

**LABOR, HOUSING & CONSUMER PROTECTION COMMITTEE**  
**OF THE**  
**SUFFOLK COUNTY LEGISLATURE**  
**MINUTES**

A regular meeting of the Labor, Housing & 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 December 15, 2011.

**MEMBERS PRESENT:**

Leg. Jon Cooper, Chairman  
Leg. Kate M. Browning, Vice Chair  
Leg. Thomas Cilmi  
Leg. Jack Eddington  
Leg. DuWayne Gregory

**ALSO IN ATTENDANCE:**

George Nolan, Counsel to the Legislature  
Sarah Simpson, Assistant Counsel  
Barbara LoMoriello, Deputy Clerk  
Paul Perillie, Aide to Majority Leader  
Charles Gardner, Director of Government Affairs  
Ben Zwirn, Town of Babylon  
Jack Caffey, Aide to Presiding Officer  
Seth Squicciarino, Aide to DPO Vilorio-Fisher  
Jason Richberg, Aide to Leg. Gregory  
And all other interested parties

**MINUTES TAKEN BY:**

Diana Flesher, Court Stenographer

**THE MEETING WAS CALLED TO ORDER AT 1:27 PM**

**CHAIRMAN COOPER:**

Good afternoon. I'd like to welcome everyone to the December 15th meeting of the Labor, Housing and Consumer Protection Committee. Legislator Gregory, if you could please lead us in the Pledge.

**SALUTATION**

Do you want to do another take?

**LEG. GREGORY:**

No, I was distracted by Kate.

**CHAIRMAN COOPER:**

So excited at the prospect of getting started with the Labor Committee. Okay, we have an extremely long agenda before us so we better get started. We have no speakers.

And first of all, if I forget to say it later, this as my -- just as Legislator Eddington's last meeting he's chairing, this is my last Committee meeting that I'm chairing and I'm going to miss all you guys.

**LEG. CILMI:**

You have done a fabulous job.

**APPLAUSE**

**CHAIRMAN COOPER:**

And this whole place. Thank you. Thank you. Okay.

**TABLED RESOLUTIONS**

Tabled resolutions. **IR 1720-2011 Adopting Local Law No. -2011, A Local Law to increase the number of residents eligible for first time homebuyer auctions in Suffolk County. (Browning)** Legislator Browning?

**LEG. BROWNING:**

Motion to table.

**CHAIRMAN COOPER:**

I'll second. All those in favor? Opposed? **IR 1720 is tabled. (VOTE: 5-0-0-0)**

**IR 1842-2011, Directing the Department of Consumer Affairs to cease implementation of a new fee structure for motor fuel facilities pending review of the proposed policies. (Kennedy)** I'll make a motion to table.

**LEG. GREGORY:**

Second.

**CHAIRMAN COOPER:**

All those in favor? Opposed? **IR 1842 is tabled. (VOTE: 5-0-0-0)** Wow, this may be a world record for the shortest Legislative meeting in Suffolk history.

**IR 2000-2011, Adopting Local Law No. -2011, A Local Law to establish a public registry of unscrupulous home improvement contractors in Suffolk County (Contractors Wall of**

**Shame). (Cooper).** I'll make a motion to approve.

**LEG. GREGORY:**  
Second.

**LEG. CILMI:**  
On the motion.

**CHAIRMAN COOPER:**  
Yes, you had to slow things -- you're just trying to ruin my record.

**LEG. CILMI:**  
Sorry, Jon, my apologies. I don't know, could the sponsor or someone else speak to whatever safeguards we have in place to ensure that -- that the contractors who find themselves on this Wall of Shame are, in fact, unscrupulous and have been judged as such by the law and whatnot?

**CHAIRMAN COOPER:**  
I'll defer to Counsel.

**MR. NOLAN:**  
Well, the people who would go on it would be people who had operated as a home improvement contractor and have been cited for operating without a license or had their contractor license revoked or been convicted of a fraud or theft crime against a home improvement customer. So those are fairly objective criteria in order to end up on the registry.

**LEG. CILMI:**  
Now, it sounds to me like the only one of those that I may have a bit of a concern with was the first one. Certainly I have no concern with somebody who's been convicted of fraud. What was the second one that you read again?

**MR. NOLAN:**  
A person would have had their license revoked. They would have had to been cited for operating without a license, had their license revoked or been evicted of a crime. That is the three criteria to register.

**LEG. CILMI:**  
Okay. And it's "or." It's not "and." Correct?

**MR. NOLAN:**  
Correct.

**LEG. CILMI:**  
So what if somebody is cited for operating without a license for, you know, a reason that is -- you know, that has an explanation and then the person subsequently got his license, is in good standing, is a perfectly, you know, qualified and responsible contractor at that point; what then?

**MR. NOLAN:**  
Well, I think they can be removed if they're back in good standing. Except if they are committed -- convicted of a crime -- one of the crimes, a fraud crime, they would remain on for five years according to the statute.

**LEG. CILMI:**  
What's the process by which they would be removed?

**MR. NOLAN:**

Well, the way they -- according to law, they actually have to register themselves, the people who are -- who have done the improper action. But I think the Department would have the authority to remove them. The Department is supposed to promulgate rules and regulations in order to carry out this law. So that might be something that would be addressed in the rules and regulations how to get somebody removed because the law doesn't really set that forth, I don't believe.

**LEG. CILMI:**

Okay. I'm just a little bit concerned. And I have -- I have an issue with all of these laws that we adopt that authorize departments outside the scope of this legislative body to create rules and regulations, you know, that may be well beyond what we envision when we pass these laws. So, you know, I mean I thoroughly support the idea of transparency for contractors who are deliberately breaking the law and are convicted of crimes, but I think we need to be very cautious about -- about this. And for that reason I'll make a motion to table.

**CHAIRMAN COOPER:**

Before we vote on either motion, Charlie, would you like to come up and address this?

**MR. GARDNER:**

Thank you, Mr. Chair. First of all, if the -- our Wall of Shame has been taken down off the County website that we always had up there. I don't know why that would have been. And it really shouldn't have been taken down in my mind.

Second of all, addressing who was on that, you know, the ten worst contractors -- and, by the way, I would just make a suggestion that -- this bill specifically cites home improvement contractors. You know, just for the information of the Committee, the worst contractor -- license contractor that we ever had was a home appliance repair contractor. In my mind if you're going to have unscrupulous contractors, you should not just specifically mention home improvement contractors. It should be all licensed contractors.

**CHAIRMAN COOPER:**

I agree. And one thing that I'm going to suggest to my successor in the Legislature, Dr. Spencer, is that he file an amending resolution broadening -- he got an e-mail from you but some --

**MR. GARDNER:**

Good. All of the -- it should encompass all of the license occupations.

**CHAIRMAN COOPER:**

Right.

**MR. GARDNER:**

People that were on our list were contractors who no longer had a license, who had been cited for grievous violations, who knew they did not have a license, who knew they were not supposed to be operating without a license, many had had warrants issued and we knew that they were continuing to operate in Suffolk County. And that's why the ten worst quote unquote were on that website because we knew that they were still operating. We were still getting complaints against them even after there had been either civil or criminal actions taken against them. That's why they were deemed to be the worst.

People who -- Legislator Cilmi cited -- there are many contractors who get cited for working without a license. Some ask me how it happens. It just does. There are answers, *geez, I didn't even realize I needed a license.* They come in in a couple of days, they come in a week, they do what they have to do, the Department does due diligence, finds out if there's any existing violations or complaints against them. If there aren't any -- they basically settle up -- they probably pay a civil

fine for operating without a license, but they get their license and then there's no problems later on down the line.

**CHAIRMAN COOPER:**

And I guess the overriding question's whether you think that this law, if enacted, would help protect consumers, help prevent fraud.

**MR. GARDNER:**

Absolutely. First of all, I don't think -- it shouldn't be necessary to have a law. That should be an executive -- I mean the Department should be doing that. We had that for years. And if they're not doing it any more, I don't know why. They should be. It is absolutely a public service. And these -- again, the -- and it was a dynamic. It was very viable. It changed, you know, each week we would have a staff meeting, so, okay, *who needs to come off?*

For instance, we'd find out that some people that were on the list were deceased. Some people had gone. They're now in Florida. We take them off the list. But we had plenty others to move up into the top ten worst. But it's those types that -- that's administrative -- that's management decisions that should be made. Absolutely necessary for protection of consumers to get those people up there.

**CHAIRMAN COOPER:**

And I'll tell you the reason that I decided to broaden it beyond the top ten offenders. It was an incident that was brought to my attention by one of my constituents where -- you may be aware of the case -- but an elderly woman, husband recently deceased, and she was the victim of a fraud, in this case, it was a home improvement contractor. And he basically scammed her out of \$15,000. And the only option available to her right now is to try to get back some of this money through Small Claims Court.

**MR. GARDNER:**

Correct.

**CHAIRMAN COOPER:**

But I believe the maximum amount that she could get back is 5,000. So at the very least she's out of the pocket \$10,000 that she cannot afford, so.

**MR. GARDNER:**

And if he was unlicensed, she's ineligible for the home improvement restitution fund.

**CHAIRMAN COOPER:**

Correct. Legislator Cilmi, yes.

**LEG. CILMI:**

Yes. Charlie, thank you for your testimony. I certainly value your experience in this. I'm concerned that this was taken down in the first place. And certainly I appreciate that the Department did it and used some, you know, discretion in your personal experience in terms of determining who would remain on the list, who would not, and the flexibility that having this done administratively allowed you to, you know, to have the list flex with who is comporting with the law and who wasn't, I think is important. I think the fact that you had a committee as opposed to an individual deciding who is going to remain on the list --

**MR. GARDNER:**

It wasn't a committee. It was basically the Commissioner --

**LEG. CILMI:**

Well, it wasn't an official committee, but it was a group --

**MR. GARDNER:**

-- yes, a group of employees --

**LEG. CILMI:**

-- a group of people.

**MR. GARDNER:**

-- head of licensing, licensing, investigation. We just reviewed what was up there and should they still be there and who could we add.

**LEG. CILMI:**

Right. And I certainly support that concept, as Legislator Browning, you know, appropriately articulated during our last meeting, it's -- I don't think it's prudent to pass laws that are incomplete or, as you indicated, some of the worst offenders are the appliance repair offenders. Why don't we table this today, craft a new law at the beginning of the year that includes all contractors, but that gives the Department enough latitude so that we can make sure that people who are -- who are violative of the law just because of an oversight don't get besmirched on a worldwide web that's accessible to everybody due to that, you know, simple infraction.

**MR. GARDNER:**

However, I'm not advocating -- I'm just saying how ever it gets done --

**LEG. CILMI:**

I understand.

**MR. GARDNER:**

-- that should be up. That should be public. And home improvement contractors are obviously the ones that are most susceptible to having people be, for the lack of a better term --

**LEG. CILMI:**

And I'd also --

**MR. GARDNER:**

-- screwed out of \$100,000, \$50,000. We're talking big, big money. I'm just saying the worst that we ever had was, you know, the appliance repair. I mean he actually went to jail. So did his wife and yet they continued to do it. We had over 1,000 complaints against that one contractor; a thousand.

**LEG. CILMI:**

And I'd be interested to know why that was taken down. I mean was it a legal issue that it was taken down? Or was it just because lack of staff to keep it updated? Was it --

**MR. GARDNER:**

It shouldn't have been a legal issue because it was all public information and it as part of the Department's mission is to help consumers and protect them and say basically *stay away from these people*.

**LEG. CILMI:**

Right. And that makes sense. I've spoken my peace.

**MR. GARDNER:**

Thank you.

**CHAIRMAN COOPER:**

Legislator Browning.

**LEG. BROWNING:**

Yeah, well, going back to last meeting, I'm not necessarily opposed to the Wall of Shame. I think some of you may remember my legislation to create a Wall of Shame for unscrupulous landlords; and, however, it was heavily opposed to. I see this as somewhat the same. This is a little different, I think, because constitutionally it is not -- it's not going to create a lawsuit, if we did move with this.

If I did support this, what I would like to see -- one of my concerns is that you commit a crime, you go to jail, you've done your time. And on this, it's saying five years following release. You continue to be on that Wall of Shame, which basically is saying you're still guilty. Yeah, you're guilty of having committed that crime, so I am a little concerned about the five years after release from jail. You know, I have dealt with this issue in my district quite a few times, and a number of constituents -- since I've been in office a number of constituents coming forward with these contractors who, I guess, you know the one -- you know, the father might have gotten in trouble so now he's shifting everything over to the name of the son, who's never been in trouble and -- but they continue to create problems.

In fact, one of my constituents had contacted me. We had exhausted all we could do. And it turned out that this contractor wound up in another state and wound up going to jail. And I wish we could have gotten him here because he created a lot of problems in my district. So, you know, again I would like to see something changed as far as the five years is concerned. Again, if you've committed a crime and you've done your time, then you can't be held accountable for something if you've already done that.

**CHAIRMAN COOPER:**

If I could respond that, that may well be a valid point, but obviously if this goes into effect, we'll have some time to make an amendment. And I'm already suggesting, as I mentioned earlier to Legislator Spencer, that he move forward with some amendments to the law that is suggested by Consumer Affairs. And this perhaps is something else that we can look at next year, but I still would like to get this approved out of Committee and hopefully approved on the floor. The fact it will be my very last bill and twelve years of dedicated public service, that's should not enter into this consideration at all, Legislator Cilmi. The fact that I would do the same for you, if you asked on your last -- but just saying that -- just saying --

**LAUGHTER**

**LEG. BROWNING:**

How did he vote on my unscrupulous landlord bill?

**CHAIRMAN COOPER:**

As one of my kids would say, *just saying*, but you could do whatever your conscience so dictates.

**LEG. BROWNING:**

Let me check the record on my bill.

**CHAIRMAN COOPER:**

Legislator Gregory? I'm sorry, are you done?

**LEG. BROWNING:**

No. I mean I think we have to do something. There are too many of these contractors that are just getting away with, you know, too many of these violations. And, again, there's not enough money in the Restitution Fund. Because I know that my constituents have not -- I believe even still to this day, even though everything's been remedied and it's been decided that that contractor has to pay back the money, I don't think she's received a red cent from him. And that's wrong. So we need that Wall of Shame. We need to keep them legal.

But one last question, there is no issue with being sued on this. And that's my concern. And that's what -- that was my concern with the other legislation is the -- having to deal with possible lawsuits.

**LEG. CILMI:**

Well, that's not necessarily correct. I mean as you pointed out, if somebody has been convicted of a crime, has done his or her time, and is now, you know, is now no longer, you know, has paid his sentence, then if he remains on this Wall of Shame for five years despite that, then we may well be open to a lawsuit from that person. Now I'm not suggesting that --

**CHAIRMAN COOPER:**

Well, no, not if that's the law.

**LEG. CILMI:**

Let me just -- I'm not suggesting that it get to that -- that it will get to that point necessarily, but it is a possibility. So, you know, I'm just -- let's table it, let's re-do it next year with all the correct language. We'll even call it the Jon Cooper Wall of Shame.

**CHAIRMAN COOPER:**

No, that doesn't come out right somehow. Thanks for the thought, though, but I don't think that would work.

I do want to say, you know, there's ample precedent. We just -- what was it, last meeting, we just approved extension for my animal abuser registry where they've served their sentence, but we increased the amount of time that they have to remain on the registry from five years to ten years. And for sex offender registries, I think it's lifetime. So I don't think that that argument carries water, but again what I would hope is that we can get this approved out of committee at the very least discharged but hopefully approved. But before we vote, I wanted to take this opportunity seriously to reiterate how much I like and respect every one of my colleagues, not just those on this Committee, but the rest of the body, I guess particularly those on this Committee regardless of party affiliation. So however your heart dictates your voting in a minute, I love and respect all of you and I know you'll do the right thing. Thank you. I'm cheering up here.

**LEG. CILMI:**

Let's call the vote.

**CHAIRMAN COOPER:**

On that note, let's call the vote. We have a -- I don't think we have a second on the motion to table.

**LEG. BROWNING:**

Well, can I make a motion to discharge without recommendation?

**CHAIRMAN COOPER:**

I will second that. We have a motion to discharge without recommendation. All in favor?  
Opposed?

**LEG. CILMI:**

I'll abstain on that.

**CHAIRMAN COOPER:**

You got to twist that knife at the very last minute, don't you, Tom? But okay, **IR 2000 is discharged without recommendation. (VOTE: 4-0-1-0)**

That's all we have before this Committee. Thank you, members of the public for showing up. I appreciate your support and I'm going to miss all you guys. Thank you. Have a nice day.

**APPLAUSE**

**THE MEETING CONCLUDED AT 1:46 PM  
{ } DENOTES SPELLED PHONETICALLY**