

**HEALTH COMMITTEE
OF THE
SUFFOLK COUNTY LEGISLATURE**

A meeting of the Health 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 November 12, 2015 at 2:00 p.m.

Members Present:

Legislator William Spencer - Chairman
Legislator Kate Browning - Vice Chair
Legislator Robert Calarco
Legislator Monica Martinez
Legislator Leslie Kennedy
Legislator Robert Trotta

Also in Attendance:

George Nolan - Counsel to the Legislature
Jason Richberg - Clerk/Suffolk County Legislature
Craig Freas - Budget Review Office
Elizabeth Alexander - Aide to Legislator Spencer
Bill Shilling - Aide to Legislator Calarco
Greg Moran - Aide to Legislator Trotta
Katie Horst - County Executive Assistant
Lisa Santeramo - County Executive's Office
Ken Rallis
Evelyn Bermudez
All Other Interested Parties

Taken By:

Lucia Braaten, Court Stenographer

(*The meeting was called to order at 2:43 p.m. *)

CHAIRMAN SPENCER:

Good afternoon. It's now 2:40. We're now going to begin the Health Committee. Would all Legislators on the Committee please return to the horseshoe. It looks like we'll have a quorum. We'll have the Pledge, to be led by Legislator Kennedy.

(*Salutation*)

Thank you. And as our tradition, please remain standing for a moment of silence for those men and women who are serving this country both at home and abroad.

(*Moment of Silence*)

Thank you. So welcome to the Health Committee meeting. And, at this point, we will open for our public comment. I have one card from Ken Rallis regarding smoking. Ken, please come up to the podium, and thank you for being here. And you have time to share with any --

MR. RALLIS:

Thank you for letting me speak.

CHAIRMAN SPENCER:

Thank you.

MR. RALLIS:

I'm speaking on behalf of 1713, Local Law to regulate smoking at multiple dwelling buildings.

My name is Ken Rallis and I am a retired New York City firefighter. I chose to be a firefighter because I wanted the opportunity to save lives. You see, as a firefighter, your number one job is saving life and property. As a firefighter, I had the honor of partaking in two pre-hospital saves, and responded to hundreds of fires, medical calls and thousands of other emergencies.

On the morning of 9/11, as millions of people evacuated the toxic dust of the collapse of the World Trade Center, I was in my car driving to the biggest attack on U.S. soil, where almost 3,000 perished that day. Today there are increased cancer rates among the thousands of firefighters and rescue workers that responded, and every few months I find myself attending a funeral of a fallen comrade.

Being a firefighter was a job I loved. If you ever commuted on a train, bus, or glanced over at a car on your commute to work and saw someone with a smile on their face, it probably was a firefighter, as we would say, the greatest job in the world. On my way in to the attacks on that morning, I called everyone I knew and said my good-byes, thinking I might not return to ever see my wife, friends and family again. You see, as a firefighter, you don't stop because of race, creed or religion. There is no discrimination. Every life is a life worth living, a life worth saving. Today I am here to ask you to save my life and my property and pass the laws that discriminate against me. Due to many days and months living at the site of the World Trade Center, I have come down with asthma, I've come down with RADS, sinusitis, GERS, and severe PTSD.

RADS, if you're unaware, is a term to describe an asthma condition where a single exposure to a vapor, smoke or fumes can trigger an attack that can range from mild to fatal. I participated in a lung study two years ago and the test showed that my hyperactivity to irritants has increased twelve years after 9/11. I lost friends that were closer to me than my own brother, tens guys from my

firehouse, eight of which I worked for years and considered them brothers, and losing many more friends that I had the honor of working with over the years as a firefighter.

Also, having lost my career as a firefighter, I also lost a chance at being promoted to a Fire Marshal. I also lost a chance at renewing my United States Coast Guard Captain's license due to the medications and the illness that I had from 9/11.

[REDACTED]

Today -- excuse me. After 9/11, I met a woman, [REDACTED], and after spending six-and-a-half years with her and her child, a beautiful young girl named [REDACTED], [REDACTED] lost her battle to cancer at the age of [REDACTED]. Over those years, every time her residences came up, which she lived in [REDACTED] everybody always said maybe she was exposed to the pesticides from the potato fields. So could that have been the cause of her cancer?

Today I don't have much left after losing my family, my career and my health due to uncontrollable exposures. The only thing I have left today is a beautiful apartment, which I decorated to make it my home. You see, I live in a beautiful public housing complex on a canal, with a marina and a pool. There's a beautiful lake with a soothing waterfall. Two months ago, I had a couple move in downstairs below me. The gentleman started by smoking outside, leaving cigarette butts on the ground, and a clear water bottle with the butts of the cigarettes being only ten feet from my door. It was --

CHAIRMAN SPENCER:

Excuse me one moment, Ken. I'm going let you continue.

MR. RALLIS:

Go ahead.

CHAIRMAN SPENCER:

We have three minutes for the presentations. You're the only speaker. It sounds like you're in the middle, but --

MR. RALLIS:

I'll be done in one minute.

CHAIRMAN SPENCER:

-- what happens is if I break the precedent -- so what I'll do is just ask you if you could kind of tell me how smoking had an impact on your situation, and that gives you the liberty to continue.

MR. RALLIS:

Okay.

CHAIRMAN SPENCER:

I'm sorry to interrupt your flow.

MR. RALLIS:

All right. I was forced to see it every time I came and went. The smoke would blow in my windows, forcing me to close -- close them on beautiful Fall days. Soon after, he started smoking inside the apartment, having every window closed and the air conditioner running, which pressurized

his apartment, forcing the toxic air into my upstairs apartment. I don't have much left of 9/11 but my safe haven, my sanctuary, my home. I am being forced to move. I have zero rights and am being constantly exposed to secondhand smoke, deteriorating my health further. All my clothes, furniture and belongings smell like cigarette smoke. I currently use two inhalers a day, carry a rescue inhaler, and have a nebulizer to treat any attacks, or just help me breathe better when exposed to irritants.

Two weeks ago, I was rediagnosed with sinusitis from the smoke in my apartment, and was given an antibiotic, a nasal inhaler and a decongestant, to add to the other medications I take. You see, my health also is at risk, too, from the medications that I take.

It is a known fact that secondhand smoke is toxic, so here I am without a single right and being forced to move from my home. So here I stand before you, a hero to a zero. There are laws to stop people from smoking in public, in restaurants, in work environments, and today cannot smoke outside public buildings, but there are no laws to protect me in my own home. Again, I ask, please save my life and my property. Thank you.

CHAIRMAN SPENCER:

Thank you. Can you stay at the podium for a moment? Just wanted to just address a couple of issues with you. I actually, in my medical practice, treat a lot of patients who were in 9/11, and who have ongoing respiratory issues, and COPD and cancer as a result of that. And we've kind of identified something we call 9/11 Syndrome. Have you heard of that?

MR. RALLIS:

Absolutely.

CHAIRMAN SPENCER:

And, you know, I think that one of the things that was discovered was that our immune systems, when we breathe in irritants, we've got a protective mechanism in our nasal lining, in our pharynx that we're able to produce mucous and the cilia is able to move that mucous along, which serves as a cleaning system. But patients that were exposed to these chemicals and pulverized concrete, that their nasal and pharyngeal mucosis kind of scarred, the cilia doesn't work, so they're unable to clear those secretions. So this seems to be, in terms of -- you mentioned that you're suffering chronically with this. What are some of the symptoms that you experienced, sinus infections? Are you having constant secretions that you can't clear, headaches? What are you experiencing?

MR. RALLIS:

I battle with bronchitis. I battle with a cough that never goes away, nasal congestion. The cough seems to be the worst. I have diminished lung capacity.

CHAIRMAN SPENCER:

So when someone smokes around you, how -- tell me what is it that -- how quickly does it occur? Is it an immediate response? Do you have -- struggle with air?

MR. RALLIS:

I start with the immediate response of coughing, and as the days go on, I gradually wind up with a post nasal drip, I wind up with bronchitis, and I'm back into the doctor's office, back on medications, given antibiotics. I'm at the point where seven days of antibiotics don't work for me anymore, I'm up to 14. And sometimes they renew it and I could take antibiotics for 28 days straight.

CHAIRMAN SPENCER:

And in the course of a typical year, Mr. Rallis, how often would you say that you are suffering from this, once a month, once every two weeks, once every three months?

MR. RALLIS:

The first five years after 9/11, I suffered probably six months out of the year with bronchitis. Today, with my nebulizer and my nasal wash that I use when I feel my symptoms coming on, I'm probably down to about two times a year. But I need to be diligent about it and use my nebulizer constantly and use my nasal wash twice a day.

CHAIRMAN SPENCER:

And when you were just with these health challenges and in your home were exposed to cigarette smoke, what did you try to alleviate the situation, as far as with regards communicating with the person, the superintendent?

MR. RALLIS:

I spoke to the building, the building told me I have zero rights. They can't say anything to the landlord. I purchased an ion filtration system that's doing absolutely nothing. I just purchased a HEPA filter, which has a charcoal filter, and a HEPA filter to take out the fine particles; that is not working. I also just purchased an ozone generator. An ozone generator creates O₃, which is very toxic, and I have a picture that shows you on the -- on the actual machine itself not to be used in occupied spaces, it can only be used in unoccupied spaces. So I bought the machine to keep my furniture from smelling. If I have to move, I don't want to move with furniture that smells. So what I do is I go home, I turn on the machine for two hours, I need to leave for two hours, I need to run home, run up to my apartment, hold my breath, open the windows, run out of the apartment, get in my car and went -- go sit for two hours before I could go back to my home. The next day the smell is back.

CHAIRMAN SPENCER:

And did you try, as far as -- I don't know if you shared that completely and your story. When you tried appealing to your neighbor, was it a hostile situation?

MR. RALLIS:

I haven't approached the neighbor, no, I haven't.

CHAIRMAN SPENCER:

Okay. I mean, well, you shouldn't have to, but I was just wondering if there was any sort of rejection of that, just for interest, and that doesn't minimize your story. I

MR. RALLIS:

You know, I had a long conversation with the head maintenance guy where I live and I asked him his advice, and he said, "He's a young kid, I would not approach him." He said the -- "This new generation coming up scares me." And he said, "What scares me even more is the next generation after that." He says, "I could only see this going bad for you. Do not approach the gentleman."

CHAIRMAN SPENCER:

Well, I respect your decision to do that. I mean, I think that doesn't minimize anything what we're talking about here. But I'd like to think if you were dealing with my son in that situation, that there are a few good young kids out there, and that's beside the point. But, in any case, I definitely empathize with what you're sharing with us, and I think that some of the legislation that we're considering today, I understand what you're testifying to.

So are there any other questions? Thank you very much, Mr. Rallis, appreciate your time.

MR. RALLIS:

Again, I dedicated my life to saving people's life and property, and, please, save my life and

property, that's all I ask.

CHAIRMAN SPENCER:

Thank you for your service, it is greatly appreciated. You are truly an American hero, and dealt with one of the darkest periods in our history, and you were there and we really appreciate that. Thank you.

MR. RALLIS:

Thank you.

CHAIRMAN SPENCER:

Is there anyone else that wishes to be heard today? That's the only card that I have. Is there anyone else that wishes to be heard? Seeing none, we're going to close the public comment.

Today, we have a presentation by Peggy Berdot, who wanted to discuss K2 "synthetic marijuana." We reached out to her just because of having a public safety hearing earlier and we rescheduled her for another time, so there is -- there is not a presentation.

I understand that there is another person that wishes to be heard that's on their way and -- but we're going to move on to the agenda. And if that person arrives, then we will -- we will reopen the public comment to allow them a chance to be heard. And I think since they are potentially speaking on 1713, then I'm going pass over that resolution until the end, just in case that speaker arrives. So we're going to move on to the agenda.

TABLED RESOLUTIONS

First is ***I.R. 1564 - A Local Law to establish a Drug Stewardship Program for Suffolk County (Hahn)***. We're going to need to table that for public hearing. I'll make that motion, seconded by Legislator Calarco. All those in favor? Opposed? Abstentions? Motion is tabled for public hearing. ***(Vote: Tabled for Public Hearing 6-0-0-0)***

I.R. 1605 - A Local Law to increase awareness of dry cleaning chemical use (Hahn). That also needs to be tabled for a public hearing. And that's seconded by Legislator Trotta. All those in favor? Opposed? Abstention? It is tabled for public hearing. ***(Vote: Tabled for Public Hearing 6-0-0-0)***

We're going to skip over 1713 for the moment.

INTRODUCTORY RESOLUTIONS

I.R. 1770, Introductory Resolution, Accepting 100% State grant funds from the New York State Department of Health pass-through the Foundation for Aids Research (amfAR) to Suffolk County Department of Health Services for the Regional Opioid Overdose Reversal Efforts (Co. Exec.). Motion to approve by Legislator Martinez and seconded by Legislator Trotta. Move to place that on the Consent Calendar. All those in favor? Opposed? Abstentions? Motion is carried. ***(Vote: Approved 6-0-0-0)***

I.R. 1783 - Accepting and appropriating 100% federal grant funds pass-through the United Way of Long Island to the Suffolk County Department of Health Services for the Ryan White Part A Medical Case Management (Co. Exec.). Same motion -- well, actually, is this withdrawn? Is this withdrawn?

MS. ALEXANDER:

Yes.

CHAIRMAN SPENCER:

This was withdrawn, so all right.

I.R. 1786 - Requesting legislative approval of a contract award for Hospital Diversion/Crisis Respite Services for the Department of Health Services, Division of Community Mental Hygiene Services (Co. Exec.). Motion to approve by Legislator Trotta, seconded by Legislator Kennedy. All those in favor? Opposed? Abstentions? **(Vote: Approved 6-0-0-0)**

I.R. 1840 - Accepting 100% Federal funds from the United States Department of Health and Human Services to Suffolk County Department of Health Services for a Mammography Inspection Program (Co. Exec.). Motion by Legislator Browning, seconded by Legislator Martinez. All those in favor? Opposed? Abstentions? Motion is carried. **(Vote: Approved 6-0-0-0)**

I.R. 1841 - Amending the 2015 Adopted Operating Budget to accept and appropriate 100% additional State Aid from the New York State Office of Mental Health to the Association for Mental Health and Wellness for the purpose of developing a Peer Operated Recovery Center (Co. Exec.). this is also 100% supported, so we'll place this on the Consent Calendar with 1840. Same motion, same second, same vote. **(Vote: Approved 6-0-0-0)**

I.R. 1842 - Amending the 2015 Adopted Operating Budget to accept and appropriate 100% additional State Aid from the New York State Office of Mental Health to Family Residences and Essential Enterprises for the purpose of developing a Hospital Diversion/Crisis Respite Program (Co. Exec.). Same motion, same second, same vote, to place on the Consent Calendar. **(Vote: Approved 6-0-0-0)**

It's 3 o'clock. We're going to just -- all right. We've gotten indication from the sponsor that we're going to move on to **1713**.

That is a Local Law to regulate smoking at multiple dwelling buildings (Martinez). What's your pleasure, Legislator Martinez?

LEG. MARTINEZ:

To approve.

P.O. GREGORY:

Motion to approve. Second, all right. So we'll second it by -- there's three seconds. We're going to put that to approve, seconded by Legislator Browning; cosponsors, Legislator Browning, Calarco and Spencer.

CHAIRMAN SPENCER:

You want some of this, Trotta?

(*Laughter*)

LEG. BROWNING:

You want to sponsor it?

LEG. MARTINEZ:

Put him on.

CHAIRMAN SPENCER:

Cosponsor, Kennedy.

CHAIRPERSON BROWNING:

He wants to be a cosponsor, we know he does.

CHAIRMAN SPENCER:

All right. On the motion. So this particular motion -- to the Counsel. This covers common areas? Now, currently, how is this different from what current law excludes with regards to smoking?

MR. NOLAN:

Well, we just don't at this point cover multiple dwelling buildings at all, the County law. So this is going to cover multiple dwelling buildings that have ten or more units for residences, and just the common areas of those buildings where smoking will be prohibited.

CHAIRMAN SPENCER:

And I support this 100%. How are we able to do this? Does this follow under our jurisdiction? Why are we able to do this for -- as opposed to -- is this strictly residential? Is it -- well, dwellings, so it's got to be residential.

MR. NOLAN:

It's under our police powers, which are in the Municipal Home Rule Law. It's the same power that underlies all our smoking regulations where we regulate private businesses. So it's just under our general police power where we protect the health, safety and welfare.

CHAIRMAN SPENCER:

And when -- what's the -- but this law doesn't cover private spaces? Does it cover -- like is there a difference between if someone is a renter or an owner? If you have a lease or contract, are you -- it's still -- it's in a private space and, unfortunately, you still can smoke in a multiple dwelling building?

MR. NOLAN:

It's in common areas. You now, if you are -- it covers whether it's leased, or you have a condominium and you have ownership. In the common areas of the building, you cannot smoke. You can still smoke within your private unit. The bill doesn't go that far, so it's limited to the common areas, and within a 50-foot radius of all entrances and exits of such buildings, and within a 50-foot radius of any ventilation intake that serves an enclosed area of the building. So those are the restrictions.

CHAIRMAN SPENCER:

Now, if someone owns a large building and we're saying it's for private spaces within their building, can they claim that, as the owner, that this is a private space, if this is challenged, again, "Well, I own this," it's a private building? Will there be -- is there any concern that that could be challenged?

MR. NOLAN:

I'm not concerned about that challenge. You know, anybody can challenge any law any time, but I think we're within our powers in doing this. You know, bars, restaurants, all types of public accommodations are covered. These are areas, just common areas where a lot of people can gather. And I believe other municipalities around the state and the country do this, so it's not unprecedented.

CHAIRMAN SPENCER:

Wow. I mean, this is amazing that this is happening now. I'm really -- once again, Legislator Martinez, this is -- it's brilliant. It's a great piece of legislation. I can see the testimony that's out there. I wholeheartedly support it. And I think this is going to help a lot of families, children with asthma, people who use inhalers. It's amazing that it was this easy for us to do and that you're able to pick that up, and just wonderful. Do you have --

LEG. MARTINEZ:

I appreciate that. And the individual who was supposed to speak before us, I think they were in the parking lot and I told them to turn around, but she lives in a multi-dwelling home. And people were smoking in common areas and it was seeping through her walls. And many of these individuals that I have met with, many of them also use oxygen, and, you know, in their apartment buildings, due to any health related issues, and their complications, you know, that have worsened due to the smoking with the ventilation.

So it really came about from different individuals just complaining about the secondhand smoking. And I'm not sure if you read today's New York Times, but the Federal Government is actually trying to pass something similar to this. So it's nice to see the County is a little, you know, ahead, but, you know, there's still more to work done, but I think this is a great start.

CHAIRMAN SPENCER:

Wonderful. One last question I had.

LEG. MARTINEZ:

She's here.

CHAIRMAN SPENCER:

Oh, fantastic, good. I was able to stall. I know the speaker is here, so we were able to.

George, does this apply to HUD properties? Because that would be Federal Government and they would be paying the vouchers for this. And I know, typically, when I was Chairman of the Housing Authority, town and county regulations did not apply to Federal Government HUD, although I'm sure any Housing Authority would be willing to follow it. But does this -- does this get included?

MR. NOLAN:

Well, you know, it doesn't address that issue particularly. That's an issue we'd have to look at, Doc, because, obviously -- I don't know the answer to that question, whether the HUD property would be able to get an out from our law.

MR. FREAS:

Dr. Spencer.

CHAIRMAN SPENCER:

Yes.

MR. FREAS:

The --

CHAIRMAN SPENCER:

Where is that voice coming from?

LEG. BROWNING:

It's God.

MR. FREAS:
Not really, no.

*(*Laughter*)*

I know that the Federal Government actually preceded Suffolk County in banning smoking in common areas adjacent to its administrative buildings. I also know under New York State Law, as I mentioned in the fiscal, that as a matter of policy, an owner of a building can ban smoking both inside the -- inside the residences and in common areas for a multiple-dwelling building, and so I think HUD may already have a policy. The news that broke today was regarding smoking in -- actually, I believe inside individual dwellings that will -- that the Federal government pays for, the regulation, the proposed regulation.

CHAIRMAN SPENCER:
Wonderful. Thank you. So we're going to take the vote. But Legislator Martinez did have a speaker that traveled a long way and she just wants to make a public comment and then we'll take the vote. So we'll have three minutes to do that, and then that will conclude our business. So, Legislator Martinez.

LEG. MARTINEZ:
Yes. Ms. Bermudez, if you could come forward, please.

MS. BERMUDEZ:
Mi nombre es Evelyn Bermudez. My name is Evelyn Bermudez.

LEG. MARTINEZ:
Thank you. Would you be able to say it all in English?

MS. BERMUDEZ:
Maybe.

LEG. MARTINEZ:
Okay. Counsel, am I able to assist my colleagues if she --

LEG. CALARCO:
Sure.

LEG. MARTINEZ:
Okay.

*(*Legislator Martinez spoke to Evelyn Bermudez in Spanish*)*

I just said, if she wants to say it in Spanish, she can and I'll translate.

CHAIRMAN SPENCER:
The Chair will permit it.

*(*The following was Translated by Legislator Martinez*)*

LEG. MARTINEZ:
Okay. So she's just saying that she's -- on behalf of myself, you know, she came to the office, and that she is thanking me for bringing this forward and for all of you to take it into consideration.

She says that this law is of benefit to senior citizens living in these complexes who suffer from health issues. And I've been personally affected by the smoking of my neighbors. I had never experienced any type of fatigue until I came to this dwelling, and the doctor who is -- under the supervision of her doctor claims that it was due to her living in this complex. And aside from either -- other members in the complex that are going through the same things that she is. There are some people who have cancer and are being affected due to people smoking in their apartments. Unfortunately, the management at this dwelling has not paid much attention to these concerns.

Thank you. She's saying that she's thanking me and God for allowing this to take place, and she is hoping to see that this comes to fruition.

She's like any questions? I want you to ask me questions. Everyone is fine. She's just asking for you to understand how someone who doesn't smoke has to deal with people who do smoke. And, I'm sorry, I'm about to say this in Spanish.

(*Legislator Martinez spoke to Evelyn Bermudez in Spanish*)

She would like to personally thank every single one of you to take into consideration every individual that lives in this dwelling. Thank you.

CHAIRMAN SPENCER:

Gracias. Thank you. Thank you.

MS. BERMUDEZ:

De nada.

LEG. TROTTA:

I have a question.

CHAIRMAN SPENCER:

Legislator Trotta has a question. Ms. Bermudez?

LEG. TROTTA:

No, not for her.

CHAIRMAN SPENCER:

Oh, not for her, okay.

LEG. TROTTA:

For the sponsor. This is ten units or more?

LEG. MARTINEZ:

Yes.

LEG. TROTTA:

So like if it's a -- is that like in the whole complex, or is it attached building, more than ten units?

LEG. MARTINEZ:

Just hold on one second.

MR. NOLAN:

Could be any property containing ten or more units, so it could be multiple buildings on the same

property.

LEG. TROTТА:

So if there's -- I just worry that, you know, if there's a six-unit here and six units there, that would be more than -- it's 12, right?

MR. NOLAN:

Right.

LEG. TROTТА:

It would be for each?

MR. NOLAN:

If would be -- if a property has --

LEG. TROTТА:

How did you -- why didn't you pick four?

MR. NOLAN:

I think we took it from State Law, the definition for a multiple-dwelling unit building. I think that's where it came from. We had to pick a number and that's like a fair number. A little arbitrary.

CHAIRMAN SPENCER:

Thank you, Ms. Bermudez, for taking the time to come out; also Mr. Rallis.

So we've get a motion and a second, and no further discussion. All those in favor? Opposed? Abstentions? Motion is carried. **(Vote: Approved 6-0-0-0)**

Congratulations. I have no further business before this committee today. We stand adjourned. Thank you.

(*The meeting was adjourned at 3:18 p.m. *)