

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 March 16, 2010.

MEMBERS PRESENT:

Leg. Ricardo Montano, Chairman
Leg. Jay H. Schneiderman, Vice Chair
Leg. Thomas F. Barraga
Leg. DuWayne Gregory
Leg. Edward P. Romaine

ALSO IN ATTENDANCE:

Leg. Thomas Muratore, Fourth District
George Nolan, Counsel to the Legislature
Ben Zwirn, County Executive's Office
Steve Tricaraco, Aide to County Executive
Renee Ortiz, Chief Deputy Clerk
Barbara LoMoriello, Deputy Clerk
Paul Perillie, Aide to Majority Leader
Linda Bay, Aide to Minority Leader
Denis McElligott, Commissioner of Consumer Affairs Department
Charles Gardner, Director of Government Affairs
Bob Martinez, Aide to Leg. Montano
Catherine Stark, Aide to Leg. Schneiderman
Maxvel Rose, Aide to Leg. Gregory
Dot Kerrigan, Legislative Representative for AME
William Shilling, Aide to Presiding Officer
Dan McCann, Halsted Communications
Frank Collora, Long Island Pool & Spa Association
Michael Truhardt, LIPSA
George Kadzin, LIPSA
Larry Caniglia, NESPA
Ian Fyffe, LIPSA
Greg McFazdan, LIPSA
And all other interested parties

VERBATIM MINUTES TAKEN BY:

Diana Flesher, Court Stenographer

THE MEETING WAS CALLED TO ORDER AT 1:16 PM

CHAIRMAN MONTANO:

Good afternoon everyone. I'm going to call the meeting of the Consumer Protection Committee to order and we'll start with the Pledge of Allegiance led by Legislator DuWayne Gregory.

SALUTATION

CORRESPONDENCE

There are two correspondence that we received. First one that was handed out to the Committee members, it's from NECA, the National Electrical Contractors Association, a letter dated February 24th, 2010. I won't read it, but if there are -- we'll have it put in the record. It was sent by Charles Gardner, Director of Government Relations having to do with the issue of licensing and duplicate licensing. And if there are any questions from any members of the Committee on this, we'll entertain them.

And the second correspondence that we past out to the Committee is an e-mail from Denis McElligott dated February 1st regarding "this should serve as a response to your recent request for information regarding the consolidation of the then Office of Consumer Affairs in Hauppauge and the closing of the satellite office and a determination of the satellite office in Riverhead -- " I'm not quite sure -- do you remember who made the inquiry, Denis?

COMMISSIONER McELLI GOTT:

Legislator Romaine.

CHAIRMAN MONTANO:

It was Romaine. That's what I thought. Ed, have you had a chance to take a look at this e-mail?

LEG. ROMAINE:

I've taken a look at that. And what the e-mail doesn't give me is the type of information that would be even more beneficial, a percentage of the complaints and inquiries that are fielded from people east of William Floyd Parkway. So the five eastern towns in eastern Brookhaven to which Riverhead would be accessible. If I knew that in a given calendar year, I could better make an evaluation of whether closing that center was beneficial or not, because quite frankly obviously as you found out, you really -- it doesn't behoove people to file a complaint on line. It really behooves them to go down in person because they have to sign the complaint, is my understanding. So if you live in Montauk, the possibility of you going an hour-and-a-half to Hauppauge to sign a complaint, or if you live in Orient or Greenport, hour and fifteen minutes minimum to go that distance to sign a complaint, I mean you literally discourage people from signing complaints.

I was thinking it would be beneficial, I understand and I'm not going to push the issue because I was at the budget hearing this morning and apparently the County has a large deficit. And there's things that you wish you could have and things that you really need to have. I wish we had an east end location for people to file complaints because most of these complaints must be filed in person and signed. But considering the budget situation, this is probably not the best year to pursue that. Thank you, Mr. Chairman. Okay.

CHAIRMAN MONTANO:

Okay. Do you want to follow up with Mr. McElligott, Commissioner McElligott directly and let us

know what your progress is on that?

LEG. ROMAINE:

That's fine. I mean we certainly could have a conversation in the next week or two. This is something that has existed for the last few years this way. But as I said, I'm very cognizant of the County's fiscal woes at this time and don't want to add to them by creating an additional burden. Thank you.

PUBLIC PORTION

CHAIRMAN MONTANO:

Thank you. We're going to move into the public portion. And we have one card Mario Mattera from the Local 200. Mario, how are you?

MR. MATTERA:

Good afternoon.

CHAIRMAN MONTANO:

And I gather you're here to speak on the resolution that's before us today that we can vote on.

MR. MATTERA:

Yes, I am.

CHAIRMAN MONTANO:

Go ahead.

MR. MATTERA:

And I hope this actually gets voted yes and then goes right into legislation.

My name is Mario Mattera. I'm the business agent with Plumbers Local 200 here in Suffolk County. And I don't need to get into everything. I know we spoke on this -- I spoke before on this before about this 1080 law that needs to be passed in the worst way with this Committee today. I'd appreciate it very much. You guys, you know, you heard me already speak about it, that we're having a problem with the licensing; that in other words, a non-licensed plumber or electrician could go to work and no violations could be put against that contractor for doing shoddy work if there's a complaint by a consumer. It's our duty to fix this law today. I'd appreciate this so we can finally get going and move on.

Just to give a heads up again, I spoke that there's 791 master plumbing licenses, a fee of \$400 every two years with the County. There's 641 restricted plumbing licenses with a fee of \$200 every two years that contractors in the union and non-union world are paying right now that are very proud to have this license; that went and took the test, went through the proper procedures and right now are paying for this license because they know if they do shoddy work, there could be violations put against them and their license being revoked. And it's not a fair playing field right now the way the law is in effect.

Thank you very much. Please pass 1080 today so we can please put this in front of the Legislators, please and the full horseshoe.

CHAIRMAN MONTANO:

All right. We're going to get to that. Mario, quick question. Could you just again briefly describe the difference between the masters and the restrictive plumber's license?

MR. MATTERA:

Yes. The master plumbing license is doing a complete commercial, residential, gas work, potable water, sanitary systems. The restricted licenses, the irrigation, the irrigation contractors, the small water main works, putting water mains into homes and drainage, but doing natural gas lines and potable water and RPZ's, and you know, all plumbing aspects that can, you know, that protect the consumer and -- the plumbers. You know, we protect the health of the nation. That's our -- that's the standard quote by the plumber. So that's the difference between the master plumbing license and -- and medical gases also are in with the master plumbing license. You know, the medical gases that are hospitals, you know, your oxygen, air and vacuum lines that are in the hospital.

CHAIRMAN MONTANO:

All right. Simple question. If you have a leaky faucet, who do you call?

MR. MATTERA:

You would call a master plumber; because not for anything, that's potable water.

CHAIRMAN MONTANO:

Okay. And you said there was 751 master plumber licenses?

MR. MATTERA:

Right know that's just in Suffolk County with Consumers Affairs. That has nothing to do with all the -- that has to do with this body right now. That has nothing to do with the Town of Islip, the Town of Huntington. Obviously Nassau County, which I don't mean to discuss has -- like I said it before, you need to have 64 licenses to be a master plumber on Long Island between Queens to Montauk Point.

CHAIRMAN MONTANO:

So that's not the number of plumbers. That's the number that are registered with Suffolk County.

MR. MATTERA:

Absolutely.

CHAIRMAN MONTANO:

And then we have -- I think you said last time we have 64 jurisdictions so someone could be licensed in one of these jurisdictions but not be licensed with Suffolk County. And that would add to the number.

MR. MATTERA:

Yes, that would add. I actually have something for you because I knew you were concerned and you wanted to listen -- read this about the -- this has nothing to do with this 1080, but I have something for you to read also, I wanted to give to you.

CHAIRMAN MONTANO:

Okay. We'll have it distributed. I'll take it and I'll read it and then maybe we can discuss it at the next meeting.

MR. MATTERA:

Okay.

CHAIRMAN MONTANO:

Okay. Are there any questions from any members of the Committee? Mario, thank you.

MR. MATTERA:

Thank you very much.

CHAIRMAN MONTANO:

That's the only card that we have but -- Charles, you sent us -- I'm looking at you, Charles. How are you, Charlie? You sent us this letter. And I didn't read it into the record because it was two pages. Would you like to come forward and explain your position on this so that we get it on the record?

MR. GARDNER:

Yes, Mr. Chairman. The letter was in response to comments and questions that had been raised about multiple licenses. And it sought to give the Committee a somewhat clearer picture between Nassau and Suffolk County of the overlapping jurisdictions and their individual licensing requirements, mainly to do with electricians and plumbers.

As has been mentioned, just for instance, plumbers you've got Town of Huntington, Town of Islip, Town of Babylon, Village of Lindenhurst have their own plumbing licenses. Suffolk County has a plumber's license. Unfortunately the Town of Southampton has chosen now to -- they originally called it a license. They backed off from that wording. It's now called a registration. One of the ways you get that registration is showing that you have a Suffolk County license. Then you can work out there.

Home improvement, you know the east end towns, the three of them, East Hampton, Southampton and Shelter Island all require that they have their own home improvement licenses. And as Mr. Mattera mentioned, Nassau County is even worse. There are -- all of the three major towns, the City of Long Beach, City of Glen Cove and then the various villages have licensing requirements.

The worst thing about it is even they're not uniform. Some of the villages have; some don't. And the ones that have, have varying degrees of licensing fees, licensing terms, licensing requirements. And that burden falls on the contractors. Obviously the more time and the more cost involved on a contractor, who do you think devolves down to? So. And it's not the question of money. The contractors would be glad to pay whatever the sum total of all the license fees are to have one license and not have to worry about, for instance, having, as Mario mentioned, just the electricians, if you wanted to work Nassau and Suffolk as a master electrician, you're talking upwards of 30 licenses. They all have varying expiration dates. You got to show your insurance and have various Workman's Compensation, etcetera, for all of those jurisdictions. You got to produce it over and over and over again and worry about the various expiration dates.

CHAIRMAN MONTANO:

Question. In your letter, let me see if I find this sentence, *we are asking for your support and guidance to formulate a plan that would allow us to work together with Nassau to supersede the multitude of local licensing regulations that serve to confuse contractors and consumers alike more than they protect them.*

And you also make reference to Counties such as Westchester County that was able to consolidate their licensing functions. You said you had some information on that?

MR. GARDNER:

That's correct. Westchester --

CHAIRMAN MONTANO:

Oh, is that what was given to us? Okay.

MR. GARDNER:

Yes. Part of state law now. Westchester County regulates the licensing of Nassau electricians. And it stipulates in the law that it supersedes any locals. That would be wonderful if we could get that for Nassau and Suffolk. Obviously that's a state prerogative but we were hoping maybe we'd see jawboning, a moral suasion on the part of this Committee to help us out.

CHAIRMAN MONTANO:

Was that done by the home rule message and special -- legislation at the state level? Is that how that -- if you know.

MR. GARDNER:

Yes, sir, it was state legislation.

CHAIRMAN MONTANO:

Okay. And is that what was handed to me here, Bob?

MR. MARTINEZ:

Yes.

CHAIRMAN MONTANO:

All right. I'm going to take a look at that and we can talk about that in between meetings. I appreciate the information. Any questions?

MR. GARDNER:

Thank you.

CHAIRMAN MONTANO:

Thank you, Charles. Mario, did you want to add to that? Because I saw your hand go up. I'm not sure -- if you want to say anything, you got to come to the mike.

MR. MATTERA:

No, that's fine. Thank you.

CHAIRMAN MONTANO:

Okay. We know where we're going on this so we'll talk further about it. We're going to have a presentation from the Long Island Spa and Pool Association regarding, I guess, a request for a new license. I have here on the agenda Frank Collara. Did I pronounce that correctly?

MR. COLLORA:

Yes.

CHAIRMAN MONTANO:

And he's with the Long Island Pool and Spa Association and owner of Power Pool Care in St. James. I guess with you is Ian -- and how would you pronounce that, Fyffe?

MR. FYFFE:

Fyfee.

CHAIRMAN MONTANO:

Ian Fyffe, Sparkling Pool and Harbor. Do you want to come together in a group? Or do you want to speak on behalf of your associates?

MR. COLLORA:

Actually we're going to have Michael Truehart from True Blue Pools speak instead of Ian Fyffe if that's okay.

CHAIRMAN MONTANO:

That's fine. I have no issue with that. We have George Kazdin from Kazdin Pools and Spas, Southampton. If it's going to be repetitive, maybe you can, you know, we can limit the -- get to the gist of it. And I also understand we have Lawrence --

MR. CANIGLIA:

Caniglia, but I don't want to speak.

CHAIRMAN MONTANO:

You don't want to speak. But you came all the way from Hamilton, New Jersey, you don't want to speak? Okay, I'll leave that up to you.

MR. CANIGLIA:

That's okay. The association can speak for themselves.

CHAIRMAN MONTANO:

All right. I give you the floor and go ahead and tell us what's basically on your mind and how we can possibly help you.

MR. COLLORA:

Well, thank you, Mr. Chairman, and thank you members of the Consumer Protection Committee for giving us the opportunity to speak today. As mentioned, I'm Frank Collara. I own Power Pool Care in St. James since 1993. And I'm the president elect of the Long Island Pool Spa Association.

We're reaching out to the Committee in an effort to raise awareness regarding the safety of swimming pool and spa owners in Suffolk County. The construction and pools and spas is regulated by the state through building codes and the applicable standards. The builders and the service and repair companies, however, are largely unregulated and none of them are required to take any testing prior to licensure in Suffolk County.

The recent enactment of the Federal Pool and Spas Safety Act is evidence that proper construction and servicing of pools and spas is a serious health and safety issue. The Long Island Pool and Spa Association believe that the consumer deserves to have a level of assurance that they will receive competent results from the pool and spa contractors and service companies that they hire.

Similar to electricians and plumbers, pool and spa professionals deal with serious health and safety issues daily. A license law that includes mandatory training and certification would help to ensure that people who are servicing and building pools and spas possess at least a minimum of knowledge and expertise to have help prevent future drownings, spread of disease and other pool related injuries.

Other government entities working with their local trade associations including the State of Connecticut have already established or in the process of establishing similar licensing requirements for building and servicing swimming pools and spas. The licensing bill would be revenue neutral to the County budget while increasing the safety to the consumer.

We are seeking the expansion of the current Home Improvement Contractor's Licensing Law to require classroom learning, on-the-job experience and special testing for those home improvement contractors who maintain and repair swimming pools and build and install swimming pools.

I'd like to introduce to you to Mike Truhardt, the Long Island Pool Spa Association's Vice President elect and Chairperson for our committee from True Blue Pools.

CHAIRMAN MONTANO:

Okay.

MR. TRUHARDT:

Good afternoon, ladies and gentlemen. I just want to clarify some of the specifics and I'll keep it brief as you have most of this in writing for yourselves.

Regarding the service contractor's license, the scope of this license is that the holder of the pool and spa contractor's license shall be permitted to perform plumbing and heating and electrical work necessary only where such work commences at an outlet receptacle or connection back flow

preventer or fuel supply previously installed by the licensed person. Okay? The renovation or repair of non-potable water components of a pool, hot tub or spa that is required to be installed by these licensed people shall not be considered swim pool maintenance or repair work. So we are not looking to take anybody's jobs in the field of electrical and plumbing. In fact, we hire these professionals on our jobs.

The requirements that qualify for this licensing shall be the completion of at least two years of training and having a certified service professional certification which is done through our industry. And the director shall establish the criteria for what constitutes an equivalence certification or in the absence the applicant shall sit and pass a test approved by the County.

The builder's license is similar in nature. The builder is permitted to do the following: Excavation, grading, construction and installation of in ground or above ground swimming pools and permanent spas, all circulation equipment including pumps, filters, heaters, sanitizers and chemical feeders. It does not include direct connections to sanitary source systems or potable water lines once again. The requirements for this license shall be the same two years building season experience and training and having obtained the certified building professional certification for the industry. The holder of the contractor's license shall be permitted to perform plumbing and heating only when necessary where such work commences at the outlet.

In closing I want to say that this program is about education and certification of the professionals in the pool and spa industry. It is in the best interest of the consumers. We do have copies of our text books available, if anyone would like to review them. Our sister organization Conn Spa in Connecticut has also passed this legislation for its service professionals. And they are currently working on the legislation for the builders as well.

We know that in Florida they have very strict licensing for all building trades. We're also proposing the same legislation for Nassau County and they're welcoming the idea and discussions on the licensing as well.

In many cases this license can be in lieu of the home improvement license. So as Frank mentioned, there would be no further cost to the contractors applying. We are not looking to burden these companies applying, but we are looking to help the consumers and the industry reputation. Thank you.

CHAIRMAN MONTANO:

If I may, just let me see if I can simplify this. What I understood you to say is that the licensee electrician would set up the outlet outside of the -- or the connecting point. And then the home improvement contractor would come in. And from that box -- if I wanted to put a pool in my backyard, I would call a home improvement contractor. And that contractor would work from the box, dig the hole and put the pool in there. Is that essentially what you're saying? Did I get that right?

MR. TRUHARDT:

Yes, no different than how we are currently handling it. A licensed electrician --

CHAIRMAN MONTANO:

That's how we currently handle it?

MR. TRUHARDT:

Yes. That will not change. The licensed electrician will handle the service from the customer's panel, provide a subpanel outlets. What we might be doing is, if replacing a pump, we'll replace the cord from one pump to another, you know, minor electrical services.

CHAIRMAN MONTANO:

And that's done simply with the home improvement license? Or is there a special expertise or

requirement that's involved?

MR. TRUHARDT:

No.

CHAIRMAN MONTANO:

Am I getting this? I just want to make sure I understood you.

MR. TRUHARDT:

That is currently being performed under a home improvement license. We would like it to be performed under a swimming pool service person's license.

CHAIRMAN MONTANO:

Exactly. You want a particular license to work on pools and spas?

MR. TRUHARDT:

That is correct, for the safety and the benefit of the consumer being -- having the confidence that there is some standards involved in what's going on here. Because we're dealing with electric, we're dealing with chemistry, we feel that it's necessary to have some higher standards than what exists right now.

CHAIRMAN MONTANO:

Right, and I understand that. I just want -- just for the record, what problem are you attempting to solve with this new license? Do you have statistics that indicate that there have been problems? Are we talking about cave in's, are we talking about someone getting electrocuted? What is the purpose of a sub-license in this particular area? I don't know if you want to answer that or you want to have one of your members answer that. What precedes this? You said it's done in Connecticut so --

MR. TRUHARDT:

Yes. I'd like Mr. Caniglia to answer that question if you would.

CHAIRMAN MONTANO:

I guess your trip from Jersey is now well worth it. Go ahead. You got to put your hand on the button and answer the question, and hold it down.

MR. CANIGLIA:

Okay.

CHAIRMAN MONTANO:

Yeah, it's our new technology here in Suffolk County.

MR. CANIGLIA:

Okay. Very briefly, some of the safety issues that we have faced in the industry, which actually precipitated the Virginia Graham Baker Act, which is the Federal Pool and Spa Safety Act two years ago, really involves the issue of entrapment. Entrapment: There's five different forms of entrapment. What we're concerned about in the industry is what has happened over the years, if you have a builder or service company who is not familiar with what is required to build a pool properly or service a pool properly, a lot of times these contractors are not familiar what the codes say, what the standards say.

There was a drowning just unfortunately a couple years ago right across the Sound in Connecticut which literally dealt with that very issue. There was a contractor who did not build a particular spa correctly according to code. And unfortunately entrapment occurred and the child drowned. This fortunately doesn't happen a lot, but it has happened several times over the past twenty years which really precipitated the federal act.

In addition to that, there are other issues when building and servicing a pool such as what Mike and Frank were talking about. You have electrical issues, you have water chemistry issues, you have potential bonding issues. There's a number of things that go into servicing and building a pool that a home improvement contractor under the current licensing in Suffolk County, and Nassau County as well, does not require any particular knowledge in order to build pools and service pools.

What we're talking about here is as the two gentlemen just said ahead of me, it's to assure that there's that minimum level of competence with the builders and the service companies that they can demonstrate to the County that they do understand what this is, they understand the codes, they understand the standards and they're able to build and maintain safe pools for everybody in the County. That's really where this is this coming from.

CHAIRMAN MONTANO:

Question. I've never had a pool in my backyard so it's never been an issue with me. If I wanted to put a pool in there and I had it installed, what jurisdiction is responsible for inspecting and certifying that the work was done properly right now? In other words, what I'm hearing is, I call a contractor and I tell him I want a pool, he gives me the design and I tell him install it. But I guess I have to go and get a C of O for that.

MR. CANIGLIA:

You need a building permit, yes.

CHAIRMAN MONTANO:

You need a building permit. And then after the pool is installed someone has to sign off on that; am I correct?

MR. CANIGLIA:

That's correct.

CHAIRMAN MONTANO:

Who is that? Is that the local jurisdiction? Is it the County? Is it the Consumer Affairs Department?

MR. CANIGLIA:

I believe it's the local building official, yes.

CHAIRMAN MONTANO:

So each town.

MR. CANIGLIA:

Yes.

CHAIRMAN MONTANO:

Now, does the standard vary from town to town as far as you know here in Suffolk County?

MR. CANIGLIA:

I'm going to let Mr. Kadzin answer that because he's a local builder, he can answer that better than I can.

CHAIRMAN MONTANO:

I mean is a pool different in Islip than it is in Brookhaven?

MR. KADZIN:

Well, it shouldn't be.

CHAIRMAN MONTANO:

It shouldn't be, but is it?

MR. KADZIN:

It shouldn't be, but it could be. Because each of the local municipalities are interpreting and enforcing the state code as they see fit in their eminent domain. There are differences. I work out on the east end. There are differences in the three towns, four towns that I work in in exactly what you need to do. I would like to -- before you ask me another question, I'd like to go back --

CHAIRMAN MONTANO:

Go ahead.

MR. KADZIN:

When you're asking about the trades and what are we asking to do. We're asking for two licenses. When we're building a pool, the licensed plumber as required is there, the licensed electrician is there. They are doing a one hundred percent complete job. The licensed electrician must go get an underwriter's certificate, a UL, to prove that all his work is good. You're asking how we get -- the owner gets the certificate of occupancy. It's a pool placed in the correct place meaning the state and town or village codes, it's an underwriter's certificate saying the electrical meets the state code. And there has to be a legal fence in place, door alarms, locking devices, gates with locking devices and self-latching. All of this is carried in the state codes.

On the service side what we're asking for is you own a swimming pool and your pump breaks, we want to be allowed to replace the pump and connect the cord, the plug that you would connect to a lamp to go back into the receptacle which has been provided and installed by a licensed electrician previously. That's the cusp of the difference in the two different laws we're asking about.

CHAIRMAN MONTANO:

Okay. Have you been in contact or is has your Association been in contact with our Consumer Affairs on this issue? Or is this the first presentation that you're making to us here in Suffolk County?

MR. CANIGLIA:

This is the first presentation we're making to bring it to the attention of the -- of the committee and hopefully to gain some support to move this forward.

CHAIRMAN MONTANO:

Okay. Well, I just point out our Commissioner of Consumer Affairs, Denis McElligott, is here. And what I would suggest is that you contact him. And I'm sure Denis is amenable, and set up a meeting and, you know, we can discuss where this would go in the future, you know. There are other issues that we're dealing with. But I think that's a good starting point. Are there any questions? Legislator Tom Muratore. Go ahead.

LEG. MURATORE:

Thank you, Mr. Chairman, although I'm not on the committee, Mr. Kadzin, how are you? I had a maintenance and repair business here in Suffolk County for over 20 years. And we definitely need this kind of legislation. We definitely need something to control what's going on, particularly with service people. I know when we did a Kadzin pool out there, we had no problems. But other pool companies came along, they tried to do some maintenance on them, it was terrible. The plumbing was terrible, the electrical was terrible. My concern is I support the resolution. I hope it passes. My concern is how are we going to enforce it? You can have a whole bunch of rules and a whole bunch of licenses, but do we have the people in place to go out particularly, you know, in May when pools are opening up and July when they're being maintained, are they going to be able enforce the licenses? Because that's the most important thing.

MR. CANIGLIA:

Can I answer that?

CHAIRMAN MONTANO:

Yes, you may; go ahead.

MR. CANIGLIA:

Okay. With the builder's license, in order to pull a permit, that pool builder is going to have to be licensed. And with any other license such as an electrician's license or a plumber's license, it gives the County and the consumer some peace of mind knowing that the people who's applying for that permit has been vetted out, has been licensed properly and theoretically does have that minimal level of expertise.

In the service area it's really going to work the same way. Instead of that service company, as you just said, just applying on the biannual basis for the home improvement contractor's license, instead they would be applying for the service company license. They'd have to prove they have that minimal level of expertise and knowledge before they can get that license. So, you're right, enforcement is always an issue but we believe this gets us to that next step to at least -- to have the consumer and the County know there is some level of assurance that the people that are out, as you just said that are doing this work, know what they're doing when they're doing it.

LEG. MURATORE:

Exactly. We need to really stress the importance. If the resolution passes, that would be great. But again the enforcement -- because there are so many shoemakers out there today. I mean -- I'm going back -- now I been out of the business probably five or six years, but when I was in it, there was nothing but shoemakers out there. And to try and get, you know, approved the right way, a lot of dangers involved sometimes with the chemistry. And unless the people are trained and licensed, I really think this is something we should look forward to. Although I'm not on this committee, when it does -- if it does come to the full leg, you have my support that I will vote for this.

MR. CANIGLIA:

Thank you very much.

CHAIRMAN MONTANO:

There is no bill out there at the moment. This is an initial presentation. What I'd like to ask, though, if you can send to me and I will distribute it to the committee members, any reports or studies that you may have which would indicate what the safety issues are, the potential dangers and any instances where this has become an issue either lawsuits, like you said, maybe a cave-in, maybe reactions or, you know, things of that nature, you know. You know where I'm coming from on that.

MR. CANIGLIA:

Absolutely. I'd be happy to do that.

CHAIRMAN MONTANO:

And are there any other questions from any members of the Committee? Is there anything you or your association would like to add to this?

MR. CANIGLIA:

The only thing I wanted to mention was as Mike Truhardt was explaining about the training part, I have several things with me, which I don't need to show to you, but we have developed an educational program which really has been recognized by the states that already do have licensing as -- it's really a turnkey operation where the county wouldn't have to go out and figure out all new education requirements and all that. It is a very robust educational, credentialing program which could be used very easily by all the counties, whoever would be adopting this.

CHAIRMAN MONTANO:

And the places where it has been adopted, you mentioned Connecticut and Florida. These are

statewide regulations. They're not -- they don't differ from county to county or from town to town? It's a statewide licensing requirement; is that what I'm understanding?

MR. CANIGLIA:

The way it works is the state has the basic license but the counties and the local municipalities can add additional requirements if they wanted to. I'm not aware of any that have done so but they actually could do that under the home rule requirements. But in Connecticut at least it is -- right now it's strictly statewide. It's through the Department of Consumer Protection actually enforces and oversees that whole program.

CHAIRMAN MONTANO:

Okay. The question that we have is similar to the question -- the question I have is similar to what we discussed with licensed plumbers and electricians. Let's assume that something like this were implemented and the counties and the towns would have the ability to add on, could we run into the problem -- again, how do we prevent the issue of having now another 64 licenses for a small business who may not even install 64 pools in one year? Does that -- that's the concern that we have. You know, I don't think anyone would argue with that whoever does any work anywhere should know what they're doing. The problem is these overlapping jurisdictions and the licensing requirements that makes it somewhat burdensome -- not somewhat -- makes it burdensome on businesses to actually do business in a given area. Because if you're paying -- as we said earlier, if you want to do business throughout Suffolk County, I think if you're a plumber you need 64 different licensing jurisdictions, you may have 64 dates that your license expires, you've got to keep up with the paper work. We're trying to eliminate the duplication. How do you respond to that in terms of what you're proposing?

MR. CANIGLIA:

We definitely don't want to see an overlap. Clearly we're all on the same page as far as that goes. The bottom line is the way I -- the way I understand this, and I could ask the pool builders to -- and service companies to correct if I'm wrong, but typically if you are a small service company, you're doing business in a select number of towns, you're not necessarily doing service in all 64 towns in Suffolk County. Am I correct on that?

CHAIRMAN MONTANO:

We only have ten towns.

MR. CANIGLIA:

Ten.

CHAIRMAN MONTANO:

But we have villages and other subdivisions that, you know, political subdivisions, that's where you get the 64.

MR. CANIGLIA:

Right. I don't know if the County would have the authority to do this, but it would seem to me that any legislation that could be enacted that there would be a requirement that the County supersedes the regulation over the towns and there would be just the one county license; because, no, we are not looking to bring this license for every town and village to have additional requirements. We know how burdensome that would be.

CHAIRMAN MONTANO:

Okay.

MR. CANIGLIA:

It would be a nightmare on us as well. We wouldn't want that.

CHAIRMAN MONTANO:

Right.

MR. CANIGLIA:

So I would think as we --

CHAIRMAN MONTANO:

Be careful what you ask for; you may get it.

LAUGHTER

MR. CANIGLIA:

As we walk through that, we'd like to come up with a plan so that would not happen.

CHAIRMAN MONTANO:

We're going to be looking into that issue. I just had a conversation with Counsel about looking into the situation in Westchester and how that was done. And, as I said, I think the next step would be to meet with our Commissioner of Consumer Affairs and discuss these issues. And then, you know, if it translates into legislation, then we can come back and discuss the merits of the legislation and how we can, you know, regulate this along the lines of the conversation that we had earlier on the other two licenses.

I want to thank you very much for coming, especially from Jersey. And it was very interesting.

Is there anything that anyone would like to add? Okay, I see a hand. Just put your name and association on the record. And then after that, if there's anyone from the public or in the audience that would like to address the Committee, then just step forward and likewise; if not, we'll get right into the resolution. Go ahead.

MR. GIPSON:

Good afternoon, Mr. Chairman. My name is Arthur Gipson. I'm a business rep for the Plumber's Union here on Long Island Local 200.

I agree with a lot of what these gentlemen are saying about their industry, especially on the safety ends. I would absolutely not ever like to see any of the plumbing licenses be changed. But one avenue that we're trying to go forward with that would also be of great interest with them is the State of Connecticut, which has many different towns and villages and incorporated villages and whatever have you, along with Putnam County and Westchester County who have all similar multiple towns and villages, they require what's called a journeymen license to be issued by Suffolk County to cover all of Suffolk County. We are looking for it for plumbers, for electricians, for the mechanical trades that are out there.

The pool industry from what I -- I'm an organizer. So I have tried to organize many of the pool companies that are out here on Long Island. We've been successful with some. The problem is that their work stops at one point and they lose a lot of their employees. So you have a whole new fresh batch of kids coming of high school, between college, the training is not there; which would be important for their trade and also protect the health of the nation.

So in the future what we can try to get for Suffolk County, like I says, I can give you copies of the law for Putnam, for Westchester and the State of Connecticut, that requires each individual to pass a competency test. And he is given a -- what we call a journeymen's license. Now if he's a helper, they have an apprenticeship or an apprentice category where he works side by side with someone who is a card-carrying journeymen license. Okay, do you understand where I'm going with this?

CHAIRMAN MONTANO:

Yes.

MR. GIPSON:

It gets rid a lot of the problems. You don't have somebody flipping burgers on Monday and then installing a pool or, you know, a boiler in someone's house on Tuesday. So journeymen licensing. And I will get you the law from Putnam, Westchester and Connecticut.

CHAIRMAN MONTANO:

Is it my impression that what you're saying is that the laws in Putnam and Westchester may be a little bit advanced in terms of the way we operate here in terms of consolidating all of this?

MR. GIPSON:

I think what they were trying to accomplish was to have a competent team of, you know, people that meet a concern criteria.

CHAIRMAN MONTANO:

Minimum criteria.

MR. GIPSON:

And it also keeps out people from -- I mean we have a situation here today on Long Island everywhere on Long Island where we have people from all over the country because times are bad everywhere. They're here in our area and they're working. Without that, it also keeps the out-of-towners out of your town. So it's an advantage to Long Islanders. And you know, what? We're the ones that live here and we're the ones that, you know, support this county. So it's a two-sided coin that's good on both sides.

CHAIRMAN MONTANO:

Okay. I want to thank all of you. Is there anyone that wants to come forward and address the Committee? If not, I'm going to move into the resolution that was tabled, public hearing was closed on 3-2-10.

TABLED RESOLUTION

Resolution No. -2010, Adopting Local Law No. -2010, A Local Law To Recodify, Strengthen And Clarify The Provisions For Licensed Occupations, introduced by the Presiding Officer on the request of the County Executive.

Denis, Commissioner, I'm going to ask you to just come forward and give us another brief synopsis of what it is that this law is going to do and the changes from existing law. And you can do this quickly.

COMMISSIONER McELLI GOTT:

Great. I think the changes can be summarized. I think I can say there are four important changes here. The resolution looks a little long, a little wordy. And that's only because of the way the Suffolk County code is currently set up.

CHAIRMAN MONTANO:

Okay.

COMMISSIONER McELLI GOTT:

But let me give you a brief description of each of the four changes.

First, and most importantly, section 345-9 (b) has been amended to 345-9 (c). This will clarify the Department of Consumer Affairs' jurisdiction with regard to enforcing the provision that home improvement contractors must be licensed and gives us clear and unambiguous jurisdiction when we're faced with a situation where a home improvement contractor is working without a license. The current statute 345-9 (b) is ambiguous, it's unclear, it's unworkable and it needs to be fixed. I have

investigators waiting for this body to fix this statute so we can enforce the law with regard to unlicensed contractors. Right now it is a crime but it is a crime which the District Attorney's Office has placed a very low priority on. And I don't blame him, but we're ready, willing and able to enforce this. And the change to -- or the amendment of 345-9 (c) does that and I urge you to adopt that.

Secondly, the --

CHAIRMAN MONTANO:

Specifically, though, what is the amendment? It changes it to what? To increase the penalty?

COMMISSIONER McELLI GOTT:

No. The section 345-9 (b) provides for the due process and enforcement provision that Consumer Affairs has. But it talks about exercising those rights, those notice provisions and the notices of violation relative to licensees. It's, therefore -- someone who's not licensed is not subject to our jurisdiction at the present time. The change, the amendment in 345-9 (c) changes the word "licensee" to "person", thereby clarifying the Consumer Affairs Department's jurisdiction as to any person who is working without a license.

CHAIRMAN MONTANO:

This is for the home improvement license?

COMMISSIONER McELLI GOTT:

Correct.

The second change: The second change is in 345-4, 345-73 and 345-88. They're all the same -- they're all the same change, but they're just in different places for different professions. What it does is it eliminates an exemption to the licensing requirement. Presently the Suffolk County Code does not require a license for someone doing what would be licensed work. But if they're doing that work on behalf of a municipality, even if they're not employed by the municipality, they do not need a license.

We ran into this last summer with a large painting job, a large commercial painting job out in Southampton. I received many complaints from the industry here on Long Island. And the painting job -- about a \$900,000 job, my understanding was, was being done by unlicensed, commercial painters because the individual or the entity that did the hiring was the Suffolk County Water Authority. We had individuals from West Virginia and Pennsylvania out in Southampton without my license doing a commercial painting job because they were exempt from the licensing requirement. The amendment to 345-4, 345-73 and 345-88 eliminates that exception.

The third is the addition of 345-9 (a) subdivision 7 and 8. And it requires good character and fitness throughout the tendency of -- or the tenure of a particular license. As of right now there's a provision in Suffolk County Code allowing me to withhold a license when somebody shows up in my office and has a problem paying child support, is in arrears with child support. The problem with that is that I only get to look at whether somebody is in arrears for child support and leverage the license towards having the child support paid at the time of the application and at the time of the renewal. This addition will add the necessity for good character and fitness throughout the tenure of the entire license, thereby giving the Department an additional weapon or an additional avenue to require -- to both revoke licenses, to fine people and also to make sure that child support is being paid.

The last amendment is a little bit simpler, it simply codifies the fact that general business law section 771 needs to be complied with. And a violation of General Business Law 771 would be considered a prohibited act under Suffolk County Code for home improvement contractors. General Business Law 771 simply has all of the state provisions and state requirements for a particular home improvement

contractor, such as the three-day right to cancel, the notice about Mechanic's Liens, the requirement of the signature, requirement of a licensed number and a few other requirements. But that general business law 771 is really the most minor of the amendments here.

CHAIRMAN MONTANO:

Okay, thank you. Are there any question from anyone on the Committee?

LEG. BARRAGA:

Denis, I just had one question. With reference to -- your current powers with reference to people who are behind in their support payments, you have the power to revoke the license or not give the license if they're behind in their payments?

COMMISSIONER McELLI GOTT:

Yeah, there's a particular provision in the Suffolk County Code relative to the qualifications of someone either applying for a license or applying for the renewal of a license. And the provision requires that they be either up to date with child support or have some sort of written agreement to bring themselves up to date or to comply.

LEG. BARRAGA:

I guess the concern I have is that if you don't issue a license, say I'm behind on my payments, how do I actually get the revenue to get current on my payments?

COMMISSIONER McELLI GOTT:

Good question. It doesn't require you to be -- doesn't require you to be current. It requires you to have an agreement by which you can be current. Meaning you can go to Child Support Enforcement and work out an arrangement. And if you come to me with an application or with a renewal and a written agreement, you will get a license.

LEG. BARRAGA:

Say I don't have a written agreement but I need the license. How long does it take me to get a written agreement?

COMMISSIONER McELLI GOTT:

I don't know. You'd have to talk to the folks in Child --

LEG. BARRAGA:

Well, it could take weeks, months. I mean I need the license because I want to perform a job function.

COMMISSIONER McELLI GOTT:

I don't know. I'm simply enforcing the code as this body has passed it.

CHAIRMAN MONTANO:

Legislator Schneiderman.

LEG. SCHNEIDERMAN:

This is a clarification. There already is a provision relating to child support in your current -- the current law?

COMMISSIONER McELLI GOTT:

Yes, there is. But it only allows an evaluation of the applicant's record with regard to child support at the time of the application and at the time of the renewal.

LEG. SCHNEIDERMAN:

So you could actually pull it -- pull the license after it's been awarded? After it's been given to the

contractor?

COMMISSIONER McELLI GOTT:

Yes.

LEG. SCHNEIDERMAN:

And this is something you're asking for?

COMMISSIONER McELLI GOTT:

Yes.

LEG. SCHNEIDERMAN:

Has this been a problem in the past?

COMMISSIONER McELLI GOTT:

No. What a mean is we are faced with the situation upon application and upon renewal, and in most cases since the license is important, efforts are made to either come current with child support or to reach an agreement by which someone agrees to come current with child support.

CHAIRMAN MONTANO:

Denis, you said earlier that the Department's, I think your phrase was ready, willing and able to enforce this. Have you made any commitment to additional staffing or are you going to enforce this with the limited staffing that you have now?

COMMISSIONER McELLI GOTT:

We'll be able to enforce it with the staffing we have now. With the staffing we have now, this type of enforcement actions were conducted up to about two-and-a-half years ago. So we're able to do it with the staff we have now.

CHAIRMAN MONTANO:

And these are going to be administrative processes in your office? Is that how it's going to be working?

COMMISSIONER McELLI GOTT:

If it goes to a hearing, it would be an administrative hearing within my office. Also this Committee should understand that one of our goals in having this amendment is not just to punish or penalize the unlicensed contractor. It's also one of the goals is to bring them into the system, get them licensed, be sure they understand the law and, therefore, they have our license and they're part of our community.

CHAIRMAN MONTANO:

Now we talked earlier about the electrician's license and the plumber's license and the multitude of jurisdictions. Does that also apply to the home improvement license?

COMMISSIONER McELLI GOTT:

It applies to the home improvement license only --

CHAIRMAN MONTANO:

I mean is it the same problem that you would have 64 jurisdictions for home improvement licenses?

COMMISSIONER McELLI GOTT:

It's not as pervasive as with plumbers and electricians.

CHAIRMAN MONTANO:

What that does that mean, not as pervasive?

COMMISSIONER McELLI GOTT:

There aren't as many. When it comes to plumbers and electricians there's much more -- when you say 64, you're talking about both Nassau and Suffolk County.

CHAIRMAN MONTANO:

Yes.

COMMISSIONER McELLI GOTT:

Okay.

CHAIRMAN MONTANO:

You're talking about 64 different jurisdictions that license the two professions.

COMMISSIONER McELLI GOTT:

In Nassau and Suffolk County.

CHAIRMAN MONTANO:

Now with the Home Improvement, how many jurisdictions are there that license?

COMMISSIONER McELLI GOTT:

Right now we're talking about the County of Suffolk and the Village of Lindenhurst has their own license for landscapers. And as far as I can recall, that's it with for the home improvement. There are some jurisdictions such as -- out in the Hamptons -- no, I'm sorry. The Village of Southampton requires our license, the Town of Southampton requires both our license and their registration.

CHAIRMAN MONTANO:

Okay.

COMMISSIONER McELLI GOTT:

And I think -- and Shelter Island also has their own.

CHAIRMAN MONTANO:

All right. So what you're saying is that we don't have multiple licenses for home improvement contractors within the municipalities and the towns?

COMMISSIONER McELLI GOTT:

We do. Just the ones I just mentioned.

CHAIRMAN MONTANO:

Other than those that you mentioned?

COMMISSIONER McELLI GOTT:

That's my best recollection right now, yes. It's not nearly as much as a problem for home improvement contractors as it is for electricians and plumbers.

CHAIRMAN MONTANO:

Okay. All right. Is there any further discussion on this? Is there a motion?

LEG. BARRAGA:

Motion.

CHAIRMAN MONTANO:

I'll second that. Any discussion? All in favor? Opposed? Abstention? Motion carries. **(VOTE: 5-0)**

There being no other business of the Committee, I'm going to adjourn the meeting.

Thank you very much for coming and I appreciate it. Good day.

**THE MEETING CONCLUDED AT 2:09 PM
{ } DENOTES SPELLED PHONETICALLY**