



OFFICE OF THE PRESIDENT
BOROUGH OF MANHATTAN
THE CITY OF NEW YORK

1 Centre Street, 19th floor, New York, NY 10007
(212) 669-8300 p (212) 669-4306 f
431 West 125th Street, New York, NY 10027
(212) 531-1609 p (212) 531-4615 f
www.manhattanbp.nyc.gov

Gale A. Brewer, Borough President

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**Gale A. Brewer, Manhattan Borough President
Testimony before the New York City Council
Committee on Justice System
On the Investigations and Prosecutions of Low Wage Theft**

My name is Gale Brewer and I am the Manhattan Borough President. Thank you, Chair Lancman, for holding a hearing on the important issue of wage theft.

A report released on January 28, 2010 by the National Employment Law Project (NELP) found that, in New York City alone, unscrupulous employers deprive workers of over \$1 billion of their rightful wages annually. Manhattan District Attorney Cyrus Vance breaks this down further into \$20 million in unpaid wages in New York City each week.

Among this figure are millions of dollars not paid to the city's construction workers, particularly those who fall outside of union protection and those whose immigration status make them vulnerable targets to wage theft. In most cases, workers put in the hours and the labor while their pay is "delayed." Afraid that they may not find another job, they continue to work for no pay even when it becomes clear that the promised wages will never materialize.

Wage theft exists across all industries and jobs. But today I want to primarily focus on wage theft of construction workers because this concerns an industry that we can do something about through proper oversight of regulations.

We know through the comprehensive work of District Attorney Vance and his Construction Fraud Task Force and Wage Theft Initiative that wage theft and unsafe working conditions in the construction industry are tied. Companies cited for workplace safety violations are often the same companies engaging in wage theft. These companies falsify insurance and tax documents. They do not pay workers for the work they do and do not cure safety violations at their sites or even report incidences that do occur. Far too many construction workers have died because of construction site conditions that could and should have been rectified.

In 2016, in response to a series of construction-related deaths that could have been prevented if proper safety procedures were followed, Council Member Jumaane Williams and I co-sponsored what is now Local Law 196 of 2017, also known as the Construction Safety Law. This law requires all who work on construction sites to undergo 40 hours of OSHA training or complete 100 hours of safety training. The law prescribes penalties for violations and requires demonstrated cure before the violations can be rescinded. Beyond the monetary penalty,

incurring a record of noncompliance with the law is a black mark on the developer that can impact the company's future projects.

The Construction Safety Law complements the recommendations made in the Manhattan DA Office's Construction Fraud Task Force to monitor OSHA training and to create an OSHA card database. In conjunction with OSHA training non-compliance, the task force also recommended "barring building permits for a period of 5 years" for companies "convicted of a felony related to worker safety." This barring of permit can very well be applied to companies that have been convicted of wage theft.

Wage theft occurs in other industries as well. The Freelancers Union estimates that there are 1.3 million freelancers in New York City and 53 million nation-wide. The union also estimates that 77% of these workers, who span the workforce from technology to fashion to design industries, have experienced wage theft at some point in their career.

After much advocacy on this issue, I am pleased that the City Council passed Local Law 140 of 2017 last spring. This new law, spearheaded by Council Member Brad Lander, requires companies who hire freelancers to execute written contracts that describe work to be performed, rate, method of payment, and when payment is due. It also requires payment within a reasonable amount of time. Currently, the Department of Consumer Affairs is promulgating rules and an outreach program. I will continue to monitor this.

The 2010 report by NELP, mentioned above, details an array of worker violations. From minimum wage violations to those that use overtime and off-the-clock work to defraud workers, it is clear that there is much to do to prevent worker abuse, particularly for those workers who are undocumented or not represented by a union. But the practice of out and out theft — such as what occurs when a construction worker completes work and does not get compensated at all, should be an initial target. I thank the DA's office for focusing on this illegal practice and the City Council for taking this up today.