could happen somewhere along the line with a licensed contractor to see if he has -- he's complied with the laws?

DIRECTOR GARDNER:

Well, that's the crux of it. In other words, who has the jurisdiction and the knowledge and the authority to determine whether or not they have complied with whatever it is, laws that we're talking about.

LEG. EDDINGTON:

Well, I would think it would be the person with the license. If the licensed electrician is doing the job and he has so called five employees with him, he would have to show that they are paying taxes, the I-9's and all that.

DIRECTOR GARDNER:

What I'm saying is our people don't know what an I-9 is. It's not up to us to -- in other words, if somebody else, whoever has the, you know, the federal authority for the I-9's was there and said that's no good or whatever. That's what I'm saying.

LEG. EDDINGTON:

Okay. Then you would deal with the license.

DIRECTOR GARDNER:

That's correct.

LEG. EDDINGTON:

Okay. The other question, I feel that if Legislator Cameron Alden was here he'd want to ask you about his favorite non-complying business, the one that has come before this committee many times. Are they on the -- I think they might be on the list of the 10 worst? And can you give me an update on when will they be appearing again or --

DIRECTOR GARDNER:

Currently number nine.

LEG. EDDINGTON:

Okay. I know you were reaching out to them and they had accused you of things.

DIRECTOR GARDNER:

Yes.

LEG. EDDINGTON:

And you seemed to have gone over backwards. I just wanted to get an update on that.

DIRECTOR GARDNER:

They never did respond, you know, to our open invitation to come in and meet and talk about the status of the complaints that are still there. And our last contact with them was when they were arrested at our sting house. I mean after all that stuff here and in public, they came to the sting house and, you know, gave us an estimate for work. Guess what? They didn't have a license. They were arrested. He wasn't too happy. But what can I tell you? So I don't know currently what the status of that criminal case is but he was arrested. He was one of the people who was arrested at our sting house.

LEG. EDDINGTON:

Okay, thanks, Charlie.

CHAIRWOMAN NOWICK:

Legislator Browning.

LEG. BROWNING:

Yeah, getting back to the -- Lynne just talked about the new legislation, I haven't seen it yet, I haven't read it. I don't know if it covers everybody who has a license. Does it include landscapers, does it include -- what about the deli's? You know, anywhere that anybody works should be paying taxes; correct?

DIRECTOR GARDNER:

Well, that's not the draft that I saw. It only covers 345 of the County code and 275 which is electricians, plumbers, home improvement people, precious metals; so the licensed occupations under 345. Deli's are not licensed.

LEG. BROWNING:

Okay. Well, the other question I have is obviously you can't do the enforcement.

DIRECTOR GARDNER:

The investigation part would be the onerous part for us.

LEG. BROWNING:

You get -- say like today, this bill doesn't exist. And somebody comes to you today and says there's

a contractor in my community building right now and I have reason to believe that a number of the employees are working off the books. Where would you go with that?

DIRECTOR GARDNER:

We would refer it to either the federal or the state authorities that have the jurisdiction based on whatever the allegation that was made. But we wouldn't -- we would not pursue it on our own. We would turn that information over.

LEG. BROWNING:

So now this new bill when it passes, most likely it will, when that comes around --

LEG. MYSTAL:

(Inaudible)

LEG. BROWNING:

Okay, sorry. What's the difference between that and what we have today? What would happen?

DIRECTOR GARDNER:

If nobody made any complaints nothing would happen.

LEG. BROWNING:

What I'm saying is with the new bill, if that bill come into effect, if that law came into effect and you got a complaint with that new bill versus before the bill, what would the difference be?

DIRECTOR GARDNER:

Well, I think the difference -- it's in the potential because right now that -- again whatever parameters you want to use to decide what the term illegal means, none of that is a violation of our county code. By making it a violation of the county code then all 16,000 licenses would be subject to that.

LEG. BROWNING:

So basically what you would do if you got a report with the new law, you would do exactly the same thing as you're doing today?

DIRECTOR GARDNER:

Except that today, you know, I can say we just don't get those types of inquiries, you know.

LEG. BROWNING:

All right.

CHAIRPERSON NOWICK:

Legislator Barraga.

LEG. BARRAGA:

I don't want to talk about contractors. I've received input. I want to get your, you know, your slant on this. There are many instances, for example, when consumers go in and they're buying something and the retailer says, look, you have to put a deposit down; Now, it's been brought to my attention that what these retailers do, especially in the case of a bankruptcy, Tom Barraga goes in, say you want to buy furniture. And it's like five or six of \$10,000 worth of bedroom furniture. They want a thousand or two thousand as a deposit. In the interim before delivery they go bankrupt. I am then told -- this is the input that I'm receiving -- I can go back down there and either pick furniture that's on the floor, not what I really wanted or I can become a creditor.

DIRECTOR GARDNER:

Get in line.

LEG. BARRAGA:

Get in line. To me, Charlie, that's terribly inappropriate. That deposit should be in escrow protecting me against bankruptcy. We should have a law in Suffolk County that protects the consumer in that vain because that's right across the board.

DIRECTOR GARDNER:

Well, yes. And bankruptcy affects us, meaning the Office of Consumer Affairs with, you know, home improvement contractors and other people like that. Because we -- by the way, we have to get in line sometimes, too, when there are penalties that have been assessed and need to be collected, inspection fees; and a business goes out, goes bankrupt, then we're in line. But at least we license furniture stores. Now it's the same old story, what can we do? We can revoke their license. It doesn't help the consumer.

LEG. BARRAGA:

Because most of the time when I see, I'm thinking of contractors and that type of thing because you're heavily involved. But let's talk about that furniture store. Let's talk about -- there's one company just mentioned that's going bankrupt. I'm willing to bet dollars to donuts that's exactly what they're doing. Those customers are being told you can come down here and you can pick something off one of our floors in one of our stores or you can line-up as, you know, as one of our creditors, but you're not getting your deposit back. And it seems to me in Suffolk County we should have a law that says, look, in those instances where I have to put a deposit down, those deposits go in escrow protecting me against any potential bankruptcy in the future of your company. I get my money back. And we don't have that.

DIRECTOR GARDNER:

No. No, we don't.

LEG. BARRAGA:

Thank you.

LEG. EDDINGTON:

Cosponsor.

LEG. BROWNING:

Yeah, really. Go ahead.

CHAIRWOMAN NOWICK:

And the only thing I think is a good idea when you do put a deposit down, you use one of your credit cards that -- I think there's a protection on your credit card, you fight it later on. Although that's not the answer; I'm just talking about in the interim.

DIRECTOR GARDNER:

In general in that case you would probably get your money back. You won't get your furniture but at least you get your money back if it was credit card.

LEG. BARRAGA:

Well, the problem we run into that is that -- most people would probably -- when you could use a credit card, most people would. You're depending upon the credit card company to do battle for you with the retailer.

DIRECTOR GARDNER:

That's right.

LEG. BARRAGA:

That's a long possible drawn-out out process. This way if we had a law it's clean. You take my

money, you put it in escrow. If I go to an attorney, "X" amount of dollars, that money goes into escrow until he fulfills his obligation to me.

DIRECTOR GARDNER:

We have the licensing law so I guess -- as long as it fits within what's allowed legally, I mean that can become part of the home furnishings licensing law.

CHAIRPERSON NOWICK:

If you're going to do it, you know, we'll cosponsor.

LEG. BROWNING:

Do it, Tom.

LEG. EDDINGTON:

Great idea.

LEG. BARRAGA:

George and I will do it.

CHAIRPERSON NOWICK:

But you're right about the credit card fighting for you. But at least they're fighting and you don't have to pay the deposit. It looks like you're grabbing the mike.

LEG. MYSTAL:

No.

CHAIRPERSON NOWICK:

Well, I thank you very much. It was very informative. I look forward to the next year.

DIRECTOR GARDNER:

Thank you very much.

CHAIRWOMAN NOWICK:

Now Kevin Rooney.

MR. ROONEY:

Good afternoon. For the record, my name is Kevin Rooney. I'm the Chief Executive Officer of the Oil Heat Institute of Long Island. It's a pleasure to appear before this newly constituted committee. And I hope -- I should extend congratulations rather than condolences to the new Chair of the Committee.

As Director Gardner noted in his remarks, in Suffolk County there are a large number of heating oil companies and many hundreds of heating oil trucks each of which has a calibrated meter delivery system which must be tested and re-sealed on a regular basis.

The industry which I represent regardless of whether a company is a member of my trade association or not, is comprised of vendors ranging from one truck COD companies to multistate public cooperations. As an association we want to ensure that every company regardless of its size, regardless of its type of operation complies with the highest possible standards of ethical conduct in their business practices.

The Department of Consumer Affairs and particularly the one which is run as professionally as Suffolk County's is, is not the adversary of the legitimate business community. On the contrary. It is our ally to insure that the consuming public is protected from those few vendors who might seek to take financial advantage of their customers. It is also an ally to protect and support those legitimate law abiding companies which compete in the open market place against these

unscrupulous individuals.

After being grossly underfunded for many years, the Department is now capable of meeting its explicit statutory obligations. But much, much more needs to be done. It is not enough simply to have oil trucks travel to Yaphank for their annual meter test and seal. The Department and its inspectors need to be out on the road participating in multi agency vehicle stops with Department of Transportation, with the DEC, Department of Homeland Security, Tax and Finance, Scales Division, all of those other agencies. In addition they need the additional personnel to be able to pull over trucks on the highways and byways of the County to check their supply meters.

So as you all participate in the budget and departmental appropriations process, please remember three simple things. One, the Department is self-sustaining. It is self-funded and self-sustaining. And as Mr. Gardner noted, the amount of revenues that it takes in versus the amount of expenditures that it makes produce a net financial benefit to the County.

Two, that Consumer Affairs provides the enforcement necessary to maintain and ensure consumer confidence in the business community.

And, three, that Consumer Affairs needs the manpower and needs the resources to do the job because human nature being what it is, unscrupulous businesses are not necessarily deterred by the severity of punishment for violating the law but rather they are deterred by the certainty of that punishment.

Those unscrupulous individuals or businesses who think they can break the law with impunity have to know with absolute certainty that they will be caught, they will be prosecuted and they will be punished. If Consumer Affairs is not fully funded, those inspectors are not on the job and that certainty of prosecution is lost. And I would urge you to make sure that that does not happen.

Thank you so much for your time and attention. And I'll answer any questions that you may have.

CHAIRWOMAN NOWICK:

Thank you, Kevin.

MR. ROONEY:

Including your oil bill, Madam Chair.

CHAIRWOMAN NOWICK:

Well, that's that's okay. Thank you, Kevin.

MR. ROONEY:

Thank you.

CHAIRPERSON NOWICK:

If there is nothing else from the Committee, I will entertain a motion to adjourn. Motion by Legislator Eddington, second by Legislator Mystal. All in favor? Opposed? We're adjourned.

**(THE MEETING CONCLUDED AT 1:56 PM)
{ } DENOTES SPELLED PHONETICALLY**