
Public Hearing

before

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

SENATE BILL No. 570

*(Makes lock-out of tenant by landlord a disorderly persons offense;
requires certain notice be provided in warrant for possession)*

SENATE BILL No. 2696

*(Requires new affordable housing units constructed be
accessible for use by elderly and disabled persons)*

SENATE BILL No. 2725

*(Requires new affordable housing units constructed be
adaptable for use by elderly and disabled persons)*

SENATE BILL No. 2823

(Enhances protections afforded under child-protection window guard law)

SENATE BILL No. 2847

(Maintains affordability controls on low and moderate income housing in perpetuity)

LOCATION: Newark City Hall
Newark, New Jersey

DATE: December 14, 2005
11:00 a.m.

MEMBERS OF COMMITTEE PRESENT:

Senator Ronald L. Rice, Chair

ALSO PRESENT:

Assemblyman Jerry Green

Robert C. Rothberg
*Office of Legislative Services
Committee Aide*

Julius Bailey
*Senate Majority
Committee Aide*

Nicole D. DeCostello
*Senate Republican
Committee Aide*



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TABLE OF CONTENTS

	<u>Page</u>
Charles A. Bell Council Member Central Ward City of Newark	2
Darnel Atkins Private Citizen	8
Avion Ware Private Citizen	18
Conor G. Fennessy Director Government Affairs New Jersey Apartment Association	21
Ken Sauter, Esq. Chair Legislative Action Committee New Jersey Chapter Community Associations Institute	23
Matt Shapiro President New Jersey Tenants Organization	24
10-4 Evans Private Citizen	38
Glenn K. Arnold Manager Neighborhood Housing Policy Planning and Development City of East Orange	40
Dwight Brown Director Property Management Newark Housing Authority City of Newark	48

TABLE OF CONTENTS (continued)

	<u>Page</u>
Nancy Hodgins Community Advocacy Director Adjustment to Vision Loss Project Heightened Independence and Progress	54
Shonda Lewis Private Citizen	57
David Lazarus Director Litigation Community Health Law Project	59
Jonathan Campbell Policy Analyst Alliance for the Betterment of Citizens with Disabilities	63
Elizabeth Shea Director Governmental Affairs The Arc of New Jersey	66
Eileen Goff Executive Director Heightened Independence and Progress	67
Norma Davis, Esq. Representing New Jersey Protection and Advocacy, Inc.	70
JoAnne Y. Watson, Esq. Corporation Counsel Department of Law City of Newark	83
APPENDIX:	
Testimony submitted by David Lazarus	1x

TABLE OF CONTENTS (continued)

APPENDIX (continued):

	<u>Page</u>
Testimony submitted by Elizabeth Shea	4x
Letter addressed to Senator Ronald L. Rice from Paul D. Chrystie Executive Director Coalition for Affordable Housing and the Environment	6x
Letter addressed to Senator Ronald L. Rice from Scott Elliott Chair New Jersey Association of Centers for Independent Living	7x
rs: 1-87	

SENATOR RONALD L. RICE (Chair): We're going to get started.

Let me, first of all, welcome all of you for coming out. This is not a council meeting. I just wanted to make the record clear. This is the meeting of the New Jersey State Senate Community and Urban Affairs Committee. So we do business a little bit differently, for those of you who are local residents.

I chair the meeting. I'm Ronald L. Rice, the New Jersey State Senator. My colleague, Assemblyman Green-- Jerry Green is also the Chairperson in the Assembly -- my counterpart -- of housing.

Jerry, what's the exact title of your Committee over there?

ASSEMBLYMAN GREEN: Senator, I'm Chairman of Housing and Local Government.

SENATOR RICE: Which is equivalent to the work we do in Community Affairs. It's just a different name.

We're going to be hearing testimony on one, two, three, four, five bills today. This is not a voting session. These bills will come up in a Senate Committee tomorrow, in Trenton. We'll take a vote, probably do some amendments to the bill.

I want to thank the staff for being here, from Trenton. I know you had to get up early and travel.

I want to thank Councilman Bell for being here -- the Central Ward Councilperson.

Other members of the Legislature may come in during the course of this hearing. Other members of the municipal council or

government entities throughout the state may come in during the course of the hearing.

For those who wanted to speak on any of the legislation, we limit your remarks. We don't believe in being scolded and scorned. The only person to scold and scorn at the State level is me, the Chair. And, hopefully, I don't have to do that. We will call names of those who signed up to speak. If there is someone who wants to speak on any of the legislation, just fill a form out, right there, and give it to staff. Those are the rules we play by at the State level.

With that, let me, first of all, give Councilman Bell an opportunity to welcome us to his great city. And then we're going to have Assemblyman Jerry Green, Chairperson of the Assembly Housing Committee, to have some comments. And then we'll start taking testimony.

Councilman.

C O U N C I L M A N C H A R L E S A. B E L L: Thank you very much, Senator.

On behalf of the Mayor of the city of Newark, and the Municipal Council, we welcome you to the city of Newark today to host the hearings. And we hope that something very positive will emanate from these hearings.

Thank you very much.

SENATOR RICE: Assemblyman.

ASSEMBLYMAN GREEN: First of all, I would like to thank the Senator for taking, what I consider, New Jersey State business on the road. I'm hoping that we can have a lot of hearings here in the State of

New Jersey. It's obvious, other than property taxes -- there's a housing crisis that we all realize -- that housing is basically an issue that is, no matter where you live.

He said earlier, I'm Chair of the Housing and Local Government. Also, I'm the Deputy Speaker of the New Jersey State Assembly. And Ron and I are going to be working very hard this next two years to make sure that everyone here in the State of New Jersey can afford to live in the State of New Jersey, but also have decent housing.

So I welcome this challenge, Senator, that you have put upon the both of us, as we move around the state and we get the opportunity to listen to the pros and cons about how people feel about housing, and some of the things we can do to make your living conditions, I would say, one that we all feel is important.

So, again, I'm happy to be here. I'm looking forward to working with the Senator on some of these issues, not only today -- but some issues that affect every person in New Jersey, in terms of how you live.

So, again, thank you very much for inviting me. This is wonderful.

SENATOR RICE: Thank you very much.

Let me just indicate that I'm a resident of the city of Newark. But as a State Senator, I represent, presently, Belleville, Bloomfield, Irvington, and Newark. In the past it included Maplewood and South Orange.

There are 40 New Jersey State Senators, and -- this would be for the residents' awareness -- out of 40 State Senators in the State of New Jersey, I am the sixth-senior tenured member of the Senate House. And so

I've been doing this for a long time. And we understand the concerns of the residents.

Let me also indicate to you that there are 80 Assemblypersons. And unlike the municipal council-- When you come in here and you debate the council, they can move things from communications to first and second reading, or file votes. The process in the State -- any bill that we submit, any legislation that we submit must go into what we call a *committee*. For example, most of the bills dealing with housing initiatives will come into my Committee or Assemblyman Green's Committee.

If Assemblyman Green said that we're never going to have a hearing on that bill, regardless of what you do, we're never going to have a hearing. If I said we're never going to have a hearing on window guards, there will never be a hearing. My members cannot force a hearing. And so the Chair has a lot of authority as to what legislation goes back and forth. So does the Speaker, so does the Senate President. That is our process.

Oftentimes, when you come to us as residents and taxpayers at the State level, there are people who say we are not doing our jobs. That's not true. The reason you think we're not doing our jobs sometimes is because we'll put in legislation. And you'll find out 10 years later we got it passed, because our process is different.

If a bill-- When we do the window guard bill, if in fact it passes my Committee tomorrow, it has to go to the full Senate for a vote. Therefore, I have to get 21 of the 40 Senators to vote yes on the legislation with the amendments. And if that occurs, it then goes over to the Assembly, to Assemblyman Jerry Green's Committee. If he wants changes, I have to talk to him. If they agree with the bill and he puts it up -- he

doesn't have to put it up -- then it goes to the full Assembly for a vote. And Jerry has to get 41 votes out of 80, which is a little bit different than getting 21.

Sometimes, some of the legislation will have dollar amounts affixed to them. So if, in fact, this window guard bill -- I use that as one of the bills. If I said, for example, there's going to be \$100,000 appropriated for this bill, or a million dollars-- Anything over \$100,000 -- once it leaves my Committee, it has to go to Appropriations -- Appropriations and Budget in the Assembly. They can say, "No, the bill is never going any place."

And so a lot of times, your frustration comes not with those of us who represent you doing our jobs. It's those of us who represent you trying to convince other people who do not understand our problems, and our concerns, to buy into what it is we're trying to do.

That's just kind of an educational prelude, if you will, to our meeting. And I think it's important that when we hold community hearings -- particularly in the urban community -- that we educate our people. Because you do not get a chance to come to Trenton, like suburbanites and stay-home housewives with a lot of money, to just come and hear the process, and debate us, or have your input.

And as the Assemblyman said, we're going to be working on initiatives. And we have agreed that this year we're going to probably move up and down the state with various initiatives to hear from the public and educate our people, because we, in fact, are losing.

I went to the Senate back in 1986. At that time, Senator Lipman represented part of the district, the 29th District. To be quite frank, there were only two African-Americans in the Senate at that time.

Since then, we have had six. Now we have five, because one passed. But back during those times, I recall that-- Around 1995 -- actually, it was before 1995 -- when we had a problem at 611 High Street, before we tore the building down. But we lost a child. And the window guard -- with the initiative of the parents, at the time, working with myself and Senator Lipman, became a very debatable issue, but a very necessary piece of legislation. And the bill itself -- actually someplace in the time of 1995 -- became law.

Since that time, we have not revisited that legislation. Those of us who live in the city of Newark understand that, since that time, we have also had two more incidents.

Coincidentally, and for some reason, the two incidents -- if I recall correctly, Councilman -- were in the same building.

COUNCILMAN BELL: That's correct.

SENATOR RICE: We know, in New Jersey -- for those who are here to speak -- that the majority of our landlords throughout New Jersey -- I didn't say Newark, or Camden, or Livingston, I said throughout New Jersey -- but we have 566 municipalities -- are good landlords, and they try to do the right thing.

Unfortunately, we have some slumlords, and we have some folks who like to flip buildings and milk those buildings, at the expense of our residents, in many different ways. But when it comes to the health and safety of those residents, we can never be overprotective.

And so the intent of this legislation is to strengthen it to make sure there is accountability, to make sure that the residents and building management owners understand that there is a two-way street.

One of the things that happened recently -- and I think I see the parent here. When we had discussion about the loss of a child, it was very interesting, because we talked about how we believe -- along with Councilman Bell and other council members -- Councilwoman Walker and others, (indiscernible) council -- how we need to tighten up the legislation. But the parents said that one thing we could do at the State level to help is to make sure that parents are educated as it relates to window guards.

Now, I know that when I had conversation with the various interest people who can be effective, there were concerns about notice and education. But understand, it's not often that parents or residents come to us to tell us that they want to know more so that they can help. Usually, we're held accountable for whatever happens. And I thought that was admirable. And this legislation, with the amendments, is intended to do that the best we can, but bring about fairness in the process.

One thing about legislation and laws, they're not meant to hurt anybody. They are meant to create social order. And they are meant to, hopefully, deter problems rather than penalize people. Unfortunately, when in fact people violate those rules -- intentionally in most cases, knowingly, and willfully -- we must sanction them in some kind of way.

This legislation is not intended to do harm to tenants, it's not intended to do harm to landlords, but it is intended to get accountability and cooperation from both sides for the protection of our little ones, who happen to be our loved ones, who happen to be our future.

And so I wanted to preface my remarks by saying that it is intended to strengthen the window guard legislation -- the amendments --

and provide tenants and their children with increased protection and notification.

With that, I'm going to call up the first speaker, and that's Darnel Atkins. Darnel is in favor of the amendments.

D A R N E L A T K I N S: Good morning, Honorable Senator and Council.

SENATOR RICE: Good morning.

MR. ATKINS: I'm the father of the last child who fell as a result of the windows.

SENATOR RICE: Speak into that mike, Darnel.

MR. ATKINS: I'm the father. And me and the mother are here.

And what we wanted to say was that we would like to request a few things. Primarily, that the bill -- that this bill be designated in Zahir's and Raquan's name, and that it would reflect a national identification on children's safety in housing. I would respectfully request that this rule reflect, overall, safety of children in HUD-funded housing. Also, I would request that there be a criminal liability where there has been a State warning of possible hazards that could result and cause physical injury or possible death. We have to hold the owners responsible for a blatant disregard, particularly when they have been inspected and been warned to make those amendments.

Children's welfare is the predominant thing here. We have Megan's Law, we have the Amber Alert. And we, as the parents, are requesting, now, that this bill be designated in these children's names --

Zahir and Raquan -- to reflect that -- reflect safety, overall, for children in HUD-funded housing.

Thank you.

SENATOR RICE: Thank you very much.

What we're going to do is-- I'm going to direct staff-- There was a third person, going back in the '90s, if you recall from 611 -- whose family members are still around our city. And because these incidents did occur in the city of Newark, we're going to make sure that the bill reflects the three parties that we are aware of, who have demised because of the lack of window guards or us not doing enough. So we're going to reflect that. And we're going to do everything we can to name this bill-- If we can say Megan's Law, we certainly can say the law of the three that we lost too.

MR. ATKINS: Thank you.

SENATOR RICE: Thank you.

ASSEMBLYMAN GREEN: Senator.

SENATOR RICE: Assemblyman, yes.

ASSEMBLYMAN GREEN: You don't mind coming back up to the mike, do you, please?

During the course of your presentation, you made a statement that I'm a little confused-- Maybe you can give me some clarification. Are you requesting that the law only identify funding that's used in certain facilities, or are you suggesting that we do it--

MR. ATKINS: My understanding is that we were--

ASSEMBLYMAN GREEN: --for everyone? I'm trying to get a feel for your comment.

MR. ATKINS: We were residing in a federally funded housing area. And as such, I believe that if this government can issue that moneys for rents, that also -- that you hold this owner responsible in making sure that he allocates moneys toward the safety of children.

My understanding-- I was there when the first child died. And you were told to make amendments then. Two years passed, and I went to sleep-- And I buried a child this Summer. Why? Because of \$2. And you're saying that-- Like the Honorable Senator said, because some people feel like, "I can flip these properties--" No, you hold them completely responsible, especially when it comes to -- you're being funded. It's not as if I'm going to work, paying the rent. You're being funded already. So your moneys are there.

So to come and tell me, as a parent, after losing a child, that "We didn't have the money to put \$2 guards in the window," that's kind of insane. I'm talking about two years later-- Me and my family can't even ride past there. And then, when I do go past there -- even after this horrific incident -- they still haven't made any amendments at that building. They have not, as of today, made any amendments to -- when the Senator presents this.

The apartment that we were in-- They fixed the guards there, but what about the other 200 units in there? What about the other children who are susceptible to falling?

ASSEMBLYMAN GREEN: I guess my question is to the Senator.

If you don't mind, Senator, can we expand this law beyond just public housing? Could this be a requirement of all housing that's multiple dwelling?

SENATOR RICE: This bill basically addresses all the housing. We cannot address the private stuff that deals with all of our housing units.

ASSEMBLYMAN GREEN: That was my concern, because when you mentioned just public housing-- Now, the Senator has been able to clarify it. So this way, when it comes before my Committee, I can have a better understanding -- that it's not just subsidized public housing, it's multiple housing that meets the criteria. I don't care who owns the property, no child should be subject to what I consider something that can be detrimental.

MR. ATKINS: I also mentioned to the Honorable Mr. Bell that not only what we are saying concerns just the window guard issue-- Right after my son's passing, I was there to pick up a few things. And I watched for almost a three-week period -- plated glass broken inside the hallways that continued to be there for three weeks.

Now, I was there with my children. I watched them play in the hallways. So you're saying that if a parent or something-- Well, we know the parents aren't around. They're running up and down. This child harms himself on this plated glass-- Who is responsible? Are you going to tell me, as the parent, I'm responsible for my child falling on a plated glass, when you have a staff that should have cleaned this? And like I stated, three weeks I watched this fish tank sit there with jagged edges on it.

So, in concern to what we are saying -- just the issue of window guards -- no. This thing should go to the safety of children itself. And

particularly in a unit as such, there should definitely be something presented that not only windows -- but that my child doesn't have to go down all these stairs that they could possibly fall -- running up and down.

For instance, at the Spires, the 20th floor going to the roof is wide open for a child to go out there to play. These things-- These are safety issues. And, particularly when you are talking about a child-- A child isn't mindful of how dangerous something is. Do you believe that my son, at 5 years old, knew? And I'm talking about twins that I spent 99 percent of my time with, that were educated that you don't go near the window, "Daddy doesn't like that." But for some reason or another -- one I will never know -- my son still fell over a window guard.

So in concern to a safety-- No, not only these window guards, but the safety of children overall -- and particularly in, like I said, HUD-funded housing. Ensure that these children are safe -- not just windows. Ensure that there are not things in their way that could-- We've got (indiscernible) out there that could fall on them.

And, like I said, this facility over here-- I watched them. I watched them over a period of time. And I was there three and some years. And I watched them allow garbage to build up in the hallway. Am I susceptible to any type of air pathogen as a result of somebody's garbage sitting there for some time?

No. Like I said, I'm here in concern to the window issue, but more so, overall safety of children in housing units.

I thank you for your time.

SENATOR RICE: Thank you.

Assemblyman, unfortunately in cities like Newark, we have so-called investors coming in, purchasing these buildings, milking the buildings, never do anything at all. Code enforcement goes in -- violate them -- the buildings get flipped, they never go into receivership. And that's what's been happening. One hundred seventy-five -- 175, if you recall a few years ago, is the location where candidate Corey Booker, for Mayor, tried to make a clown show and a publicity stunt out of -- when he was on council. And I always told him, "If you don't deal with the owners and the management, you're never going to straighten the building up." Well, he packed his tent up, and nothing ever happened except the building getting flipped -- and the same owners.

Since that time, for the public, with the assistance of Assemblyman Green and my colleagues, we passed what is known as the Receivership bill. That bill was crafted for places like 175 and buildings of like kind, where you can't work with ownership. You eventually have to take the building over.

The problem in the past with receiverships is they were difficult to do. And then by the time you got them back -- like 140 Roosevelt Avenue, which has gone through a totally new rehab now, thanks to the Councilwoman of the West Ward and the State working with her. Once they go through rehabilitation, the court gives them back. And you wind up the same way.

The Receivership bill would allow the city, once the ordinance is properly down -- where there are some amendments to all of that -- to look at the conditions under the State law. You have to meet the criteria of the bill now. It can be bad, but if you don't meet the criteria, you can't do

it -- and move into receivership. So there's another piece of legislation that we have actually passed -- which I, along with Senator Codey and others, are the author of in my House -- that hopefully will become a tool of our cities in the near future.

And so with that, let me do this. I'm going to have Bob tell you exactly what the window guard bill does with the amendments. Because the-- We heard you loud and clearly, and we heard the residents loud and clearly. There is a criminal penalty now for those who are repeat violators. Because we reach a point when the council and mayor in this city, or any other city, continues to send code enforcement inspectors-- The State goes in and -- they violate them, and they patch the stuff, and they continue to let it happen over and over and not pay attention to the window guards. It's almost clear that it's intentional, and they intend to do nothing. And so that's why we say *repeat*. We don't want to hold someone criminally liable for putting the guards in, and then some resident took them out or pulled the stops out. It's where they're not inspecting regularly and paying attention as best they can; that we know that there is negligence on their part. And we're going to hold them criminally liable.

So, Bob, why don't you discuss the bill and the amendments to the bill, so as the speakers come up, they will know that some of the things are being addressed, because Councilman Bell and I -- Councilwoman Walker and I have had long discussions on this over and over. And individuals like yourself and others have talked to us. And we tried to address that. And we do have cooperation from a lot of the apartment owners' associations, because they too want to perish the bad from their midst too.

Bob.

MR. ROTHBERG (Committee Aide): Good morning, everybody.

It is a complicated bill. There are a lot of pieces to this. And I will be going through the bill as it was originally dropped in. And then I will try to clarify it with the amendments that are also available on the table today.

The first thing you should know is, under prior practice, DCA -- Department of Community Affair -- regulations allowed for short window guards to be placed in the window, and then window stops to be placed in the frame of a window to prevent a window from going up much beyond the height of the window guard. This would prohibit satisfying the requirement by placing window stops -- it would require the installation of window guards to go within a few inches of the bottom frame of the top window, so that a child could not squeeze out between the top of the window guard and the bottom of the top window when the window was entirely raised.

An amendment would allow a landlord to continue to leave window guards in as an added -- window stops in as an added protection, but not as a way of satisfying the window guard requirement.

The bill would extend the provisions of the window guard law to common interest communities, condos, and cooperatives. Under current law, it applies only to multiple dwellings that are not condos and co-ops. This will extend it to condos and co-ops, as well.

The bill would extend the ability to request window guards to tenants of rental units in which a child under 10 years of age is regularly

present for a substantial period of time. So if there is a relative or caretaker who has been taking care of a child, under current law that person could not require the landlord to place window guards unless the child resided there. This amendment would allow a tenant, where a child resides for -- is regularly present for a substantial period of time, to request window guards.

The bill would also require owners to provide tenants with orientation programs on the safe use and manipulation of window guards upon installation of the window guards, and annually thereafter.

The bill would require owners to inspect window guards that are under their control at least two times a year, and to maintain an inspection log, as a permanent record, which would be made available to the Department of Community Affairs upon request.

The bill would also enhance the procedures for notifying tenants of their rights under the law, by requiring all leases to have bold-faced type setting forth the right to request window guards; and also have additional notice requirements notifying tenants of their opportunity to request window guards and the landlord's requirement to put them in.

The bill would authorize the Commissioner of Community Affairs to adopt rules setting forth circumstances under which a tenant could request the installation of child protection window guards on a first floor. Under current law, while all multiple dwellings are required to allow tenants to request window guards, generally first floors are excepted from that. We thought that there are some circumstances where a first-floor unit may be sufficiently high up or dangerous -- that it would be -- merit the opportunity for the DCA, by reg, to set forth those circumstances where a window guard would be appropriate.

The bill would require the Commissioner of Community Affairs to promulgate model forms and lease provisions for notice requirements for landlords to use in notifying tenants about the window guard requirement.

The bill would require DCA to establish guidelines for window guard orientation programs and to ensure that orientation programs are run in multiple dwellings of at least four stories in height which contain publicly subsidized housing.

The bill would enhance the penalty provisions governing violations of child protection window guards. It would increase the minimum penalty to \$100 per window or incident, and subject repeat offenders to criminal penalties.

Finally, the bill would cap the amount of window guard expenditures that landlords may pass on to tenants. Right now, if a landlord installs a window guard, he can pass that cost along to a tenant. This would limit that to \$20 per window guard that is installed in a dwelling unit.

I think that does it, sir.

SENATOR RICE: Thank you, Bob.

At one time, what happened was -- is that, when we did window guards, the cost of the window guards would get passed on to the tenant. A compromise is that that's not going to happen at the maximum point. And so we capped what could be passed on. And that was important, primarily because a lot of people don't understand that in cities like Newark, \$15 or \$20 could make the difference whether you get recertified, or whether you get medication. And so there was cooperation with the apartment owners' associations, who initially opposed it. But they understood. And they

made it clear that they want their residents protected too. And they want to make sure that we get rid of the bad ones.

Unfortunately, you can't do a bill for bad landlords without having a bill for everybody. And so that's where we are with that.

The next speaker we have is Avion Ware.

Ms. Ware, did I pronounce that right?

A V I O N W A R E: Avion. (indicating pronunciation)

SENATOR RICE: Avion (indicating pronunciation), okay.

MS. WARE: Good morning.

SENATOR RICE: Good morning. Speak right into the mike, because you're also being transcribed, okay?

MS. WARE: My name is Avion, as you know. And I'm the sister of Zahir.

Basically everything that I have to say, my father already said. The safety of the children and, like-- Well, I think that the first time was really bad. And I really didn't understand until it got to my brother falling out the window. And my best friend's nephew even almost fell out of the window at the Spires, but his mother got him before he got out the window.

And the windows would even lock open. If you open it enough, it will lock. And you would have to, like, stand up on the window to unlock it, to pull it down.

I really just think that it should be mandatory for them to put six bar window guards in the window so that you wouldn't even be able to stick your arm out of the window.

I don't really know what else to say, because it was already said.

SENATOR RICE: You did good.

Let me just say that, in terms of mandating it, it's difficult to get votes for a total mandate of the guards, at least right now, primarily because there are windows that don't necessarily require guards. And there are windows where you don't get the age group that the bill really addresses there.

But what we had to do was to make sure that people understand they can get them. Because one of the problems in the past was that even though we had a law that said you can get window guards if you requested, most people didn't even realize they had a window guard law, and most people didn't realize you could even request it.

And so all this notice provision is to do two things: number one, to make it very clear to you -- meaning the residents -- that under these conditions, you can request it. And if you request it, it is mandatory. They have to give it to you.

By the same token, what happens is that it gets some accountability from the parents because they can't say they didn't know, because we are requiring posting in the buildings. We're also requiring notice on more than one occasion. So people will be aware. And they are punished for violation -- of not having notice and not posting.

Assemblyman.

ASSEMBLYMAN GREEN: Yes.

First of all, I'm very proud of you and your family. I know it's rather hard to talk about this issue when you have lost a loved one.

But what bothers me, Senator, is that when we talk about subsidized housing, we talk about families getting help with their rent,

people fail to realize that these landlords are getting top-notch rent. So it's not like they're giving you a discount because you're getting help.

My concern, Senator, is that you and I will probably hear a lot more stories of this nature. And my understanding is that any unit over four is basically inspected by the State of New Jersey. And so I would like you and I to let the public know that we will be sitting down with the Department of Community Affairs and, I guess, maybe come up with one policy or one direction that -- no matter whether you pay a dollar towards your rent -- in some incidences, people are paying as much as \$2,000 a month for rent -- that everybody is treated equally.

No one should have to live in the conditions that your father just described, in terms of not being healthy, not being safe. So I'm more concerned about the fact that we need to take away the label of anyone that's getting their rent subsidized, and put them in the same category as a person who is paying top dollar and not getting subsidized. Because at the end of the day, it's all about treating people equally.

So what you and your family have said today-- This is not going over my head. This is an issue that we need to tackle on the State level, especially with multiple units. Because, right now, whether you are purchasing a single-family home or multiple dwellings, some of the most expensive real estate in this country is right here in the State of New Jersey. And for landlords to be able to make the kind of money they're making, and I have to hear the kind of comments that you're telling me you have to live under, it's not acceptable to me.

So, again, I appreciate the input you're giving me today, because I'm listening very carefully to what you're saying, and everyone

else. And, rest assured, nobody is going to work harder for Newark and the people who don't have a voice in Trenton than the Senator. He's been my role model. And I guarantee you, your voice will be heard in Trenton.

SENATOR RICE: Thank you, Assemblyman.

The next speaker we have is Conor Fennessy, from the New Jersey Apartment Association.

C O N O R G. F E N N E S S Y: Good morning.

Thank you, Senator--

SENATOR RICE: Good morning.

MR. FENNESSY: --Assemblyman, and also Councilman Bell.

My name is Conor Fennessy, and I'm the Director of Government Affairs for the New Jersey Apartment Association. I'm here today on behalf of the Association to voice our support for Senator Rice's desire to enhance protections for our families and their children in all rental units, as you've mentioned, Assemblyman.

The interests of the State, as well as the interests of residents, housing providers, and advocates are really the same: to ensure that the current process for requesting installation of child protective window guards remains simple, effective, practical, and especially enforceable.

The bill before the Committee, S-2823, makes significant changes to the current law by adding several notice requirements, inspection requirements, and record-keeping requirements. The bill also seeks to codify several regulatory provisions already contained in the Hotel and Multiple Dwelling Code, as Mr. Rothberg referenced. Many of these changes will, undoubtedly, place additional burdens on the providers of multifamily rental housing.

The Apartment Association has worked closely with Senator Rice over the past six months on his proposal. And we believe that all stakeholders involved have made significant compromises on a number of key issues. The NJAA shares the Senator's desire to make sure that children in high-rise multifamily buildings continue to remain as safe as possible in their homes.

Again, on behalf of the Apartment Association, I appreciate the opportunity to voice our support for Senator Rice's intentions to enhance safety for our children. The NJAA will continue to offer our assistance in crafting practical and enforceable legislation that works efficiently and effectively for all residents of multifamily housing.

Thank you, Senator.

I did have one question for you though, sir.

SENATOR RICE: Sure.

MR. FENNESSY: You had mentioned, regarding tomorrow's agenda in Trenton-- Currently, the window guard bill does not appear on the agenda. Are you planning to add that?

SENATOR RICE: We're probably going to get it up--

Bob, that's scheduled for January some time, right?

It will be January sometime.

MR. FENNESSY: It will be January. Okay.

Thank you, sir.

SENATOR RICE: Sure.

Any questions to the speaker?

Assemblyman?

ASSEMBLYMAN GREEN: No.

The only thing I would like to add is that, also in my House, we have a very good relationship with your organization. And we have talked about these issues, where we have over 600 individuals that you represent.

And they are supportive, Senator -- is because of the fact that they want to separate themselves from the people that don't do their job. So it's important for the public to know that all individuals don't think and feel the same. So when you get an organization that wants to do the right thing and comes forward to support what you're trying to accomplish, this is a plus. We just have to weed out the ones who take advantage of people.

So I appreciate you coming today and supporting what the Senator is trying to accomplish.

MR. FENNESSY: Thank you.

SENATOR RICE: Thank you.

Any questions, Councilman Bell? (no response)

The next speaker we have is Ken Sauter.

Ken, are you here?

Ken represents the New Jersey Chapter of Community Associations Institute.

K E N S A U T E R, ESQ.: It was not my intent to provide any particular testimony other than to indicate that CAI has also worked closely with the Senator. We appreciate his ability to work with us, as well -- and his willingness to work with us. And we do support the bill as it is proposed.

Thank you.

SENATOR RICE: Just for the sake of the people here, and Councilman Bell--

Councilman Bell, as you know -- that a lot of these apartment buildings have been converted to condominiums and co-ops. And that's one of the representatives of those entities. We made sure the bill incorporated those particular buildings, too. And I appreciate the support coming from them. That's an organization you will also be hearing some more from, Councilman Bell, in reference to the Society Hill problems, and the legislation by the board and the non-board, and all that. But that's a different day, okay?

COUNCILMAN BELL: All right.

SENATOR RICE: Thank you very much, Ken, for coming in.

Are there any other persons to testify on the window guard bill?

Mr. Shapiro, come on up.

M A T T S H A P I R O: My name is Matt Shapiro. I'm the President of the New Jersey Tenants Organization. And while we are the voice of tenants in New Jersey--

We don't usually agree with the New Jersey Apartment Association. But on this bill, we certainly do. It's our opinion that the changes that you're making to the window guard bill will save lives. And we applaud what you're doing here.

I have a couple of technical questions.

SENATOR RICE: Speak up a little bit.

MR. SHAPIRO: I have a couple of questions. I don't want to belabor any of the points. The speakers -- especially the individual speakers who spoke before me -- were eloquent. And I don't have to repeat any of that.

We're just very happy that you're increasing the penalties, increasing the education that's given to the tenants, the notices that are put in there. It's a marvelous bill. And applying it to condos and co-ops has been a long time coming.

I do have a question about that. My reading of the bill says that you're giving unit owners the right, also, to request window guards in the common areas on their own, not on behalf of subtenants. Am I correct in that? It's just not parallel to the right of tenants. The tenant has to be in a unit that has a child under 10, whereas the unit owner does not -- there's no restriction -- similar restriction. So any unit owner could make that request.

I just wanted to point that out. I don't particularly care what you do with it. But it's an inconsistency. And it also applies, in that case, to all buildings in a complex, not just the building that the unit owner lived in. And that's not the case with the tenants. When a tenant makes the request, it's only the building that the tenant lives in. So that's an inconsistency. You might want to make it consistent.

Since it applies to unit owners, specifically in co-ops -- you might run into a problem with the boldface requirements in the lease. Unit owners in a co-op have a lease. They are actually tenants. They're tenant shareholders. And they have a proprietary lease. If it is your intent to require the proprietary lease to be amended so that the warning notice is in there -- the notice about the rights about window guards is in there, that may well be an almost impossible task for most co-ops in New Jersey. It normally requires a 75 percent vote for a co-op to change its proprietary

lease. You might want to just go with the other notice requirements in the case of tenant shareholders.

And you also require a verbal explanation at the time of lease signing. There are many tenants in New Jersey -- back to tenants, not unit owners. There are many tenants in New Jersey that never sign a lease. They're month-to-month tenants, periodic tenants. It would seem appropriate to modify that language so that it's not simply at the time of signing the lease that this verbal explanation and that confirmatory document that's signed has to be given; but at the time of entering into a verbal agreement to lease -- to rent the dwelling, as well, where no signature is actually occurring on a lease document.

And the last, sort of, technical question-- The required orientations in federally funded buildings would seem to also apply to senior citizen buildings. And I don't know that you necessarily want to do it there. No children can live there.

I don't know.

SENATOR RICE: The language of the bill refers to the age level. It also refers to the fact that if, in fact, you happen to be a senior -- in your case, you're not -- but you have a child hitting that age group that regularly--

MR. SHAPIRO: I stand corrected.

That's it.

SENATOR RICE: In terms of some of your other technical things, we're going to revisit that because, you're right, we do have some co-ops where Councilman Bell and I are aware -- we can never get a quorum because of the way the bylaws are. But the one thing that will remain in

the bill-- I want written notification. I want the tenant to sign off. Because one of the problems we're having is that everybody paints landlords to be bad people. Without landlords, most of our people wouldn't have any place to stay.

MR. SHAPIRO: Don't get me wrong, I agree with that.

SENATOR RICE: And I understood you. But I want the public to understand where I'm coming from. I understand you agree.

And a result of that is that there are liabilities placed on landlords unnecessarily, or damages that are never mitigated because of "tenants' negligence," or "tenants' knowledge," or claiming lack of knowledge that no one can document.

When I was a cop, I used to lock up people. The first thing they said was, "Did you read the Miranda rights?" "Yes, I did." All of a sudden, Councilman Bell decides he's going to lie -- I never told him. Now, I'm going to knock him in the head because he knows I told him 10 times. So they have what you call a *statement*. "Did you understand these rights?"

And so even if there is not a lease, I want a tenant to at least acknowledge that they understood -- at least they were told and advised. The additional posting should hit them in the face some place or another on a regular basis. So if, in fact, the situation is not a landlord's negligence -- because you're not going to inspect every day -- but it's the tenant's negligence for not making the request, etc., and the landlord has no idea that child is there all the time, or that much -- at least when it gets to another forum, there's some fairness in the process.

MR. SHAPIRO: Fully agree. Thank you.

SENATOR RICE: Are there any other speakers on this bill?

Yes, you wanted to say something else before we close the hearing on that particular bill?

MR. ATKINS: I just wanted to say something that concerns -- to the gentleman-- And concerns to -- like you say -- the verbal liability -- no. Like the Honorable Senator says, as the parent of that deceased child, I kind of sat down with him a few times. Like he says, "I don't want to hold the owner simply responsible. But I want to hold the tenant responsible also." And as he stated, "Sign off as such, that you were educated as to the safeguards of these windows."

And when you say -- well, you don't want it in the lease, make it a separate piece of paper so that they clearly understand that this is in relationship to their safety guard. You have your lease here. Give me one separate piece of paper so that I fully comprehend that this is in concern to the window guard issue. And I sign off. I have a copy of such, the owner has a copy of such, and if need be -- if the inspectors need, that they have a copy as such.

Thank you.

SENATOR RICE: Mr. Shapiro agrees with you.

MR. ATKINS: Thank you.

MR. SHAPIRO: I completely agree with you.

MR. ATKINS: Thank you.

MR. SHAPIRO: That was really what I was saying.

SENATOR RICE: Okay. That closes the hearing here, today, on Senate Bill 2823, which enhances the protection afforded under the child window guard protection -- child protection window guard law.

And you kind of understand the amendments.

The next bill we're going to hear -- that I know some of the residents have an interest in -- that's why we're going to hear that next -- is Senate Bill 570, Senator Baer's bill. Senate Bill 570 makes lockout of tenants -- you know how they lock you out, padlock, eviction -- makes lockout of tenants by landlords a disorderly persons offense. It requires certain notice be provided in warrant for possession.

Bob, would you explain that bill to them before we take testimony, and the amendments that may be there? And there may be other amendments forthcoming.

MR. ROTHBERG: Excuse me, Senator. You will see there is a Committee Substitute in your packet which was in the process of being revised as late as yesterday evening. I will read the statement to the bill, as introduced, and try to explain some of the changes.

Mr. Shapiro signed up to testify, and maybe he can elaborate if I get any of the changes in the substitute wrong.

Basically, the bill is meant to require a warrant for possession, issued by a court upon the eviction of a tenant, to include a notice that it is illegal, as a disorderly persons offense, for a landlord to padlock or otherwise block entry to a rental premises while a tenant is still in possession of the premises, unless a distraint action, permitted under law, is being utilized. And the removal of a tenant's belongings from a premises by a landlord, after the eviction of a tenant, may be done only in accordance with the provisions of law.

The bill amends the law to make it a disorderly persons offense to enter upon real property occupied solely as a residence by a party in possession without the consent of the party in possession, unless the entry

and detention is made pursuant to legal process under existing law. A disorderly persons offense is punishable by a term of up to six months or a fine of up to \$1,000, or both. The notice will help to educate tenants and landlords alike of the requirements under the law concerning lockouts of tenants, and of the time frame for removal of possessions from rental premises by a tenant after eviction.

The Committee Substitute builds upon that theme and bulks up the bill a bit. One most notable provision is, if there is a landlord who is found to commit an offense, under this, more than once in a five-year period, he would be guilty of a crime of the fourth degree.

Another provision here is to try to make it more of a two-way street to indicate, clearly, that a tenant who damages or destroys rental premises would be guilty of criminal mischief, which is a crime punishable by -- at a different grading, depending upon the amount of damage that is caused.

SENATOR RICE: Thank you, Bob.

Unfortunately, for years in our towns, residents have no place to go. And whether they were right or wrong, they were evicted. And landlords get real cute. They have an attorney send a letter saying that you have to move by a certain date. And because it's on legal stationary, and an attorney signs it *esquire*, or some other official signs it, they panic with no place to go. And the next thing you know, they're out in the streets, not knowing that they have a right, before they leave that premise, to be heard in court. And they can only be put out after a process takes place, and the judge or the process rules them to be out on a date specific. And so Legal Aid gets involved quite a bit, trying to prevent that.

The intent of this legislation is to make sure that tenants understand that a landlord cannot come to you-- They can argue with you, you all can act crazy, and you can be wrong -- and you're going to pay for being wrong -- but they can't just padlock you out, on their own volition, without a process.

But then there's another part that takes place, in the eviction of landlords, in terms of notices. What happens is, you will go through the process and the judge will say that, "We agree with the landlord. You have 10 days to remove all your property from the premises." And because you have an attitude as a tenant -- and this happens on a daily basis, by the way, for those who called me and didn't know it happened -- you start to pull out plumbing, and cut up wires, and just put holes in the walls, and just damage the apartment -- being vindictive because you've actually, legally been evicted -- whether the judge was right or wrong.

Let me be clear that the intent of this bill is to help tenants to go through a process and have proper due process. But it's also to make sure that landlords and other tenants that live in that building are not harmed by your vindictiveness or your attitudes. And so even though the bill sets up a penalty and sanction for landlords, it also sets up penalties and sanctions for tenants who are malicious or vindictive, intentionally and willfully.

Because if you have a building that's riding a thin line, in terms of resources, that local council people, and mayors, and the State is trying to bring up to code and keep rents down-- If tenants continue to destroy a property, and contractors have to go in there at the cost of labor today, and

materials, then that cost gets passed on, or buildings go out. But those remain slum buildings.

And so tenants have the right to, number one, be protected. But they also have a right -- a responsibility, if you will -- to do right. There's a lot of people I would like to beat up because of how they're treating me, but I just can't go around beating them up. I can't go into someone's house and just tear it up because I got evicted because I didn't pay my rent, or I had some other problems, or even if the landlord lied but the judge ruled as such. Because we have this thing of getting back, if you will. And that's the intent of this legislation.

With that, we have one speaker that signed up, and that's Mr. Matt Shapiro, New Jersey Tenants association -- Organization.

Matt.

If anyone else wants to speak on this bill, you can just let me know before we close the hearing on it.

MR. SHAPIRO: Matt Shapiro, New Jersey Tenants Organization.

I hope I can speak up.

I'd like to just tell you a little story. It's an imaginary story, but it's not really that imaginary.

Just suppose that you're a single mom. A couple of you actually could be. You just got laid off about a week ago from your job. You've been out job hunting all week -- certainly all day. It's 20 degrees outside. It's the end of the day. You didn't get a job, but you got some prospects. You go pick up your baby. You come back home, and guess what you find?

A padlock on your door. So what are you going to do? Call the cops, right? I mean, that's basically the response that most people would think of.

Well, under today's law, when the cops come, I would say 95 percent of the time, they will do nothing other than keep the peace, even though it is illegal for a landlord to put a lock on the door, period. Landlords can't do it. Only an officer of the court can do it, pursuant to law, just as you explained earlier.

The police officer will normally say, "This is a civil matter. You can't hit him, he can't hit you. That's it. I'm keeping the peace." Sometimes they're actually helping the landlord, saying, "Well, it's the landlord's property. He can do what he wants." That's not the rule, but that happens sometimes.

So, what happens now? It's 15 degrees out now. It's not 20 anymore. It's getting later. Truthfully, this activity -- illegal lockout -- is an act of violence. The only recourse that a tenant has under the current law is to file a lawsuit. Now, most people who are in this circumstance do not have the wherewithal to go and file a lawsuit. They are, effectively-- They have, effectively, lost their home, and they could lose their lives if they don't have any other place to go, because there is no time to look. You're out. It's 15 degrees out. You're out. And your baby is out.

So we have to do something about this. We've been trying to do something about this for at least 15 years. And, finally, we have the opportunity to do it. We've had at least two bills prior to this one. One, way back, by Senator Graves, and one by Assemblyman Dalton. And this bill, as amended, is actually a combination of those two bills, plus the

thoughts of a number of members of the Legislature who were concerned with problems that the police might have. It's a, sort of, compromise bill.

The key element is that, first, it's a disorderly persons offense to do this, or a fourth degree crime for repeaters within five years. One of those compromises -- and probably one of the most important elements of the bill -- is that a statement of the execution of the warrant has to be given to the landlord, to the tenant, and put on the door. And it has to be done by the court officer.

Now, why is that important? Well, what a number of legislators said, when I spoke to them -- well at least two legislators -- was, "Well, how is the cop going to know who is right and who is wrong?" He comes in, and the tenant says, "He locked me out." How does the cop know who locked who out? Well, once there is a statement that the warrant was executed, signed by the person who executed the warrant saying which judge authorized it -- tuning it right into the warrant -- there is no doubt. The landlord produces that statement. Then it was a legal lockout, not an illegal one. If the landlord doesn't produce that statement, it's illegal, can't do it.

That's critical. Later, I'm going to tell you there's a technical problem that I think may be there with -- on the wording there.

The bill also defines what an illegal lockout is, forcible entry, and detainer. And the most important part of that definition is that it's tied to the lack of that statement of execution. I'm not going to go through the whole list.

So now a police officer that is called to the scene has to give the landlord a warning. This is another change that we made in the bill, which

was-- I mean, you can consider it a concession to the landlords, but it's only reasonable. We're not looking to put any landlords in jail. Our only purpose in promoting this bill is to stop the illegal lockouts completely. And when one occurs, to have it reversed immediately with the assistance of the police. So the cop comes to the scene -- has to give the landlord a warning before charging them with a crime -- disorderly persons offense. And also prevent the landlord, or anybody else, from interfering with the tenant getting back in.

The warrant-- An additional requirement is that the warrant for possession that the tenant initially gets -- that's in the middle of the process, if the legal process is being followed -- may or may not being followed -- will have an explanation of all of these rights. And the attorney general has to educate police chiefs, prosecutors -- has to send out a notice within 30 days.

If this bill is passed, the problem will be solved. Any illegal lockout will be immediately undone. And no landlord -- unless he's a complete idiot -- is going to go to jail. Now, I know-- Well, I don't know, but I feel almost completely certain that no member of the New Jersey Apartment Association will ever have a problem with this bill, because they don't do this. They're legitimate business operators. But we do have some crazy people who do it. It's not that frequent, but it happens. And when it happens, it really is a crime.

The two technical problems-- Let me get to the most important one. Section 3E -- "a summary of the provisions of Section 3 have to be summarized in the warrant." I suggest that that should be Sections 3 and 4. When it was initially written as Section 3, there was no Section 4.

Now, the next one is important. That statement of execution of warrant-- It is critical that the statement of the execution of the warrant be personally handed to the landlord. It's not that important with the tenant, but it's critical to protect the landlord. Here I'm arguing now for protecting landlords. If the landlord doesn't have that in his hands, you could have a scenario where the tenant calls the cops because there's a lock on his door, the cops come, and the landlord doesn't have the statement. It's in the mail, it's been mailed certified mail -- if that language allows that. I'm just not sure what that language means. The words that we had were slightly changed. And I don't know what *served upon* means. I would strongly suggest that even if you have to make a difference between the landlord and the tenant, that the landlord actually be handed that statement simultaneously with the execution of the warrant.

That's it. Thank you.

SENATOR RICE: Thank you, Matt.

There's an amendment.

MR. SHAPIRO: You know I don't like the addition, but I'm not going to--

SENATOR RICE: Sure.

There's an amendment, in terms of law enforcement, that not only does the attorney general notify all the law enforcement elements-- I'm a former police officer. We have a lot on our hands, in terms of rules and regulations. But we're going to amend that to make sure that once those law enforcement entities are notified, they have to educate their officers in the academy training regarding those provisions.

MR. SHAPIRO: Excellent.

SENATOR RICE: As well as roll call, and service training.

MR. SHAPIRO: It would take someone with your expertise to even think of that. Thank you.

SENATOR RICE: Right. Because what will happen is, traditionally we do laws, and the police departments put them in some binder under some order number. And that's where it stays until somebody disputes it. Then they go look in, like, in the library of research -- and while people are out there beating each other up -- trying to say who is right or wrong.

So we're going to make sure that this is a provision. Because we want the officer to be in a position to do the right thing. We want the landlord to be protected if they have a proper eviction notice. And we want the tenant to be protected if, in fact, they don't have a proper eviction notice.

MR. SHAPIRO: I'd just like to thank you very much for taking a lead on this. And I hope that you release it tomorrow, when you have your Committee hearing -- Committee meeting, excuse me -- and that you use your influence to see to it that it gets posted for a vote in the Senate.

And, Assemblyman Green, I hope that you call a Committee meeting and hear the same bill in the Assembly. Assemblyman Stack is looking forward to it, I know that. He's the sponsor.

Thank you very much.

SENATOR RICE: Thank you very much.

You want to speak, 10-4?

10 - 4 EVANS: Good afternoon to everybody -- good morning -- the Councilman, all the executives on the board -- and also the law that you're making for lockout, which I hope will be passed. In regards to this issue--

I've had several people in mind, as me -- 10-4 Evans.

SENATOR RICE: Excuse me, 10-4, state your name for the record. And speak up loudly -- and your address.

MS. EVANS: All right. My name is 10-4 Evans. I'm the President of the Harrison Apartment Building. It's 555 Elizabeth Avenue.

I'm speaking on this behalf, because I just had this happen. Two weeks ago -- on a tenant of mine -- that illegal lockout. Number one, they didn't have no paper whatsoever. The landlord went and typed something up by the copy machine and put it on a young lady's door. She had never been to court. I went down there with her. The court had never seen that order. And her rent was paid up. It wasn't about her rent. It was because she stood up for her rights. And he wanted to get rid of her -- a disorderly.

So I feel, to me -- and this law -- are passing. I hope and trust that we all look at this very thoroughly and make sure this doesn't happen to someone else. I'm fortunate that she's back in her apartment this morning, because I went with her.

So I hope and trust the Lord it won't happen again. To a landlord, that's the most important thing -- a landlord will always retaliate against a tenant when they speak up for their rights. And, also, she was on my panel as a president -- a tenant association.

So we need to address these issues. And we hope and trust the amendment that you pass -- and the order -- make sure it will go through

the people and also the landlord. And let -- some tenants are wrong, and some landlords are wrong. But, please, let's try to get rid of these slum landlords. And, please, let us all look at these orders before we sign-- Make sure we go through it properly.

Thank you.

SENATOR RICE: Thank you, 10-4.

Any questions or comments on the legislation from the Assemblyman or Councilperson? (no response)

Okay, thank you very much.

Mr. Sauter, come on up.

MR. SAUTER: I would like to actually echo Matt's comments regarding the illegal lockouts of tenants. It's something the Apartment Association strongly opposes.

We did have a quick opportunity yesterday evening to take a look at the additional amendments. We do have a couple of issues that we would like to address with staff and with the Chairman, possibly after the meeting.

A couple quick ones on the use of municipal court -- some technical issues of real property versus personal property, also legal occupants, and a couple of the definitions on forcible entry. But I think they're things we can all work out. But I certainly agree with Matt, and also with the Tenants Organization, that this is a tool that we do not condone in any way. We would certainly oppose any property owner who would seek to use it.

Thank you, Chairman.

SENATOR RICE: One thing I can say about the good landlords, even when they are wrong, they will go to court first with those notices. It's just that the judge would be wrong when he is saying, "Yes, it's right."

Mr. Glenn K. Arnold, Neighborhood Housing service, my sister city. Welcome, and come on up.

G L E N N K. A R N O L D: Good morning, Senator.

SENATOR RICE: How are you doing? How is the Mayor doing? I know you guys are building the city very well.

MR. ARNOLD: Good morning, Assemblyman, Councilman.

My name is Glenn Arnold. I'm the Director of Neighborhood Preservation Programs for the city of East Orange and the Neighborhood Housing Division.

I speak on behalf -- in favor of the bill. But there are some practical issues, in particular, I'd just like to point out. In one instance -- and I thought when Mr. Shapiro started his testimony, when he mentioned the situation with the person coming back and being locked out, that he was going to raise some other issues. In particular -- the practical issue of the landlord not living at the residence and, therefore, not being able to be served, not being able to be addressed. And how, if the landlord is the one who is going to get the disorderly persons offense, how that's going to help that individual at that moment, with respect to getting back into the unit at that time.

And I may have missed it in the bill. I was trying desperately to read it and see it. But it is a practical issue, because in East Orange, we have several instances where some landlords have basically tried to clear out

their apartments by -- as the young lady mentioned -- putting out false notices, evicting them through the court on false pretences. And those issues where people are getting locked out and moved out under false information--

There's a landlord who lived in New York. He had no connection with the property. The management company and/or the super was the one who actually did the -- proceeded with the lockout. So I guess the question is, when it comes to the time that the lockout is occurring, how will the individual be let back into the unit until all of the items are cleared out, any issues are cleared up -- with respect to getting back into the unit.

So that was really my question, because we've had this happen in East Orange in the last year-and-a-half, where our judges -- our municipal judges have had to try to enforce laws on landlords. But trying to find them was an issue. The super was there, the management company was in the area, but the landlord -- him or herself -- were unable to try and get to, to enforce these laws.

So in the meantime, we have a tenant who either singly or with a family is locked out until such time as all these issues get resolved. And I guess my question pertains to what happens, in a practical sense, for the officers, not having the proper noticing in effect, not having the proper information-- What gives them, obviously, the right to-- Who do they enforce the law on, I guess, is the bottom line, if the landlord is vacant?

SENATOR RICE: One thing about laws are, they're never perfect. We do the best we can.

Let me give you some scenarios. Number one, I understand what you are saying. I've been in that position, both as a legislator, as well as a police officer. There are a couple of things. Number one, I had a bill in before. I don't know if we ever passed that bill, so I will have to go back and research it. But landlords could not give us P.O. boxes. They had to at least file with the clerk of the county and say exactly who they are, where they live, their corporation. We wanted to know who they are.

Bob, we need to make a notation to check that, to see if that became law.

If not, we need to think about, Assemblyman Green, revisiting that. Because we should know who owns what, and how they can be in touch with-- We recognize some people live out of state. Most of the bigger buildings have management agencies and supers.

There is something you can do, in East Orange, that Newark did, under my leadership. But they don't do it right, and they haven't enforced the issue. I passed a bill a long time ago that says that-- I did an ordinance when I was on council. Just for your information, my seat used to be right there (indicating).

MR. ARNOLD: I recall.

SENATOR RICE: But the ordinance says that, in these multiple family buildings -- in fact, it was four families and up -- you had to post clearly in the hallway, in the common area, how to get in touch with these folks.

At one time, we used to actually send out slips ourselves, with -- posted. That's when Ed Lucas (phonetic spelling) was here.

Now, all of a sudden-- I notice when inspectors go out, there's no violations. They will violate everything. And I think that's because my inspectors are not being given a checklist, if you will, with some of the things they should be looking for. You can't remember everything, but there are some things that are obvious.

So you may want to pull a copy of that State statute. I think we did it by statute. If not, we did it by ordinance, at least. And you can talk to our city clerk, and the other clerk member here -- ask them to give you a copy of that ordinance. So that will resolve some of it, to some degree.

My major concern is-- And I'm going back, because if we don't finish a bill-- If I don't get any of these bills through now, I have to put them back in. As I said, we can put a bill in and never get it moved. It could take 10 or 15 years. I've got to remember what ever happened to the bill I had, that was requiring landlords -- building owners -- to register a change of address. Because what they will do is, they'll register with the city for East Hanover, and for the last three years they've been in -- I don't know -- Roselle. And we don't know that. And they're supposed to make those changes. So we need to revisit that.

In terms of this legislation, I'm not sure if we address it at all. We're going to let Mr. Shapiro come back up and speak. But it is a concern.

But understand this. What this law says is, most of the time, you can get somebody at that building. It may take you three or four days to get that super who is out drinking. But the point is, if they don't have that document, then they go back in that house. We're going to have to

tighten that up. But the whole idea is that -- and the presumption is that, most of the time, you can get the landlord, or his or her agent, etc. That's the presumption. Then you have that minority of the situations where folks like to disappear on us, and all these flips, and everything else, in terms of service.

But it seems to me that the landlords who are legitimately -- have a document -- they're going to make themselves available. They want to make sure the person is out when they're supposed to get out. The ones that think they're going to throw you out early without the documents are the ones we're going to have to run down some kind of way.

But the key for law enforcement-- If they're doing their job, I don't need a law. Because I'm a former cop. Cops can get a little lazy sometimes, or don't use good common sense. If I went to a place, and I couldn't get a landlord, I would try to work with the person and tell them they're going to have to, kind of-- Because I can't-- I've got to find out what's going on. I can't just go kicking in doors, and letting people in, and then find out there's a document. But I would document that I can't get that landlord. Because under the documentation-- If, in fact, I document and that landlord, when we do catch up with him, doesn't have it, I've got a report made already -- 1001 form, which we called them, or some other document -- that I was able to -- that landlord was not available.

So at least when we catch up with them, they're going to have to produce a legal document saying that at the time we didn't get them, that they had permission to lock them out. If not, then they're going to kick it in.

What we could probably do is, we'll revisit that and see what we can do with it. But, right now, we have to use what's available to us. I'd rather have this than have nothing, and fine tune as we go down the line. This will get you a lot further than you've been going in East Orange, right now. I can guarantee you that.

MR. ARNOLD: I appreciate that.

SENATOR RICE: And I think that the deterrent-- As I said, we're not trying to hurt landlords, we're trying to deter. I think that once it's clear to landlords that this is in effect, some of them are already going to start to mitigate their own mentalities, if you will, and make sure they have the right documents.

Now, you wanted to say something on that.

Assemblyman, you can speak first.

ASSEMBLYMAN GREEN: Before Matt comes up, I think that this point you bring up is a very valid point in this day and age, especially with technology being what it is.

I would like to feel that we don't take your concerns lightly. I know a lot of situations have come up in my own town of Plainfield, where there are so many levels of people you have to go through in order to get what you are trying to accomplish.

Not only, Senator, I would be concerned about posting of that information, but there should be some records in city hall. Because this goes beyond just a lockout. We can have any disaster situation occur in trying to figure out who owns the property, who do we talk to. I think that should be part of the new law, where that paper trail is there. Within a 24-hour period, somebody could be accountable. Because, just like anything

else in this day and age, people have a way of figuring out how they can circumvent the system. And at the end of the day, we're going to have a disaster. And for me to sit here and say, "Okay. It's all right to take two or three days to find that individual--" We should be able to find that individual within 24 hours.

So all that fits into one category, in this day and age, making people a lot more accountable than we had in the past. The professionals, the guys who are here today representing the Apartment Association, they want to do everything right. It's just someone, for some reason, figured they could circumvent the system.

So this point you brought up I'm going to take into consideration, and figure out, not only on this particular issue, but how we can make sure that every municipality has that information -- the fire department, the police department -- for any (indiscernible), especially one of this nature here, when you talk about human lives.

Thank you.

MR. ARNOLD: Thank you, Assemblyman, Senator.

SENATOR RICE: Come on up, Matt.

The reason it's important, the reason I asked staff to go back and revisit what happened to the bill to force them to register these changes, and their proper addresses, and their principals with the county clerk and the register, or other -- so it can get to our law enforcement. There are buildings, in some of these cities, where there are areas of the buildings that haven't been used, really, since maybe the '40s, that actually have undergrounds to them. They may have been closed off. But in case -- as Assemblyman Green said--

We're into national emergencies now, and 9/11s-- Sometimes there's a need to know where they are. I mean, you look at the prints, you can actually see them -- and you have problems, and not even know that the building is situated the way that it's situated. So we do think that's important, because then someone has to come in and tell us how to get there -- if our fire department, emergency response team can't get there.

Matt, go ahead.

MR. SHAPIRO: I fully agree. The Landlord Identity Disclosure Law should be amended to require that notices go to the municipality, the State, and the tenants, whenever any change to that information occurs. You're completely right. And we would support it.

In the case of not being able to find the landlord, really, it's the landlord's problem. Because if the landlord isn't there to produce the statement of the execution of the warrant, then the tenant is presumed to be correct. And it's extremely unlikely that either the landlord or the landlord's agent would not be there, especially if that-- If you did it right, if you went to court, got an eviction, got a warrant, got a statement of execution of the warrant, and just went on holiday, the guy has got to be nuts. It's silly not to have somebody around. So he's got the tools to protect himself, he should use the tools. Maybe some education-- It's not a problem for the tenant. It's a problem for the landlord.

SENATOR RICE: Let me assure the people here, and the tenants in particular, that myself and Assemblyman Green are going to visit this issue. We'll probably come up with some legislation. Tomorrow, we're going to try to move this bill so we can at least start the process of addressing this padlocking stuff. Because we're into those times now where

it's cold, and this stuff continues to happen for a lot of reasons. And we're in lame duck and we're trying to move directly to the Governor's Office on this bill, because we're going to have a new Governor coming in, I think on January 17 -- is the swearing in.

But we hear loud and clearly. And it's not something that's new to our attention. It's just something that we have not revisited over a number of years. Because, like I said, I had bills in before that addressed some of that, because we know that does occur. Particularly in our urban cities throughout -- and a lot of the suburban cities that touch our borders -- more so than elsewhere.

All right. Thank you very much.

The next bill we're going to deal with--

COUNCILMAN BELL: Senator.

SENATOR RICE: Yes, I'm sorry, Councilman.

COUNCILMAN BELL: Before we move to the next bill, I notice in the audience we have a representative from the largest landlord in the city of Newark, Mr. Brown, from the Newark Housing Authority.

I'd like to know if the Authority has a position on the bill, one way or the other.

SENATOR RICE: You have to come up to the mike so they can hear you, and they can record you, and I can see you and say hello to you, and wish you happy holidays.

D W I G H T B R O W N: Happy holidays to all who are seated.

Councilman, our position is -- as the bill reads -- we are in agreement with the bill as it is proposed.

COUNCILMAN BELL: Thank you very much.

MR. BROWN: I apologize. My name is Dwight Brown, and I'm here representing the Newark Housing Authority.

SENATOR RICE: We can always find them, they're on record. They can't hide. (laughter)

Okay. The next bill we're going to hear is Senate Bill S-2696. That's Senator Madden and Senator Rice's bill. It requires new, affordable housing. I emphasize that new, affordable housing units constructed be accessible for use by the elderly and disabled persons.

Now, there's a lot of-- There was a lot of confusion as to what that meant. Even with me, I had to make sure that the bill does what it intends to do, not cause contractors, and developers in cities -- and housing authorities -- a lot of dollars that get passed on -- the dollars if they don't have the bill. Because a lot of our buildings -- the dollars are coming in from government. And if government tells you, you have a million dollars, that's all you have. That's what you have to build with. If they tell you, you have a million dollars to build 10 houses, they don't mean eight, they don't mean nine, they mean 10.

What this bill actually does is not require every unit -- and Bob will go over the bill -- to be a handicapped unit. Because that was the first impression of the bill -- that we're going to put all these things in, whether you're handicapped, or disabled, or not. What it does is, kind of, set up the form, if you will -- the foundation -- that if, in fact, a person rents a unit, and they happen to be handicapped, or become handicapped, you can, in fact, do the installation of what is necessary.

Similarly, Councilman Bell, what we did in Newark years ago, when we expanded the airport, the one thing we did was say, "Well, Seattle

has the monorail, and we'd like to have a monorail." And everybody said, "We can't afford a monorail." We said, "Well, that's true, but can we at least put in place those kinds of things that are necessary in case, one day, we can afford a monorail?" And that's why, when the monorail came to Newark Airport, everything was already there for us to do the monorail. So it didn't cost us extra dollars. We didn't have to go back, and dig, and do a lot of other different kinds of things.

So, Bob, would you explain the bill as it is?

ASSEMBLYMAN GREEN: Senator, before Bob explains the bill--

SENATOR RICE: Go ahead, Assemblyman.

ASSEMBLYMAN GREEN: You've been very modest today, because a lot of what we're talking about today has been driven by your leadership. And I want to congratulate you.

In my House, when we were talking about affordable housing and putting money in the budget for affordable housing, a lot of people didn't understand that the money that you were asking to put in really dealt with this particular issue. In this day and age, every family, as they get older -- they don't want to go into a senior facility. This gives them an opportunity, now, to be in the setting that they're accustomed to.

So I think this bill really covers a lot of, I consider, concerns that a lot of our seniors are having. So, like you said earlier, you're preparing for the future. And I just want to congratulate you. Because, again, a lot of people didn't understand, when you were fighting for those affordable housings, they thought you were just fighting for affordable housing for first-time homebuyers. But people didn't understand that the

language in that particular bill, at that particular time, addressed this particular issue. One, with the growing senior population here in the State of New Jersey-- It's obvious, now, that these people will have an opportunity to be able to live in a surrounding, or an atmosphere, that meets their needs.

As we all get older -- I don't care who you are -- you're going to wind up with some kind of handicap. And it's nice to know that you're preparing us for that.

SENATOR RICE: Thank you.

Bob.

MR. ROTHBERG: The first thing I want to point out is, there are two bills on the public hearing notice that are substantially similar: S-2696, which is Senator Madden and Senator Rice's bill; and S-2725, which is Senator Doria and Senator Inverso's bill. They're also very similar to an Assembly Substitute that came out of Assemblyman Green's Committee last week, sponsored by Assemblyman McKeon.

The Committee Substitute that -- copies were made available to you earlier today, and are in your packets, gentlemen -- was worked out with Assemblyman McKeon's office. It puts these two bills together that are on the agenda today. It's substantially similar to the Committee Substitute that came out of the Assembly Housing Committee, with some fine tuning, with input from DCA -- Department of Community Affairs -- and some other interested groups.

Effectively, what Senator Rice said is entirely accurate. The idea here is that all affordable housing that's constructed in the future would have to be adaptable for physically disabled persons, meaning that

perhaps the actual accessibility standards wouldn't have to be there, but the door would have to be of a certain width to allow a wheelchair to go through, a bathroom would have to be large enough to accommodate a wheelchair, those sorts of things that would allow a unit to be made accessible should someone who is disabled moved into the unit.

There are a lot of technical details that probably many people in the audience know better than I do. But I think that that's the heart of the bill.

ASSEMBLYMAN GREEN: Would you be saying that-- Are we going to be merging these two bills together when they come back to my House? Are you saying it's going to be one bill? How is that going to be technically handled?

MR. ROTHBERG: I'm sorry, Assemblyman. What we're going to do is, we're going to report-- What we're planning on doing is, tomorrow, when these bills are up at a Committee meeting -- the two Senate bills -- we will be putting them together into one Senate Committee Substitute. We've been in touch with Assemblyman McKeon's office so that he is on the same page with us. And he is interested in making the same changes to his bill on the Assembly side, to make it identical to the Senate Substitute that we'll be reporting tomorrow.

ASSEMBLYMAN GREEN: So when it comes back to my Committee, basically it won't be changed to the point that we'd have to go through the whole process again. It just will be amendments to the bill.

MR. ROTHBERG: As a procedural matter, I believe if we are able to report a Senate Committee Substitute tomorrow, and Assemblyman McKeon is able to do -- am I right -- your Committee Substitute passed --

he's able to do Assembly floor amendments that make his bill identical, once the Senate bill passes or the Assembly bill passes, it won't have to go back to your Committee.

ASSEMBLYMAN GREEN: Although the changes you want to make I do support, I'm just trying to figure out the technology of -- the technical points that we might have to go through, in case it has to come back. And it's obvious I can inform the members of my Committee that I've sat on the hearing, and I'm very supportive of it. That's the way to put it. I'd like to fast track this, because this is something I'd like to see happen very soon and not get caught up in, basically, back and forth between the Committees.

So whatever I can do in my Committee to help you, Senator, just let me know, and I'll make sure that staff works with your staff to make this happen.

MR. ROTHBERG: Understood. And, frankly, even the Committee Substitute that I did put together -- and have circulated for today -- is still in play. I have provided-- I believe I have provided you with a copy of notes from Lucy Voorhoeve, who is the Executive Director of COHA, who has commented on the bill. And DCA is now circulating her comments, internally. And I'm hoping that a colleague of mine will be working on those down in Trenton, this afternoon, to get this in final order for tomorrow. Otherwise, I'm driving to Trenton from here.

SENATOR RICE: Procedurally, I believe what's going to happen is that-- This bill already passed your Committee.

Is that correct?

MR. ROTHBERG: Yes.

SENATOR RICE: It's in our House now.

MR. ROTHBERG: No, no, it's still in the Assembly.

SENATOR RICE: Oh, it's still in the Assembly. It's on the board?

MR. ROTHBERG: No.

SENATOR RICE: It's still in Committee?

MR. ROTHBERG: It's passed out of Committee. It's on second reading in the Assembly.

SENATOR RICE: Okay. What's going to happen is that--

ASSEMBLYMAN GREEN: That's what I wanted to know. Does it have to come back to the Committee--

SENATOR RICE: No.

ASSEMBLYMAN GREEN: --or we can do it from the floor?

SENATOR RICE: No, what's going to happen is--

Procedurally, what's going to happen is that, in my House, we're going to move it out of Committee. We'll merge the bills so they will all be set up. The bills will come back to your House, with the amendments. Your House will concur with the amendments and vote the bill into law from the floor.

ASSEMBLYMAN GREEN: Very good.

SENATOR RICE: All right. We have a lot of speakers here.

First of all, I have Ms. Nancy Hodgins.

Is there a Nancy Hodgins here? H-O-D-G-I-N-S.

How do you pronounce that?

NANCY HODGINS: Hodgins. (indicating pronunciation)

SENATOR RICE: Hodgins.

Okay, Ms. Nancy.

ASSEMBLYMAN GREEN: You were very close.

SENATOR RICE: Yes, from Heightened Independence and Progress, HIP.

“Will speak if needed.” Well, you’re the first one, so I guess it’s needed. (laughter)

MS. HODGINS: I actually didn’t come prepared to speak. But I came because I feel that this is such a very, very important bill. I work with people with disabilities. Our agency is an agency that’s a center for independent living. Our Executive Director is here, and I know she has some remarks to make, as well.

I just wanted to share that, as the Honorable Assemblyman already said, we have one out of five Americans that are people with disabilities right now. And as our population ages, I’m sure that that percentage will grow. Right now, we have people who have disabilities, with the overwhelming majority of them being people who are considered very low income. One of the major stresses in their lives are finding not only apartments or places to live that they can afford, but they have the added burden of finding places to live that are accessible to their disabilities.

As an advocate for our agency, I’m dealing all the time with calls from consumers with disabilities who are either in apartments that are not accessible, they have now acquired a disability -- and they don’t know what to do. The emotional stress, the challenge that faces them, is almost hard to describe.

We are in a county-- Our particular office is in Bergen County. Our agency covers both Bergen and Hudson counties. And I can speak

specifically about Bergen County, which has, I think, probably the highest rental in the country. And these costs are disastrous for people with very low income. They have the burden of not only finding a place that they can afford to live in, they have the burden of finding a place that will have a bathroom door that's wide enough for them to enter, to have a counter that's low enough for them to be able to cook at. So many aspects of daily living depend upon having your home accessible to you.

We have a program at our agency that helps people to fund changes. We often run into landlords that do not want these changes to be made, even though the law requires them to allow it. But the burden of making these changes rests on the tenant, or rests on the person who is occupying that home. It does not rest upon the landlord. So we have people, now, who have very little money, who need a place to live that can accommodate their disabilities, and cannot afford to make these kinds of changes.

I think it would be superb for the government to set the standard. When they give out government money for building low-income housing, or affordable housing -- to set a standard that every place should be built with the potential of making it accessible. And I think that's what we consider adaptable to be: a counter that can be moved to be lowered, if somebody requires that; a bathroom door that's going to be wide enough for everyone to get in; appliances in the bathroom or the kitchen that can be lowered to accommodate someone with a disability.

We face so many people who are frantic about the fact that they not only can't afford to find a place to live that they can afford, but

can't find a place to live that they could occupy and conduct their daily living.

The government's theory and mandate is to -- for all of the states to help people with disabilities remain in their communities, if they choose to do so. They cannot remain in their communities if they don't have places to live that they can afford, and places to live that can accommodate their disabilities if they require it.

So I strongly urge support of this bill. It's going to change many, many thousands of people's lives. And I think it would be wonderful for the government to set this standard for everyone.

Thank you.

SENATOR RICE: Thank you very much.

Any questions of the speaker? (no response)

The young lady right there in the center--

Are you here to speak? (affirmative response) What is your name? Are you Shonda? Is it Ms. Lewis?

S H O N D A L E W I S: Yes.

SENATOR RICE: Come on up, Ms. Lewis.

MS. LEWIS: Good morning.

My name is Shonda Lewis. I'm here to represent a few organizations: Dial, Inc., the Monday Morning program, the Advocators, the New Jersey Coalition of Women on Disabilities, the New Jersey Minority Coalition on Disabilities, and also Citizen Action.

I come to represent not just these organizations, but also as a person with a disability. As the young lady mentioned -- that just spoke

before me -- yes, housing for disabled people are needed. And accessible adaptability is needed, also.

I currently live in a house for people-- It was built for people with disabilities. Unfortunately, there are not enough of them to go around. You have a large population of people with disabilities here in the city of Newark, alone. So these-- So the housing is needed.

I want to speak a little bit on behalf of myself. As in general -- just not -- just for me -- just give my life as an example -- as to the total population of people with disabilities. For many years, I lived in a residence with my mom. And in order for me to get out, I had to have people in my family to get in and out of the housing. But thankfully I'm in a housing that -- where I can get out on my own and live that independent lifestyle.

Unfortunately, that's not really available to everyone with a disability. So more housing is needed. A lot of people think about -- just housing -- just to live in general. But they don't realize how housing for a person with a disability can -- just that first step to living an independent life.

Because I've been able to live in a house for myself, I'm currently a college student. And not only am I involved in a lot of organizations and things within the community-- If housing would have been in position for us, none of these things would have happened. It seems that we, as disabled people, are -- seems to be getting put on the back burner when it comes to housing. And I had no disrespect to people that are seniors. There are senior citizens -- but a lot of units that are being put up, they're being put up for them. And people with disabilities are being excluded from that.

I personally have been denied housing because of-- I have a daughter. And a lot of units that have been put up for people who are senior citizens are not-- We are not being included in that factor. And it needs to be. As a population-- Like the young lady said, they're growing. A lot of people with-- It's happening. I was an able-bodied person myself. And I just happened to -- years down the road -- become a person with a disability. So it can happen to any one of us. We are all just a step from becoming a person with a disability.

I know the word *handicapped* was mentioned, *disabled* was mentioned. But a lot of people who have disabilities-- We're trying to get past those words *handicapped* and *disabled*. We're still-- Just because we have disabilities doesn't mean that we should be excluded from-- A handicap is just something that may have happened to you. But we shouldn't be treated as that -- as such -- as that.

So we're looking not just for a handout, but a step up to being able to live our lives as independent as any of you who sit forth to listen to us today.

And I'd also just like to say thank you for having this opportunity to speak on behalf of people with disabilities.

SENATOR RICE: Thank you very much.

Any questions or comments from the Committee members up here? Councilman Bell, Assemblyman? (no response)

Thank you very much.

Okay. The next speaker we have is David Lazarus.

D A V I D L A Z A R U S: As in the Bible, Lazarus (indicating pronunciation).

SENATOR RICE: Okay. Well, you're not going to get to heaven spelling it like that. (laughter) But that's all right.

Go ahead, Dave.

David is with the Community Health Law Project.

Thanks for coming.

MR. LAZARUS: Senator, thank you very much for the opportunity to address you.

And we appreciate the appearance of the Councilman.

And, Assemblyman Green, it's good to see you again.

I represent the Community Health Law Project. And we represent approximately 3,500 persons with disabilities and seniors per year. And one of the major focuses of what we do is housing issues. And this housing issue before you, and this bill before you, is so exceedingly important. It's probably the most important bill regarding housing and persons who are disabled and seniors to come along in a very, very long time.

As you are probably aware, there's a huge number of folks that are New Jersey citizens that are persons with disabilities. About 12 percent of our population, of our citizens, are people with disabilities or mobility impairments due to age. That's over 1 million citizens of this state, 45 percent of whom are either on fixed incomes or of low income. So, for them, the prospect of finding affordable housing is very difficult. Affordable, in New Jersey, is almost a vanishing dream, as you well--

New Jersey has the largest, per capita -- or I should say, per household income of any state in the country, and the third most expensive housing market of any state in the nation. So for persons with disabilities --

where they need some kind of adaptable features to a home -- the problem is even that much more critical.

What this bill essentially does is, within the Fair Housing Act -- which governs COAH housing, which you're all familiar with -- it requires that, particularly, townhomes be built with adaptable features. And I'm only referring to the ground floor of townhomes. The problem with the affordable housing requirements under Mount Laurel, for the most part, is that up to now, many of the -- as you drive around and see Mount Laurel housing, and affordable housing -- many of the configurations are in the townhome configuration. And, up to now, all townhomes have been exempt from any barrier-free requirements.

Under New Jersey law, you build a high-rise-- Every single apartment in the high-rise, whether it be affordable or unaffordable, has to comply with the barrier-free subcode. If you build a garden apartment, which is generally an apartment on one level, and sometimes flat on flat, the ground floor has to be accessible. And that's what we're asking for, as it regards to townhomes -- that the ground floor -- no elevators -- that's not what we're advocating -- has to be accessible. And the features that would be accessible really are adaptable.

Adaptable and accessible, in New Jersey, are interchangeable. And it only means that you build in, as the Senator and the Assemblyman know -- you build in features that can, at a later time, be adapted for use by a person with a mobility impairment. These units are imminently occupiable and usable by a person without a disability. But for a person with a disability, or a person that becomes disabled, the cost of retrofitting,

if one had to, would be exorbitant, or you couldn't practically even retrofit it.

So from a practical standpoint, the units look the same but for the fact that there are little bigger bathrooms to accommodate a turning radius for a wheelchair, the kitchens are a little bigger to accommodate the turning radius for a wheelchair if necessary, and there are things that are built in that are not even visible so that, at a later time, they could be adapted. For example, for the installation of grab rails by a bathtub, or a wash closet, or a toilet, there's required to be blocking behind the walls -- extra two-by-fours so, structurally, one could, at a later time, add grab rails if one needed to, at their own cost and expense. And that's what this bill intends to do.

Over the next 10 years, COAH has estimated -- Council on Affordable Housing -- that given the current growth rate in building of housing, that there will be 60,000 units of COAH housing added over the next 10 years. If most of it, as in the past, has been built in a townhome configuration, it would be enormously important to people with disabilities and seniors so that those homes, as COAH goes -- as the municipalities come on board and build affordable housing -- be built so they could be adapted for -- as the need exists, or warrants in the future -- for people with disabilities. And that's, essentially, what this is. It's very little cost.

The Department of Housing -- Federal Department of Housing and Urban Development estimates that it costs the builder one-half of 1 percent to make these adaptable features added in to the cost of the project, if it's done at the time of construction. And this bill only applies to construction in future-- There's no cost to the State.

To me, it's a win-win-win situation for everybody. People with disabilities, seniors, the Legislature, and builders themselves -- to be able to market these places to persons with disabilities and mobility impairments.

And I thank you so, so much for the opportunity to be able to address you today.

SENATOR RICE: Thank you very much.

Any questions? (no response)

Okay. Next, we have a Mr. Jonathan Campbell.

Is Jonathan here? (affirmative response)

Jonathan is from ABCD.

J O N A T H A N C A M P B E L L: The Alliance for the Betterment of Citizens with Disabilities.

SENATOR RICE: Can you say that again, into the mike, with your name and address?

MR. CAMPBELL: Sure.

The Alliance for the Betterment of Citizens with Disabilities.

SENATOR RICE: Okay.

MR. CAMPBELL: As I stated before, my name is Jonathan Campbell. And I would like to thank Chairman Rice and the rest of the Community and Urban Affairs Committee for the opportunity to testify in support of this legislation.

ABCD is a statewide advocacy organization comprised of 13 member agencies that provide an array of community-based services to more than 8,000 people with multiple physical and developmental disabilities, and their families.

This bill, by requiring that all newly constructed affordable housing conform to New Jersey barrier-free subcode standards, takes seriously the vital link between affordable and accessible housing for New Jersey's citizens with disabilities and New Jersey's senior citizens. While keeping the cost for necessary modifications as low as possible, by addressing the need for potential modifications at the early stages of construction, this legislation would help many individuals with disabilities and senior citizens find not only affordable, but accessible and adaptable, housing.

Many of the individuals ABCD's agencies serve have limited access to housing in their own communities. Many individuals with disabilities throughout the State of New Jersey have no other option than to live in an institutional setting or in their aging parents' home, because affordable and accessible housing opportunities are not adequately available in this state.

For example, the Division of Developmental Disabilities' waiting list for community residential services currently totals 7,433 individuals. It is important to remember that many people with disabilities -- affordable housing must also be accessible. And affordable rent does a person with a disability little good if that housing unit cannot be modified to meet their physical or sensory needs. Accessibility is not a luxury for these individuals. It means that a housing unit is a place where they can live, a place where they can call home.

According to a 2003 U.S. Census estimate, there are roughly 939,485 New Jersey residents who are age 5 or older with a disability. Of those, roughly 12 percent, or 110,858 New Jersey citizens, have at least one

condition that limits basic physical activities, or they have a sensory disability involving their sight or hearing. This figure is a conservative estimate of New Jersey citizens who would benefit from accessible and adaptable housing, because it does not take into count those with mental, emotional, or learning disabilities. This number is growing every day, as individuals age, as more individuals are born with disabilities or develop them.

Why accessible housing must be affordable housing can easily be demonstrated. People with disabilities continue to be the poorest people in this nation, and in this state. As a national average, SSI -- or Supplementary Security Income -- benefits in 2000 were equal to only 18.5 percent of the one-person median household income. SSI is the major or only source of income for many individuals with disabilities. An SSI recipient in New Jersey, receiving \$595 a month, can afford a monthly rent of no more than \$179, while the fair market rent for a one-bedroom unit is \$901 in New Jersey.

HUD's Office of Policy Development and Research indicates that people with disabilities between the ages of 18 and 62 represent approximately 25 percent of the households with worst-case housing needs. In New Jersey, 20 percent of the over 9,000 families on the Public Housing Authority's statewide Section 8 waiting list are families whose head of household has a disability or is a single individual with disabilities. Six percent of these individuals are senior citizens with disabilities.

This statistical data clearly demonstrates the need for affordable and accessible housing in New Jersey. You and your colleagues, along with Acting Governor Codey, have recently taken many steps, such as the new

State Rental Assistance Program and the Housing Trust Fund, to address the need for affordable housing in this state.

Senator Rice, Senator Doria, Senator Inverso, and Senator Madden, along with many others in the Senate, should be commended for their commitment to creating more affordable housing opportunities in New Jersey.

I and the members of ABCD, along with the consumers and families they serve, urge all of you to continue down the path by addressing the need for affordable, accessible, and adaptable housing. We urge you to send this piece of legislation to the floor of the Senate for a vote, and encourage your colleagues in the Assembly to also address this matter by voting for A-3892.

New Jersey is moving in the right direction on this issue. Let us continue the momentum of positive change. This truly is an issue of freedom and total integration into communities and society.

Thank you, once again, for the opportunity to testify on this important matter.

SENATOR RICE: Thank you very much for your testimony.

Are there any questions or comments from my colleagues here?

(no response)

Thank you very much.

The next speaker we have is Liz Shea, from The Arc of New Jersey, in favor of the bill.

E L I Z A B E T H S H E A: Good morning.

My name is Liz Shea.

I guess good afternoon, sorry.

My name is Liz Shea. I'm the Director of Governmental Affairs at The Arc of New Jersey.

First, I'd like to thank you, Senator Rice, Assemblyman Green, for being here, and the rest of the Committee for putting the bill up. We are very, very excited about this bill.

For anyone who is not familiar with us, The Arc of New Jersey is the largest, statewide advocacy organization for people with developmental disabilities.

I have handed in written testimony. And I know that there are some other speakers, I think, still waiting. My comments pretty much echo what everyone has been saying. So I'm going to keep it really short and just say that, on behalf of the estimated 200,000 individuals with mental retardation in New Jersey -- many of whom also have mobility issues -- we really applaud your leadership on this, and your efforts, and it really will help thousands of individuals. So we appreciate it.

Anything we can do to help--

Thank you very much.

SENATOR RICE: Thank you very much.

We have Ms. Eileen Goff, from Heightened Independence and Progress, HIP.

Eileen Goff, right?

E I L E E N G O F F: Thank you.

Good afternoon.

SENATOR RICE: Good afternoon.

MS. GOFF: Thank you for the opportunity to share some remarks with you, as I support this bill very strongly.

I'm the Executive Director of Heightened Independence and Progress, operating two centers for independent living in Bergen and Hudson counties, and with some programs that spread across the state. Our motto, our mission is to empower people with disabilities for the full inclusion in society.

Of all the services that we provide and that, more so, of which we are requested, by far housing is the largest and the most challenging. And of the many, many, many requests for affordable housing, there is a large proportion that addresses the need for accessibility. Whether it is for someone who has been an able-bodied person and now acquired a disability, and can no longer remain in their residence; or someone who is living in a unit where the building has been sold, and they have to vacate-- Whatever the situation is, it is not an easy task, ever, to accommodate.

When we're successful, as happened to be the case yesterday, in finding an accessible, affordable apartment for someone, the end of the challenge results in an office celebration, because it is the rarity, not the usual. As far as the cost for the -- that concerns many people -- for the adaptability issues, it is my absolute belief that that minimal cost is nowhere compared to the excess for maintaining people who have to live in nursing homes because they don't have an accessible place to live.

Furthermore, if someone even needs to look for an apartment that is accessible, they frequently can't even get in to see if it's accessible. The step at the front door might as well be a play on the old adage, "The disabled need not apply."

I'd like to just share two people's situations with you that we've recently been involved with. One, coincidentally, was a referral about a

year ago from David Lazarus, who just testified -- because the Law Project was notified that there was a young man very much in need of housing. He was 16. He, his brother, and their divorced mother had moved out of New Jersey to have some support of family elsewhere in the country. They came back for a visit, and John, then 16, went to the park for an informal touch football game. That date changed his life. He had a horrendous spinal cord injury. He's a quadriplegic, and will probably remain in that situation forever.

And he and his mother remained here because they were from out of state. The brother went to stay with friends, and John and his mother stayed at the hospital, going through months of medical attention and then the necessary rehab. She slept there. She acted as his nurse's aid.

When the hospital said it was time to leave, they had nowhere to go, because they did not wish to return to the out-of-state area where they had only resided for a few months. They needed to stay in the hospital, who was very kind to them, for far longer than medical needs required, because they needed a place which, eventually, we were successful -- just because of happenstance. And he, and his mom, and his brother are now living there. And he's trying to put his life together, and going to college. But this was not someone who was able to even be discharged from a hospital, because there was no place to go.

And the other is Frank. Frank is a man in his forties, tractor trailer driver, acquired some horrible illness which resulted in the amputation of both arms and, partially, both legs. Frank is living, right now, temporarily, in the hospital in Bergen County that is -- has public -- well, what we would have formally called the county hospital.

He's living there, not quite ready to go. But along with all the adjustments, that are so unthinkable for all of us, that this gentleman has to go through, can you imagine, when it comes to finding a place to live--

So I just bring these two illustrations -- two of many, many that all of us in the disability field are so familiar with -- here today publicly, to just -- in the hopes -- in the sincere hopes that people who not only cannot afford a place to live, but cannot even get into it if we find it -- that this change can be made.

And I thank you very much.

SENATOR RICE: Thank you, as well.

Any questions or comments from my colleagues? (no response)

Thank you very much for your testimony.

Next, we have Norma Davis, Esq., New Jersey Protection and Advocacy Inc.

N O R M A D A V I S, E S Q.: Good afternoon, Chairman Rice and the Committee.

I am an attorney, and I work for New Jersey Protection and Advocacy. And that's the State's designated P & A system for New Jersey's people with disabilities.

We are in strong support of this bill. This is a real step forward. I mean, we encourage it. We hope that it will pass. We'll do everything we can to make sure that this is a step in the right direction.

And one of the things that I--

I'm going to be very brief, because all of the past speakers have really said what I wanted to say. And I just echo their support for it.

The demand for accessible, affordable housing is so great, and the supply is so low. We have a real problem with people who are -- have become disabled. And they really-- The search for accessible housing is hellish, because it's just really not out there. And as the prior speaker just said, sometimes you can't even get into the building.

So it's very important. This is the first step -- that you set the foundation for low income, affordable housing that if, at some point, it needs to be accessible, it can be accessible. This is a step in the right direction. It is desperately needed. And we hope that it will pass.

Thank you.

SENATOR RICE: Thank you very much.

ASSEMBLYMAN GREEN: Senator.

SENATOR RICE: Yes, Assemblyman.

Ms. Davis.

MS. DAVIS: Oh, I'm sorry.

ASSEMBLYMAN GREEN: You represent a statewide organization?

MS. DAVIS: New Jersey Protection and Advocacy.

ASSEMBLYMAN GREEN: Would you or someone else-- It's a question that maybe I should have asked earlier.

Could you give me some idea, currently, how many units of this nature we have available? And what's the anticipation of -- if we had an opportunity to identify how many units it would take?

I guess where I'm headed-- I'm trying to get a feel, on a percentage basis, of where we need to be in order to, basically, somewhat eliminate the crisis that we're having right now. As speaker by speaker

comes up, the way I'm feeling is that this is a crisis situation. There's a need for -- how many units would you anticipate that -- if we were able to set numbers, five years from now, that we would--

MS. DAVIS: If I were able to set numbers?

ASSEMBLYMAN GREEN: Yes.

MS. DAVIS: I would say 25 percent should be set aside for people with disabilities. Now, I know that may seem like a high number.

ASSEMBLYMAN GREEN: I'm just trying to get a feel so, as we talk about this subject, we also begin to have some solutions to the problem, not just talk about it.

Now, where do we want to be, five years from now, in terms of -- as we begin, Senator, to make sure that the State puts money into the budget, that the State looks at this as one of their top priorities? We also should be in the position to get some ideas, a goal that we should be trying to reach five years from now to, somewhat, deal with the crisis that we're having now, with the people who need these units. But we need to get some feel of how many units we're talking about, not so much percentage wise.

MS. DAVIS: Let's narrow it down to the legislation you have here.

SENATOR RICE: Speak up a little bit into the mike. I don't think they can hear you.

MS. DAVIS: Can you hear me?

ASSEMBLYMAN GREEN: The reason I say, Senator, some of the people that head up housing around the State of New Jersey -- they're

anticipating affordable units -- might be as many as -- I would say 100,000, very easily.

So if we know, Matt, if I'm correct, that--

MR. SHAPIRO: (indiscernible) (speaking from audience)

ASSEMBLYMAN GREEN: --10 years from now, we know we need 100,000 units, then we know what the target is. Am I correct? So now I'm trying to get a feel, in this particular conversation we're having this morning, where do we need to be with these units. You're saying 25 percent of the 100,000 that we're talking about -- 25,000? Would that be pretty accurate?

MS. DAVIS: Yes, I do. And these are conservative numbers that I'm giving you. I think the number may be even larger, but I'm giving you a conservative number. And I think that 25 percent of those units, easily, is needed.

ASSEMBLYMAN GREEN: Thank you.

SENATOR RICE: Any others? (no response)

Thank you very much.

Next, we have 10-4 Evans.

Ms. Evans, would you come up and state, for the record, your name and address again?

MS. EVANS: Good afternoon, Honorable Senator Ronald Rice and all on the panel.

My name is 10-4 Evans. I am talking from the president of a tenants association at 555 Elizabeth Avenue.

And what I'm representing today is about things about the handicapped. I'm very sorry that I have a sad thing too. I have lost three

people in my building for handicapped -- was misinformed that the building was supposed to be for senior citizens. And I had one die on the 20th of November -- found him dead -- five days -- which he did not have the security measurement -- you push in case something happens -- that you can call the security wire. I'm not saying we don't know (indiscernible). But if you would have had that in that building, like you publicized to those senior citizens-- He was 71 years old. We would probably be able to solve some of the problem. But it's not. And I just -- we just buried him.

I'm saying, it would be good if the bill will be passed -- for these landlords-- Do not advertise a building for senior citizens, and don't have any equipment in there for senior citizens. As you say, we're going to put some, as we go longer and longer. But we should have had looked in that building before we put those senior citizens in there. That's the third death we had in that building.

And I think this should be addressed as a handicap. Also, we should understand, if we get in a building -- and when you put senior -- although you've made the law that you might -- don't have all the access that goes in there. But you can have that landlord put it in there when he's charging these senior citizens that high prime market rent. Senior citizens are paying over \$700 to \$800. How can a senior citizen pay that kind of money and live?

It is a struggle. We need--

I'll thank you if you pass the bill. I thank you to look at every avenue, especially false advertising a building for senior citizens -- and not a senior citizen building.

Thank you very much.

SENATOR RICE: Thank you, Ms. Evans.

The final speaker, at least that we have a slip for, is Mr. Matt Shapiro, New Jersey Tenants Organization.

Matt, do you need to say something?

MR. SHAPIRO: Anything I'd have to say would be in repetition. We support the bill.

SENATOR RICE: Thank you.

Thank you very much for all that testimony.

The final bill we're going to hear today is Senate Bill 2847, Senator Ron L. Rice. It maintains affordability controls on low and moderate income housing into perpetuity. This bill is not listed to be passed tomorrow. I can assure you there's going to be some discussions. Already I've thought of some amendments, because one of the issues that's being raised deals with problems that have come up in the state.

Councilman Bell, this bill is to deal directly with the 95-5 rule, where we, in New Jersey, have actually, over the years, talked about affordable housing, gave the impression to residents in New Jersey that we're going to build affordable housing, without telling them that in 10, 30 years we're going to take it all away from them.

It is foreseeable, unless we change the rules and the perpetuity, that generations come behind us -- when New Jersey becomes landlocked -- will not have affordable units available to them for purchase or rental.

We have some problems right here in our city, which we're going to have some additional hearings on in the future, where folks are selling at market rate. The cities have not paid attention to that. We've not had a lot of it. And we have to stop it.

The way the 95-5 rule reads is that these cities can opt to have affordable units. But then what happens is, 10 years or 30 years -- people actually sell at market rate. And what happens is, the city or the State would get a percentage of those additional dollars. And the unit is no longer affordable.

That was never the intent of individuals like myself. And I've been the Senator for the last 19-plus years. Nor was it the intent, I believe, of many of my colleagues who are no longer with us -- come, some kind of way, we'd either dropped the ball or let someone doop us into making people think that they can get a windfall if we subsidized the units, or making people in the cities think that we can get affordable units now. They just bear with us, and in the future they can do what they want as municipalities.

So, Bob, why don't you explain the bill, as is?

And let me say this, while he's doing that, there's another component, which will probably be another bill. Because this deals pretty much with units that are purchased under the 95-5 rule. But I indicated, when I was on the city council many years ago -- and very active (indiscernible) cities -- that those of us in New Jersey need to pay attention. And that was at least 10, 12 years ago, when I made that statement at the State level. Because we knew that limited partnerships, such as Georgia King Village (phonetic spelling), New Hope Village-- They would come to fruition, in terms of expiration of those mortgages in the future -- 20, 30 years. And when we got maybe 10 or 15 years into these things -- starting to happen throughout the country -- I suggested the State needed to have a program before it occurs in New Jersey. Because if you go to Georgia King

Village, for example, it's a limited partnership. And what that means is that some people are paying market rent. And market rent for a unit may be \$1,200. The other people are being subsidized, so they may be paying \$400 out of their pockets, and they got \$1,200.

The question is, once those buildings come to the end of those agreements, they only can sell at market or they can rent at market. As a result of that, what happened to the person who could only afford the \$400 that's getting subsidies? A lot of these buildings impact on our senior citizens, as well.

So we've never really come to grips with that. We've been playing with it. We've done some things to keep people in place. The Bush administration said they may offer some vouchers. The landlord doesn't have to take it. Well, that's not giving us affordability.

I think it's really important that when people invest in anything -- particularly property -- as business people, that they get a positive net at the end of that. That's the American way. That's the American dream. I also think that when people buy homes and properties, they expect, when they're younger, that the equity will grow, and that's their retirement piece, their nest egg.

But I think what government should be doing is make sure that we don't take it away from those who invest in order that they can have a retirement piece. But at the same time, protect those that need affordability. And that's why you're going to be hearing a lot from me and others -- I'm sure Assemblyman Green -- over the next couple of years about affordabilities. There's going to be a lot of debate on affordability. There's going to be folks who build and tell us that they can't build this way, versus

this way. But those costs get passed on anyway. I always have a problem when the builders tell me, "We can't do adaptability." I say, "Well, why can't you do it?" "It's going to cost more to build the house." "Well, you're not paying for it in the first place. You're passing it on. That's our job to deal with that."

And so we're going to have these kinds of scenarios. But the stage is being set, right now, to deal with the 95-5 rule. I see our Corporation Counsel here, who's been addressing this. And it's been two years, and we haven't gotten to first base. And I'm tired of it.

I've talked to many people of the Apartment Association. I want to commend them, because we can agree and disagree on a lot of things. But the one thing that became very clear to them, also, as owners and managers of these apartments -- that the (indiscernible) are getting out of reach for some people to rent. And they want affordable units, believe it or not, in some of these areas. And so we have to come to grips with that.

So, Bob, why don't you explain this bill.

And, Assemblyman, hopefully we can work together on some additional legislation to address the high-rise rental units. Because we have the Governor coming in January 17. One of his platforms was, he is going to be pushing for affordable housing. I don't know what that means. His notion of affordable may be different than mine, as Chair, and may be different than Assemblyman Green's, as Chair. It may be the same. There may be some compromise.

I'm also the Chairman of the New Jersey Legislative Black Caucus. And Assemblyman Green is my Vice Chair. Our notion -- because we represent most of the urbans and what we call the *rim districts* --

suburban -- that have needs. So our notion, as a caucus, based on our experiences of where we live, may be different.

But the whole notion now that everybody is talking about -- this new buzz word is *affordability*. Well, we're going to see if they think the way we think of what affordability means to the people we represent.

So, Bob--

Assemblyman, you want to say something before he explains the bill, or do you want to wait until he explains the bill to say something?

ASSEMBLYMAN GREEN: Thank you very much, Senator.

As I said earlier in my opening remarks, our work is cut out-- I think I'm number two in seniority in the Assembly. And I'm pretty sure you're very close, in terms of seniority, in your House. And I think both of us have recognized how the State of New Jersey has really become, what I consider, one of the most expensive places in this country to live.

And what I said earlier, in terms of -- property taxes is the number one issue facing all of us. But, at the same time, the housing, and how we deal with what New Jersey is going to look like five or 10 years from now-- I know as Chairman of Housing and Local Government, I've had the opportunity, as well as I'm pretty sure you've had, to talk to people about: no longer is the growth going to be in the suburban areas, but it's coming back into the urban areas. And how we treat housing and how we treat the future is very, very important.

I know one of the things I said earlier, in terms of-- You were very successful in getting the State of New Jersey to put money back into the budget for Section 8. Now that the money is there, you'd be surprised that I'm beginning to move in the direction that some of that money should

be used to subsidize some of our seniors so that they can continuously live in their facility.

I was in a meeting earlier this week, Senator, where not too many of our seniors can afford to live in their facility. If we're going to move them someplace else and pay, why not try to subsidize them in their home and give them the comfort, which I consider should be our top priority.

So I would like to see some of that Section 8 given to people who really need it. And we really need to look at that Section 8, whether it's on the Federal level or the State level, and begin to really make sure those dollars are given to people who really need it.

When I see two couples working, and two luxury cars sitting in the driveway, and they're being subsidized -- when we have seniors that can't make it -- that's troublesome. So I would like to feel that we can look at the whole structure, study it, and really put the dollars where they really need to go, in terms of people who are disabled, our seniors, and also the people who are on hard times.

We should not be subsidizing builders, subsidizing individuals when, in reality, they can really work. So I think our priority should be in terms of who we make sure those dollars go to first. And we lobbied very hard the last two budgets. We put money in there. But I'm beginning to understand and feel that just because a person has worked and basically -- they thought, years ago, that the pension they received today would be sufficient. But it's not the case.

I think our disabled, our seniors should be our top priority when we talk about any more dollars that we want to subsidize and make sure that people can afford to live here in the State of New Jersey.

So some of the bills that you've talked about today, I totally support in the Assembly. But this crisis that we're having, in terms of people actually being able to live in the city of Newark, city of Plainfield -- our work is cut out because of the fact that it's amazing to find out how much dollars we subsidize in the suburban community. If that's their choice to live there, then the people in the cities should not be penalized. Because the majority of times, whether it's Newark or Plainfield, over half of our budget dollars go for police and firemen. So I think we're going to have to fight harder to make sure the cities are in the position to help the ones that can't help themselves anymore.

So, again, on this particular bill and the other ones, you know you have my total support.

SENATOR RICE: Bob.

MR. ROTHBERG: Well, I think the Senator has already said it.

Basically, the intent of this bill is to circumscribe the discretion of HMFA, and COAH, and DCA, as well as municipalities acting under rules from those agencies, to specify time periods within which affordable housing controls would remain in place. The bill would, instead, mandate that all affordable housing produced in the past, and to be produced in the future, would have to remain affordable for low and moderate income households forever.

This would-- The way the bill is drafted, it would override contract provisions and deed restrictions, to the contrary, that would allow affordability controls to terminate after a period of years. This would also sunset municipal discretion over whether to extend the affordability restrictions beyond the number of years specified, and replace that discretion with a uniform, statewide policy to retain, in perpetuity, housing produced for low and moderate income households.

SENATOR RICE: Is there anyone out there that wants to speak on this bill? (no response)

Anyone have any comments?

Matt.

MR. SHAPIRO: On behalf of the New Jersey Tenants Organization, I want to go on record strongly supporting the bill and what you're trying to do. I don't know if it's going to end up as strong as it is today, but your purpose is wonderful.

If we don't do something, I really fear for the majority of people who are barely surviving right now. They're just not going to be able to make it.

An area that is very close to this, that is not being addressed, is HMFA -- new HMFA housing that isn't that close to being -- expiring and going into the market. That housing has affordability controls. But I think you ought to look at how good those controls are. Because, not in the nonprofit buildings, but in the for-profit buildings, you can get very high rent increases. And those rent increases cannot be controlled by local rent control, because the buildings are too new. New construction is not under rent control.

So there's no lid, other than the affordability controls under HMFA. They're not always reasonable. They can be very high. About a year ago, I was at a building that just had a 5 percent increase. Actually, it was a little higher. And that was before all of the energy costs went up.

Take a look at those affordability controls, please.

SENATOR RICE: Thank you.

Any of my members have any comments?

Councilman, do you want to say anything?

COUNCILMAN BELL: Yes.

Senator, I want to personally thank you and Assemblyman Green for coming to Newark today to host a public hearing on some very critical issues that definitely impact the quality of life for all Newark residents. And in so doing, I was very much impressed with the quality of the testimonies that have been presented to your Committee in support of the proposed legislations that you and Assemblyman Green are prepared to take to the State Legislature.

And I can promise you that the Newark Municipal Council will wholeheartedly go on record in support of all the proposed legislation that has been presented here today.

Thank you for coming to Newark.

SENATOR RICE: Thank you very much.

The Corporation Counsel, would you come up, please?

J O A N N E Y. W A T S O N, ESQ.: Good afternoon.

JoAnne Watson, Corporation Counsel, on behalf of the city of Newark. I apologize for not signing up.

But with respect to this bill, I would just like to add, for the record, that we have had some experience with the residents of the city of Newark that, unfortunately, misunderstood exactly what they were entering into when they purchased and, sometimes, rented these units.

Particularly in the case of rentals and condominium associations, I found most of the concerns and issues brought to my attention -- that after that affordability period is over, they find themselves with escalated or increased condominium association fees. And they become very unaffordable. And they look to the city of Newark for assistance.

But, unfortunately, our hands are tied, because the statute or the law actually allows for an adjustment in those fees after that period of time has lapsed. So, basically, I believe that there's going to be a lot of support in the city of Newark for affordability limits that are being proposed by this new legislation. And I hope that it does go through.

In going over some of the other provisions, I think that there are maybe some things that I would offer, by way of an amendment, to it. But if it's not going to be adopted tomorrow, maybe I can submit it to Senator Rice at a later date for further consideration.

SENATOR RICE: Thank you very much.

That basically concludes this hearing.

But let me say this to the public and those who are here. I know the Coalition for Affordable Housing and the Environment supports the intent of the perpetuity bill but have some concerns. I know nonprofits always have concerns. But they build with the money we give them, most of the time. And the pieces they put together--

We're going to be calling people together. This is something I'm going to be asking staff -- and work with Assemblyman Green -- to work diligently on. We'll bring some of the stakeholders and some of the expertise to the table to address concerns. But I can assure you, I'm going to work as hard as I can to get out, as quick as I can, a perpetuity bill for affordable housing, because-- And I know it's not going to be perfect, because as we go this way, somebody is going to jump in and say, "We're nonprofit. We don't want it." Well, you have another agenda. "We're for-profit. We don't want it." Well, you have another agenda. "We're this group. We don't want--" "No, no, no. Tell me what your problems are, and let's see how we can massage this thing into it."

But the key is perpetuity. How we get the perpetuity, I really don't care. But there's got to be perpetuity. I don't want generations coming behind us, working everyday, and can't afford whatever the affordability is at that time -- units. In Berkley, California, where my wife is from, is landlocked. I can show you property out there-- If you lay it down to any one family in the city of Newark, or any other community we go to in New Jersey, (indiscernible) say, "They want that much for that?" Yes, they do, because they're landlocked. It's supply and demand. New Jersey is not going to build out.

That's why I'm very funny about COAH, when they questioned me at that jubilee thing -- a thousand people -- they said, "Well, would you pass legislation, or support legislation, that would remove all of those affordable units -- the RCA, the credits?" I said, "No, because I don't care where we build."

First of all, I know a lot of people are not going to be running out to Sussex County. But if you're going to build in Sussex County, then build. But make it perpetuity. If you're going to build-- If the State said, "We're going to cut off half the building areas in the first place, because of 'sprawl'" -- and I think all of us want some open space, so that's the right thing to do.

I can guarantee you that the way this Mayor, meaning Mayor Sharpe James -- who is also the State Senator in this city -- regardless of what the *Star-Ledger* says about this city-- And they're based here; they know the realities. And this council working together-- But I know Mayor Bowser is doing, in East Orange -- and that council. But I know it's getting ready to happen in Irvington. But already in Newark -- but my suburban community of Belleville, and Bloomfield, and Maplewood, and South Orange -- you can't build anything. There's nothing to build on. It's all there.

We're going to be landlocked. And so just this little area here -- looking at Hudson County, the Hobokens, etc., tells me, right there, that we're not that far from being landlocked in the areas where "sprawl" is, looking at -- in terms of what building is going to be, number one. And, number two, we're not that far away from most of the urban cities bouncing back. There won't be anyplace.

And so what do you do, become another Hoboken? Just walk in and say, "The only people that are going to live in these cities are going to be the John Corzines and the Doug Forresters of the world"? It can't happen. So my point is that, those of you who are here -- Arnold and others -- start looking at this stuff, but keep, up here (indicating),

perpetuity. I want those of you who are going to be participating -- JoAnne. I want you all to go to bed at night and say, "Lord, just help me remember perpetuity." When you come to work in the morning, say, "I'm going to work in perpetuity, perpetuity, perpetuity."

Thank you very much.

This meeting is adjourned.

(HEARING CONCLUDED)