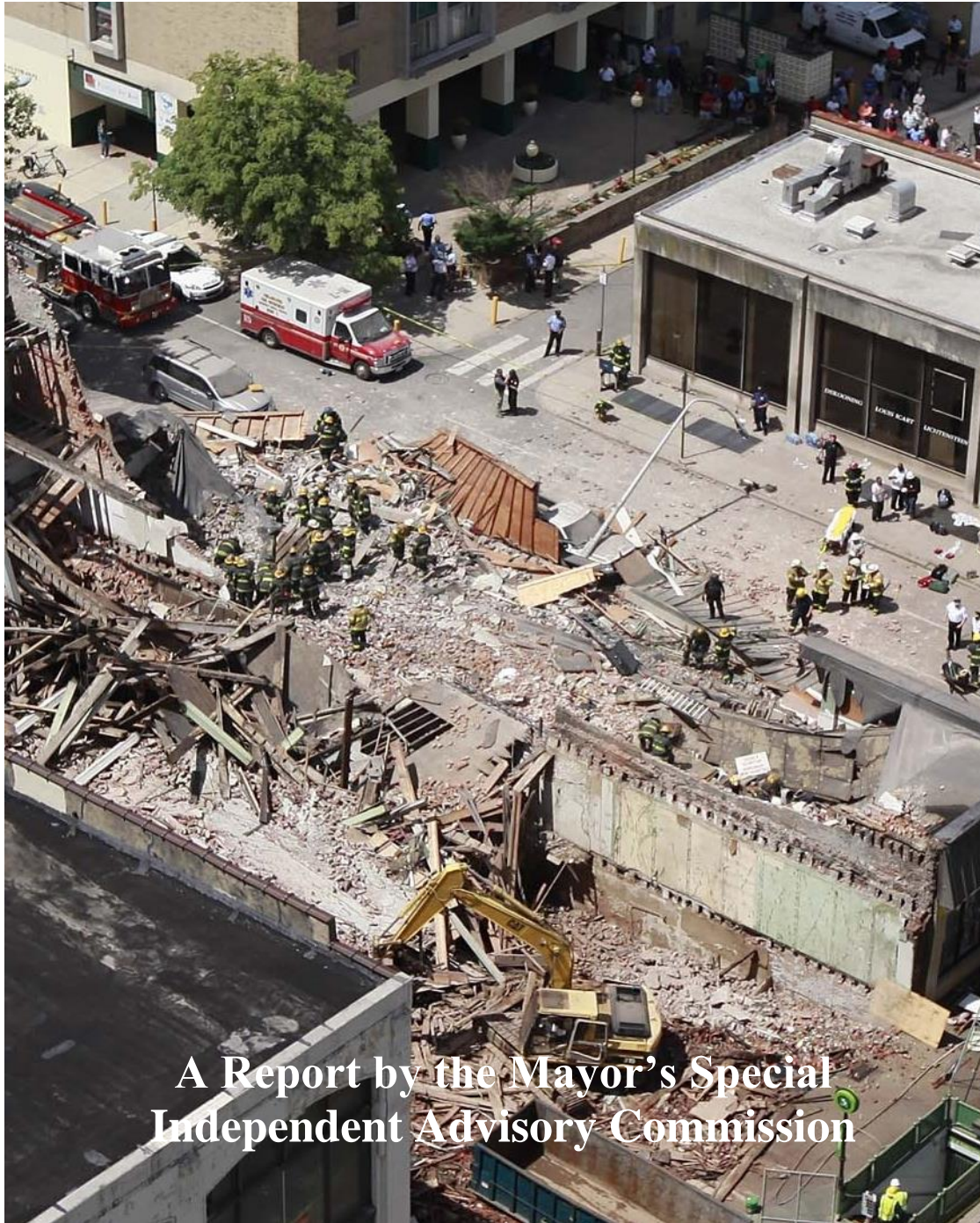


SAFETY FIRST AND FOREMOST



A Report by the Mayor's Special
Independent Advisory Commission

Photograph courtesy of The Philadelphia Inquirer

*Special Independent Advisory Commission to Review and Evaluate the
Philadelphia Department of Licenses and Inspections*

**REPORT
TO
THE HONORABLE MICHAEL A. NUTTER
MAYOR OF THE CITY OF PHILADELPHIA**

September 25, 2014

*Special Independent Advisory Commission to Review and Evaluate the
Philadelphia Department of Licenses and Inspections*

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SAFETY FIRST AND FOREMOST

September 25, 2014

“We cannot allow such a preventable catastrophe to ever be forgotten or to happen again in our city, or anywhere.”

Nancy Winkler - mother of Anne Bryan, one of the six who died June 5, 2013 in a building collapse at 22nd and Market Streets. Ms. Winkler is also the Treasurer of the City of Philadelphia.

Executive Summary

Last fall, Mayor Michael A. Nutter formed a panel of experts and asked them to examine the horrific June 5, 2013 building collapse in Center City that killed six people and injured 13 others. He also said he wanted them to evaluate the Philadelphia Department of Licenses and Inspections, the City agency tasked with ensuring building safety and issuing demolition permits. (The Executive Order is attached in Appendix “A”.)

After an extensive 10-month review the Special Independent Advisory Commission (“Commission”) has found that the terrible building collapse was a symptom of larger, long-standing problems. It found that L & I is a department fragmented by divergent mandates accumulated over decades of mission expansion, chronic underfunding and leadership with differing goals and methods. The resources of L & I are too often spent racing from emergency to emergency with little lasting impact or focus on long-term safety or solutions. The Commission conducted over 100 interviews of current and former L & I and City employees, examined departmental records, delved into the history of the department, compared practices with other cities and relied on the expertise of its members before concluding that major changes are imperative.

The Commission has determined that the way to address the systemic challenges facing the Department of License and Inspections and to enhance the City’s fundamental obligation to protect its citizens is to divide L & I into two cabinet-level departments; a Department of Buildings and a Department of Business Compliance, each focused on ensuring that safety is first and foremost.

The Commission, comprised of engineers, managers, building and fire safety experts, academicians, accountants, information technology specialists, lawyers and labor officials, is making more than 35 recommendations in this report that includes the appointment of a professional engineer or architect to head the new Department of Buildings. The recommendations and suggestions are meant to set a strategy and direction for the new departments. The Commission believes that the development of the detailed steps necessary for effective implementation of each change is ultimately the responsibility of City leaders.

Analysis of facts available to the Commission relating to the 22nd and Market Street building collapse shows that contractors and owners appear to have taken short cuts driven by greed. The Commission also found that the City's regulatory controls in place at the time were inadequate and there was a lack of effective action on the part of L & I personnel. While an investigation by the City's Office of Inspector General found that there was "insufficient evidence to determine whether any administrative misconduct occurred," the Commission has found that the City did not respond to several warnings that the demolition was a dangerous operation that could and did lead to dire consequences.

The Commission makes recommendations that would change the fundamental way that L & I conducts business. The major recommendation to split the current L & I into two departments will require a change in the City Charter, although the Mayor can move quickly to reorganize the Department by Executive Order. Other recommendations will require enabling legislation and extensive cooperation from a number of City departments. The Commission understands that there will be significant operating and financial challenges to fully effect its major recommendations. The Commission believes that if the City adopts the recommendations contained in this report, overall safety and operating efficiency of the City will be significantly enhanced.

The major recommendations are:

- 1. L & I should be separated into two newly formed departments, a Department of Buildings and a Department of Business Compliance.**
- 2. The Department of Buildings should be headed by a licensed professional engineer or registered architect.**
- 3. The City's new demolition requirements are major advances that must be rigorously implemented.**
- 4. A vacant properties task force should be formed and managed from within the new Department of Buildings.**
- 5. The responsibility for fire safety inspections should be transferred to the Fire Department.**
- 6. The new eCLIPSE software is critical to the future of many City agencies. It must be fully staffed with leadership housed in L & I and focused on supporting more efficient processes.**
- 7. The Controller's Office should regularly audit L & I.**
- 8. The City should examine the job titles, pay scales, training and career paths of current L & I and future Department of Buildings and Department of Business Compliance employees to make them more competitive with peer cities.**
- 9. The Law Department and L & I should better coordinate their enforcement of City's Codes.**
- 10. The Mayor and City Council should fund all new tasks assigned to L & I or its successor agencies.**
- 11. The Mayor should form an Implementation Task Force to oversee a follow-up of the Commission's major recommendations.**

This report is divided into three parts. Part I is the main body of the report and contains findings, conclusions and recommendations. Part II is a deeper analysis of the structure and current management issues at L & I. Part III is an appendix with additional materials referenced in Parts I and II.



Photograph courtesy of The Philadelphia Inquirer

CHAPTER 1

How L & I Evolved and Why it Needs to Change

When the voters of Philadelphia approved the Home Rule Charter in 1951, the City was still reeling from a series of criminal cases that sent a Fire Marshal and several inspectors to prison for accepting bribes and extorting kickbacks from contractors. Water Department employees were suspected of accepting bribes to route water mains into private businesses and City Revenue Department workers embezzled more than \$200,000, approximately \$2 million in today's dollars. These and other ongoing investigations into a City Hall run for decades by machine politics, spurred reformers to fight for a new Charter that would allow the City to govern its affairs more effectively.

The new Charter created a Department of Licenses and Inspections to centralize all licenses, inspections and control the fees owed the City for those services. The concept seemed progressive

and ideal at the time. It was a safe way to put most licensing and regulatory enforcement in one place to better guard against corruption.

While many of the progressive ideals embodied in the City Charter are mostly intact today—a “strong” mayor, a unified budget, a classified civil service—L & I has not fared as well. It has had recurring scandals and the centralizing of regulations has put political pressure on the Department when elected officials pass on constituents complaints. In addition, a continual stream of legislation has added to its workload. These are only some of the challenges L & I management has had to face.

The Home Rule Charter states: “. . . The Department of Licenses and Inspections shall exercise the powers and perform the duties relating to licensing and inspection formerly exercised and performed by all officers, departments, boards and Commissions . . .” What exactly it licenses and inspects, and how, become captive to the next City Council bill, executive order or initiative by one or another city agency on whose behalf L & I performs licensing and inspectional chores. As the Charter states clearly, L & I shall also exercise “. . . such other powers and duties as are imposed or conferred upon it . . .”

The Charter transferred to L & I a quartet of very broad duties from other departments: 1) building safety and sanitation, signs and zoning; 2) issuance of licenses; 3) inspections and 4) enforcement. Building safety gets first mention but shares even that with sanitation, signs and zoning, and L & I’s very name embodies the next three major functions, not building safety. Though “buildings” may be a dominant activity, L & I’s fundamental mission remains what is embedded in its very name. It licenses; it inspects.

The 1950s concept of the Department as a catchall licensing and regulatory enforcement agency has subjected it continual mission creep, inadequate funding and recurring conflicts over policies and priorities. Every new license or permit requirement legislated by Council, every Mayoral initiative assigned to L & I, and even policy changes in other departments including Fire and Revenue produce more work for L & I. Under the Charter, L & I cannot reject new responsibilities. Increases in the workload of L & I have not been matched by budget increases. A notable exception is the added inspectors and demolition funding provided after the Market Street tragedy. On the whole, as the duties of L & I have increased, the department today has significantly fewer employees than it had in the 1950’s and a budget that has plummeted over the past decade.

The deeply rooted susceptibility of L & I to an expanding and shifting mission needs to change for building safety to receive the focused attention that it deserves. L & I's relationship with its sister agencies is largely a one-way street. It is often the common denominator in interagency relations because of its building expertise, but even then its Charter-bred DNA and daily operational role as a processing agency diminishes its voice. The creation of an independent, adequately resourced Department of Buildings would bring an undiluted building-safety voice to the coordinating councils of the City and would bring that same professional focus to the critical relationships with agencies it works with on a daily basis.

Recent changes to L & I's administrative structure can also dull the agency's focus on building safety. The Department reports to the Deputy Mayor for Economic Development and Director of Commerce. This arrangement sends the wrong message about the priorities of safety assurance and economic development.

In the view of the Commission, building safety must stand on its own as a department and must be grouped as a peer with Fire, Police and other departments whose primary role is public safety.

When it initially reviewed L & I's Fiscal Year 2014 budget, the Commission became concerned about L & I's capacity to do its job. Its inspectional force for new construction and demolitions appeared, on its face, inadequate relative to Philadelphia's substantial development activity and aging housing stock. The salaries of key L & I positions have fallen short of equivalent positions in other cities. Bottom line: L & I's budget was too low, the job responsibilities too large and its personnel underpaid.

Some of these areas of concern were addressed during the Commission's evaluation. L & I Commissioner Carlton Williams's May 2014 reorganization of the Department created separate development and construction divisions to handle building inspections. Mayor Nutter proposed and City Council approved increases in the FY 2015 budget to pay for additional inspectors, to deal with unsafe and imminently dangerous buildings and the lawful and safe demolition of those structures, as well as additional personnel for building inspection and compliance.

They were laudable steps but neither the reorganization nor the budget increase changed L & I's essential role as an agency obligated to deal with everything sent its way. Today's emergencies happen to center around demolitions and building safety, which justifies L & I elevating the construction inspections and emergency services units to divisional status. That reorganization

did not prevent emergencies involving charges of corrupt licensing enforcement, licensed food trucks that explode or fire escapes and security gates that pull loose from their moorings, all of which have occurred so far in 2014. More is needed.

As long as L & I continues to operate in the same manner, nothing would stop the next Commissioner from recombining development and building safety or making licensing initiatives L & I's top priority. Nothing would prevent the next Mayor or a new City Council from shifting funds away from building safety to other L & I functions. Without fundamental changes now, L & I's historic susceptibility to expanding and shifting missions will continue.

RECOMMENDATIONS

1. A Department of Buildings should be established.

A stand-alone Department of Buildings would represent a major policy statement by the City of Philadelphia in support of building safety and code compliance. Importantly, a separate Department of Buildings would stop the mission creep that has left L & I staff feeling overwhelmed and besieged.

A stand-alone department of buildings would provide:

- a. a core mission of building safety;
- b. a mission undiluted by competing concerns of licensing, business compliance and commercial development;
- c. a legitimate, safety-first voice in high-level debates over development policies; and
- d. recruitment, training, certification and career-paths aligned with building safety.

2. The Department of Buildings should be headed by a professional engineer or registered architect.

Any department overseeing code enforcement requires executive decisions that involve code interpretation, and may require resolution of conflicting interpretations from senior staff experts. The Commission has concluded that the person who leads such a department must be qualified by professional training to render such judgments. While the Commission has great respect for those who now serve and who have served as L & I Commissioner, it believes that the following qualifications are critical for the position of Commissioner of the Department of Buildings:

- a. demonstrated ability to lead a major city department. Preferably with a background in licensing and inspection, experience in building safety and code enforcement;
- b. strategic thinker with an ability to effect change within a government bureaucracy; and
- c. certification as a professional engineer or registered architect

3. *The Department of Buildings should be charged with the following responsibilities:*

- a. assuring code compliance and quality control of all new construction, maintenance, demolition and renovations to structures in the City of Philadelphia;
- b. identifying and sealing unsafe structures;
- c. permitting and inspection of demolitions;
- d. the procurement process for public demolitions; and
- e. inspection and enforcement relating to the property maintenance code.

4. *A Department of Business Compliance should be established.*

The Department of Business Compliance should handle all licensing and enforcement functions currently assigned to L & I, not otherwise transferred to the Department of Buildings.

This department should include inspection elements currently handled by the “Operations Division” of L & I that addresses conditions at licensed entities, such as vendors and special events, as well as all administrative and clerical elements dealing with licensing within L & I’s Development Division as currently constituted.

The establishment of a Department of Business Compliance would require reassignment to that department of some inspectors in the current Operations Division of L & I that handle both inspections related to sanitary and health conditions external to buildings, dumpster related violations, short dumping, as well as conditions within buildings. Clerical personnel who work cross-functionally may need to be similarly reassigned. Implementation of the separate departments must be a measured process where the division of such job responsibilities proceeds pursuant to an analysis of the duties and processes involved.

5. *Administrative staff for the L & I Review Board and Board of Building Standards and the Zoning Board of Adjustment should be housed in the new Department of Buildings.*

Board duties and membership shall remain as presently constituted under the City Charter, with the Building Commissioner serving ex-officio on the Board of Building Standards, and

as an alternate on the Zoning Board of Adjustment, roles now filled by the L & I Commissioner.

Though the Commission recommends a stand-alone Department of Buildings and Department of Business Compliance, it realizes that a new agency will not be created overnight. Until the new departments are in place, building safety will remain the responsibility of L & I. Though the organization in which they work is hobbled by historic and workload factors beyond its control, the employees of L & I are at work each day serving the people of Philadelphia. The Commission's recommendations above are framed for a future Philadelphia Department of Buildings and a Department of Business Compliance, but many recommendations throughout this report are relevant now to L & I as presently constituted.



Photograph courtesy of Cooper Media Associates

CHAPTER 2

The 22nd and Market Street Collapse

A simple chain-link fence surrounds the vacant lots on the southeast corner of 22nd and Market Streets. Weeds grow in random patches in the broken brick, mortar and dirt. The lot where the Salvation Army Thrift Store stood is partitioned off by another fence with banners proclaiming it will be a new memorial park dedicated to those killed and injured there while they were working, shopping or making donations.

On June 5, 2013, at 10:41 a.m., the four-story wall of the adjacent building came crashing down, driving the roof of the Thrift Store into the basement in an instant. A video of the collapse, recorded from a passing bus, shows a large triangular-shaped portion of the wall leaning and then falling on the Thrift Store in a cloud of dust.

When the dust cleared, Anne Bryan, 24; Roseline Conteh, 52; Borbor Davis, 68; Kimberly Finnegan, 35; Juanita Harmon, 75, and Mary Simpson, 24, were dead. First responders worked for hours to free 13 injured victims. The last survivor, who had been shopping in the store, was found under the rubble 13 hours after the collapse. Doctors later had to amputate her body below the waist to save her life.

In his Executive Order, the Mayor directs the Commission to "... review the events of the June 5, 2013 building collapse tragedy with an emphasis on the workflow process and practice of the Department in connection with the tragedy."

The Commission has determined that before the bricks fell through the roof of the Thrift Store, the City had no regulations or procedures for effective, ongoing inspections of private demolition sites and, equally important, no process for vetting the qualifications of contractors applying for demolition permits.

While an investigation by the City's Office of Inspector General found that there was "insufficient evidence to determine whether any administrative misconduct occurred," the Commission has found that the City did not respond to several warnings that the demolition was a dangerous operation that could lead to dire consequences. The Commission examined a chronology of the events that preceded the collapse and has also concluded that there were warning signs of the impending tragedy.

By early 2013, the south side of Market Street, between 21st and 22nd Streets, was occupied by a set of rundown buildings that had once been a hub of the sex industry. Since at least the 1970s, porn shops, peep shows and "massage parlors" with flashing neon signs, came to life after dark. Progress was closing in as new office and apartment towers were going up and older buildings were given new life.

On January 7, 2013, demolition contractor Griffin Campbell applied for and was granted a trade license by the Department of Licenses and Inspections that required very little paperwork detailing his firm's expertise or qualifications. It has been reported that Mr. Campbell had previously filed for bankruptcy and had a criminal record.

A month later, a flurry of applications seeking to demolish three buildings on the block, 2132, 2134, and 2136-2138 Market Street, were submitted to L & I. The applications were for "Zoning/Use" permits to address the change of use of the building, in this case a demolition, and

“Building” permits for a “full” building demolition. One set of each of these applications was prepared for those three addresses.

These permits raise several important questions. They did not require any details showing how the demolition was to proceed. Specific information such as diagrams, descriptions of work, safety procedures, number of personnel needed and equipment to be used were also not required. The “Building” permits for demolition were issued the same day as the day they were applied for. The applications for 2136-2138 Market Street, the four-story building that ultimately collapsed on the neighboring one-story Salvation Army Thrift Store, listed different building owners on the same document. In one place STB Investments Corp. is named as the owner and in another, 2100 Market Street Corp. is named.

According to details of a post-collapse interview conducted on June 6th and recorded on a spreadsheet provided to the Commission by the Law Department, L & I Inspector Ronald Wagenhoffer visited the site on February 12th to inspect the proposed demolitions and the buildings at 2132 and 2134 Market Street, posting demolition notices. He also “went to adjoining properties and distributed copies of notice of demolition to 3 buildings on that block.” L & I records report the demolition of the three buildings commenced on February 21st. (The Commission has been unable to determine the source of the June 6th spreadsheet and interview.)

Approximately two weeks later, on February 25th, Mr. Wagenhoffer made another visit to the site, noting that “no work started before permitted date” for 2132 and 2134 Market Street. In the June 6th spreadsheet, it is noted that Mr. Wagenhoffer said that when he “returned to site no work had started before the permitted start date of 2/21/13.”

The Commission found no records of any other inspections performed on the demolitions by anyone until a complaint was received through a Philly311 email on May 6th. The complaint alleged that “2130 Market Street” was being “demolished in a manner that appears to be clearly unsafe.” The complaint highlighted the lack of safety equipment for workers and the absence of a plan to prevent walls or façade materials from falling on pedestrians. In a response, the complainant was told that the address of “2130 Market” was incorrect and was asked several more questions in a back-and-forth series of emails.

The full details of the Philly311 complaint were not provided to Mr. Wagenhoffer. An inspection request was generated by L & I software stated *only* that there was a complaint that no permit signs were posted at the demolition site. L & I sent Mr. Wagenhoffer to investigate. L & I

records show that he made an inspection on May 14th at 2134 Market Street and reported finding the permit was posted. After a brief visit, he classified the complaint as “unfounded.”

While no other reports of inspections were given to the Commission, Mr. Wagenhoffer was interviewed as reflected in the June 6th spreadsheet, the day after the fatal collapse. Mr. Wagenhoffer reported returning to the Market Street site May 14th through May 16th. According to the June 6th interview, “Ron talks to the owner about how they need to do the demo on site by hand and protect the Salvation Army’s roof, and go about the demolition safely. Griffin tells Ron the demo would happen ‘brick by brick.’” It also noted in the report that Mr. Wagenhoffer stopped by the site periodically and observed that there was no heavy equipment on the site and that it was being done in a “safe manner with no dangerous conditions to report.” There are no official records on file of these visits or the times when they were conducted. (Inspector Wagenhoffer tragically took his own life a week after the collapse.)

In a June 7th email, L & I employee Maura Kennedy notes that OSHA inspected the site on May 15th and found no violations and that L & I had inspected it the day before. Ms. Kennedy also attached a photo of 2132 and 2134 Market Street that shows the buildings are almost completely cleared and 2136-2138 Market Street is still intact. A piece of heavy equipment is visible at the rear of the 2132 and 2134 Market Street lots.

On May 20th, Jack Higgins, an architect for the Salvation Army, went to the L & I office in the Municipal Services Building to report his concerns about safety at 2136-2138 Market Street. According to a post-collapse report examined by the Commission, Mr. Higgins spoke with an employee “who directed him to speak with the Central Construction District. Apparently, Mr. Higgins never followed up and [the employee] did not input a service request.”

In the next several days, a number of emails were exchanged between the representatives of the properties under demolition, Salvation Army representatives and City employees discussing various aspects of the ongoing demolition.

An email that has received a lot of attention was addressed to Deputy Mayor for Economic Development Alan Greenberger, to whom L & I reports, and one of his top aides, John Mondlak. In the May 22nd email, STB Property Manager Thomas J. Simmonds, Jr. asked Mr. Greenberger to assist in a matter regarding the demolition of 2136-38 Market Street. Mr. Simmonds complained the Salvation Army was non-responsive and included a thread of emails related to the issue. Mr. Simmonds concludes his email with, “This nonsense must end before someone is seriously injured

or worse: those are headlines none of us want to see or read.” Mr. Greenberger’s email address was misspelled in the addressee line. The Commission interviewed Mr. Greenberger and Mr. Mondlak concerning that email. Mr. Greenberger said he did not receive it when it came in. Mr. Mondlak said he saw the email several hours after its arrival and, had he not received the email discussed below, would have shown it to Mr. Greenberger.

In their separate interviews, Messer’s Greenberger and Mondlak both said the “nonsense” referred to in the email involved a dispute over who would pay to deal with a brick chimney on the Salvation Army property that rested on the wall of the STB property being demolished. Both officials told the Commission they were influenced by an email that arrived shortly after Mr. Simmonds email that informed them attorneys for the parties were agreeing to meet over the chimney issue. Mr. Greenberger and Mr. Mondlak said they thought that issue was being addressed. They said they were not aware of any other safety concerns that needed to be brought to the attention of L & I senior officials.



22nd and Market Streets in 2012
Google Image

Over the next few weeks, demolition work began on 2136-2138 Market Street. The Commission could discover no records of how this work progressed. Videos taken in later stages of the demolition site were posted on-line showing a piece of heavy equipment with a grappler taking down the front wall of the building above the subway entrance. The roof of the building is missing along with a portion of the east-facing wall and part of the building floors. Three demolition workers are observed, with one operating the grappler. A photo taken on June 3rd by a City employee who did not work for L & I shows the front wall of 2136-2138 is down to the street level, most floor structures are removed and a large piece of the west wall is looming over the Salvation Army Store, free-standing without lateral support.

There were no warnings on the morning of June 5; no hurried, breathless emails, no reports of missing signs or verbal complaints about bad practices. In an instant, that towering wall fell with a thunderous roar.

The report of the grand jury investigating the collapse found numerous acts of negligence on the part of the contractor, including ignoring his architect's warning the night before the collapse that the standing wall was unsafe and an "immediate concern." The contractor was subsequently indicted on six counts of murder in the third degree, as well as on other charges and the operator of the grappler was charged with criminal conspiracy.

A NEAR MISS

Despite a rush to strengthen the City's demolition standards that followed the 22nd and Market Street collapse, nine months later, on March 13, 2014, Philadelphia narrowly skirted another disaster when several buildings under demolition came crashing down at Third and Market Streets. This collapse makes it clear that additional controls are necessary.

On February 12, 2014, the City issued permits for the full demolition of seven buildings on the north side of Market Street between Third and Second Streets. Extreme caution was warranted because the buildings were deemed "imminently dangerous" by L & I and were in the very busy neighborhood known as "America's most historic square mile."

While the City had improved demolition procedures after the fatal 22nd and Market collapse, the Third and Market collapse underscored the need for the additional protections enacted by City Council and signed into law by Mayor Nutter three weeks earlier. The permits for the Third and

Market demolitions had been issued under the stricter standards imposed administratively by L & I after the June 2014 collapse. Even those standards seem not to have been met. None of the documents submitted for L & I approval and reviewed by the Commission had a sufficiently detailed set of precautions and protections. A review of the “Work Plan” by the demolition contractor did not include any detailed information about the physical protection for pedestrians or motorists. While the work plan was reviewed and approved by a consulting engineering firm, it did not call for any additional public safety measures. An inspector’s post-collapse notes stating there was “no danger to the public due to the safety measures that were in place” does match the documentary evidence of the collapse itself.

A review of video footage posted on the Internet after the buildings fell appears to show a grapppler demolishing a four-story building, precipitating a progressive collapse of that building onto an adjacent two-story building. A mass of debris fell to the street, pushing the surrounding barricades further into the traffic lanes. One video shows the debris lying past the barricades and across the street from the demolition site. Workers are seen immediately after the collapse throwing bricks and debris back over the shifted barricades. A television news account reported that while no pedestrians had been struck, a vehicle was damaged.

L & I records indicate that on March 10th, the Fire Department requested the barricades be moved even further out to protect the public. Despite that precaution the debris fell outside of that perimeter.

CONCLUSIONS

An analysis of the facts available to the Commission concerning the two Market Street collapses leads to several conclusions.

1. Inadequate Regulatory Controls

Before the June 5th collapse, L & I treated permits for building demolitions and demolition contractors the same as the other permits it issues, be it for distributing handbills or selling precious metals. The processing of a demolition permit was simply a paperwork exercise that involved providing the necessary forms and collecting the applicable fees. For this highly dangerous undertaking, the City did not require a showing of technical expertise, safety plans, details about equipment to be used and the demolition techniques to be employed.

The City issued permits for the three Market Street buildings even though applications contained conflicting information. The City required no background checks of contractors and asked no questions about criminal records or financial stability.

2. Lack of Effective, Coordinated Action

The full scope of the safety complaints sent to Philly311 by email about the 22nd and Market Street demolition was not provided to the inspector. The only complaint forwarded was the report that no permit was displayed.

The inspector did not provide written notice of his demolition concerns by documenting the need for a “brick by brick” approach with the contractor.

The Salvation Army architect who complained about the dangerous conditions on the site was not put in direct contact with the appropriate L & I office at the time of his complaint. No official record of his complaint was made.

3. Progress has been made.

The Commission applauds the new policies from the Nutter administration and City Council that address the issues with the practices and regulations in effect prior to the 22nd and Market Street collapse. As will be discussed elsewhere in this report, public safety has been advanced over the past year by laws and regulations strengthening demolition permit requirements, contractor licensing and training, and site safety plans. There is, however, a significant amount of work to be done if the City is to become a leader in building safety.

CHAPTER 3

The Management of Vacant and Abandoned Properties

The Department of Buildings must embrace new ways of thinking about and dealing with the blight that cripples neighborhoods and presents a constant threat to public safety. The Commission has found that the City has failed to adequately confront the health and safety issues that stem from an estimated 25,000 vacant structures that languish in neighborhoods across the City. Of these 25,000 vacant structures, L & I estimates that some 4,000 of them should be considered unsafe, with a smaller number being classified imminently dangerous. It is a problem that has been considered too big to solve for way too long. The new Department of Buildings will need to take an inter-disciplinary approach to cope with the problems of an old city with a crumbling infrastructure. It is time for the City to attack this problem in a comprehensive way.

Presently no individual or single City department is solely responsible for handling the myriad challenges related to the identification and oversight of vacant buildings. The responsibility is spread across various departments. The Police, Fire, Streets, Revenue and Law departments, as well as the Philadelphia Land Bank, will have to work in unison with the new department with the strong and constant backing of the Mayor. The actual number or location of all the vacant buildings within the City limits is unknown. A legal process for handling known vacant properties is often hampered by inadequate information.

Often the location of unsafe buildings becomes known only when they fall down, a person is injured, a fire occurs, or neighbors complain. This presents urgent safety concerns for the City's inhabitants.

The Land Bank created by a City Council ordinance in late 2013 is a major step in dealing with one element of this problem. Bill 140055, currently pending in the City Council Committee on Licenses and Inspections, is a strong step towards a very comprehensive, inter-agency response to the vacancy challenge. The Commission supports Bill 140055. Its passage would be a major contribution to public safety.

RECOMMENDATIONS

- 1. The position of Director of Vacant and Abandoned Properties, with an adequate supporting staff, should be created within the new Department of Buildings and, in the interim, within the current L & I Department.***

The Director of Vacant and Abandoned Properties would supervise an analytical team including a dedicated Geographic Information Systems programmer and researchers, and report directly to the Commissioner of the Department of Buildings or the current Commissioner of L & I.

- 2. A Vacant Properties Task Force should be formed and managed from within the Department of Buildings.***

This Task Force would be chaired by Commissioner of the Department of Buildings, with the direct assistance of the Department's Director of Vacant and Abandoned Properties, and would meet monthly. It would consist of the Commissioners of the Departments of Police, Fire, Streets, and Revenue as well as the City Solicitor, the Sheriff, and the Director of the Land Bank.

- 3. Obtain regularly-updated vacant property surveys, using current technology.***

L & I should obtain regularly-updated surveys using LIDAR or equivalent technology that map physical features of properties across the City. Such regularly updated surveys, supplemented by data-mining techniques, should be used to generate lists of vacant and distressed properties for inspections and other interventions. The Commission understands that a LIDAR-based survey is currently being considered by the City, and strongly supports an immediate pilot program.

- 4. Use survey data to prioritize and target enforcement efforts, and assess what additional budgetary resources are necessary for abatement, including demolition.***

The vacant property survey should create a data baseline that can be used to guide and prioritize vacant property enforcement as well as assess the scope of unmet abatement needs (such as demolition and "clean and seal") for the purpose of budget planning. With this data in hand, L & I should group properties into "enforcement" categories on the basis of condition and area market conditions, such as the property: (1) has an owner that would possibly respond to enforcement (there is sufficient redevelopment value, and the owner is not deceased); (2)

has no responsive owner but could be redeveloped in the foreseeable future and can be protected in the meantime, in which case the city seals and liens the property; or (3) has no responsive owner, and the property needs to be demolished. Based on this analysis, the City must commit to assign appropriate budgetary resources to complete necessary abatement.

5. For abandoned properties without a responsive owner, the City should lien any abatement costs and work with the Land Bank for foreclosure and transfer to a new, responsible owner.

The cost of abatement work performed by L & I, such as demolition and “clean and seal,” can be placed as a lien on the property. L & I should institutionalize a regular practice of placing such liens, so that the value of its abatement work can be recouped upon any future transfer of the property. L & I should work in cooperation with the Land Bank to use these liens to facilitate foreclosures where there is opportunity to transfer an abandoned property to a new, responsible owner.



Photograph courtesy of The Philadelphia Inquirer

CHAPTER 4

Demolitions, Electrical Inspections and Crane Regulations

The Commission believes two of its paramount objectives for demolition in both the private and public sectors are to prevent those who do not or cannot adhere to sound safety practices from conducting demolition in the City and to prompt the development of well-trained private contractor safety personnel with authority to direct and stop demolition as needed and bring any failure to comply to the Department of Buildings.

We support the City Council's significant steps in this direction and note two other areas of concern that impact directly on public safety.

DEMOLITION

The thorough background investigation must apply to the public and private sector. The Department of Procurement has, announced modifications for the selection of demolition contractors for the Master Demolition Program (MDP) panel selected by the City. The changes in panel selection, which now contain stricter selection standards, include a questionnaire as a basis for a background investigation.

But more is needed. The City Council bill requires contractor applicants to submit documentation of insurance and to make certain representations about their tax status and financial solvency. The Commission has been told by contractor personnel and representatives of L & I that the City does not verify these representations in all cases. This must change.

If the demolition contractor had been required to accurately complete a detailed background and experience questionnaire before being authorized to take down the 22nd and Market Street buildings, it is likely that it would not have been authorized to do the work. The completion of the questionnaire under oath and the background inquiry should be an absolute prerequisite to qualify as a demolition contractor.

A refusal to provide the information would be grounds to reject the application. It should be noted that current background inquiries only apply to publically funded demolitions. The Commission strongly recommends that these background checks be extend to all demolition applications.

City Council has created new safety officer positions to be filled by the private sector. A firm that seeks pre-qualification as a demolition contractor must have a Site Safety Manager to supervise demolition projects. The Site Safety Manager can only work for one Demolition Contractor and must complete a City-certified safety course. The Safety Manger's primary responsibility is to "ensure safe practices on demolition sites and compliance with the site safety plan."

The other position created by Council, the Demolition Supervisor, is somewhat similar but is described only as a competent person employed by the contractor and who is responsible for developing the site safety plans. The Demolition Supervisor is supposed to have taken; and successfully completed "an examination related to demolition as determined" by the City.

These positions are important for demolition safety and in the opinion of the Commission require an appropriate level of prior experience and training.

The Commission recognizes that City Council has done significant work in strengthening existing regulations relating to public and private demolition work. To the extent the following elements have not already been addressed in existing or pending legislation, the Commission strongly recommends that they be included in the process for issuing a demolition permit for any structure in the City of Philadelphia:

- a. a detailed site safety plan;
- b. the identification and signature of the responsible architect or engineer for the project;
- c. the identification and signature of the responsible owner of the property. In the case of a corporate owner, there must be the identification and signature of a responsible current officer; and
- d. requirements for additional safety steps such as a requirement of a hand demolition should be delivered in writing to the contractor. These safety plans must address worst-case, uncontrolled-collapse scenarios and anticipate full-height wall collapses with corresponding debris fields, and include provisions for rerouting street and pedestrian traffic accordingly. Three additional inspections should be scheduled and conducted to ensure compliance with the site safety plan

The Commission has learned that there are times when reports of a potentially unsafe conditions are resolved by in-house determinations made without a site visit. The Commission views this practice as potentially dangerous and believes strongly that L & I should resolved these reports by a site visit by qualified inspector.

ELECTRICAL INSPECTIONS

The Commission has found several issues dealing with enforcement of the City's electrical code that need to be addressed.

First, the City does not require permits and inspections of temporary wiring, other than a utility service connection. The danger here is that temporary wiring is not installed under the same rigorous requirements that apply to permanent wiring. Improperly installed temporary wiring can

be extremely hazardous. The remedy is to require permitting and inspection of all temporary wiring.

Second, a further issue of concern is the current practice of electrical inspections in Philadelphia being performed by a “third party.” On the face of it, this is neither improper nor illegal, but has considerable potential for blatant conflicts of interest. The crux of the problem is that electrical contractors are free to pick which inspection agency they will use to inspect their work on a given site, at a rate negotiated between the contractor and inspection agency.

Because the City recognizes multiple licensed third-party electrical inspection agencies, an electrical contractor can hand-pick the agency that will perform its inspections. A serious conflict of interest, that has a direct impact on safety, arises because of the economics involved.

THE LACK OF CONSTRUCTION CRANE REGULATIONS

The Commission also found a glaring hole in the regulations enforced by the City: The Commission reviewed the details of a number of deadly crane collapses in New York City where regulations, albeit inadequate, existed before the collapses. While the Commonwealth of Pennsylvania licenses crane operators, Philadelphia has no regulations dealing with the certification of all crane operators. While the City does address “tower cranes”, the use of all cranes should be considered.

RECOMMENDATIONS

- 1. A background investigation must be required and conducted for pre-qualifying companies to determine responsibility instead of this investigation only being part of the permitting process.*
- 2. The appropriate officials in the new Department of Buildings must verify all representations made by demolition applicants.*
- 3. City Council should continue in its efforts to create new demolition site safety positions.*
- 4. The following requirements should continue to be included in the process for issuing a demolition permit for any structure in the City of Philadelphia, and to be added if they are not already in place:*

- a. *detailed site safety plan;*
 - b. *the identification and signature of the responsible architect or engineer for the project;*
 - c. *the identification and signature of the responsible owner of the property. In the case of a corporate owner, there must be the identification and signature of a responsible current officer; and*
 - d. *requirements for additional safety steps such as a requirement of a hand demolition should be delivered in writing to the contractor. These safety plans must address worst-case, uncontrolled-collapse scenarios and anticipate full-height wall collapses with corresponding debris fields, and include provisions for rerouting street and pedestrian traffic accordingly. Three additional inspections should be scheduled and conducted to ensure compliance with the site safety plan*
- 5. *Any reports of a potentially unsafe condition should be resolved by a site visit by qualified inspector.***
- 6. *The City should implement a system that ensures the third party inspection agency for inspections of electrical work is not chosen by the property owner, project manager, or contractor.***
- 7. *The City should provide local enforcement of the current Commonwealth of Pennsylvania requirements that all crane operators be certified.***



Photograph courtesy of The Philadelphia Inquirer

CHAPTER 5

Transfer of Fire Safety Inspections to the Fire Department

The City fire code enforcement was transferred to the newly minted Department of Licenses and Inspections by the City Charter in 1951 to clean up extensive corruption within the Fire Department. Fire inspectors, led by the Fire Marshal, were shaking down contractors to approve licenses for dangerous oil burners. They imposed a per gallon “tax” on new oil tanks the contractors installed. While placing fire inspections in L & I may have been a good idea at the time, over the years it has resulted in a dilution of fire safety enforcement within L & I’s ever-expanding mission. There is also an inherent disconnect with the allied functions of fire prevention and fire investigation in the Fire Department.

In addition, recent examples of fire safety code enforcement problems, including the fire escape collapse in Rittenhouse Square in January 2014, as well as lack of updated fire safety regulations

to address situations such as the July 2014 food truck propane explosion in Feltonville that killed two people, point to a lack of focused attention on fire safety in Philadelphia.

Most large and medium sized cities place fire code enforcement within their fire departments, and for obvious reasons. Most fire departments have, as one of their core missions, fire prevention. In addition, it is the fire department that has the expertise to deal with potential fire hazards. In order for fire code enforcement to be most successful, it must be performed on a routine basis. Currently, fire code inspections in the City are conducted on an ad-hoc basis, often complaint-driven.

Fire Department personnel have the expertise and safety-motivated self-interest to deal aggressively with potential fire hazards. The Fire Department currently does conduct routine “block inspections” to check on building conditions. The block inspections identify safety concerns, especially those posing a threat to first responders to fires or other emergencies, with the findings referred to Philly311 or to other agencies, such as L & I, as appropriate.

In Philadelphia, L & I is the principal agency enforcing the Fire Code. It inspections some facilities, such as day-care centers, on an annual basis, but in many other instances inspections follow up on complaints.

RECOMMENDATIONS

The City should enhance fire code enforcement through the following efforts:

- 1. Create a two-tiered system of code enforcement, using existing fire companies as well as a greatly expanded Fire Prevention Bureau.***

Inspections performed by properly trained fire officers and firefighters of “less-complicated” small local businesses and non-high rise residential buildings offer not only the advantage of ensuring fire safety for occupants but also building familiarization for firefighters. These inspections, conducted within a given fire company’s response district are performed while the company stays in service, ready to respond to an emergency call. Such inspections are currently conducted under the Fire Department’s block inspection program to the extent time is available, given other demands on neighborhood fire companies. The Commission recommends that a level of inspection funding be made available to the Fire

Department that would allow it to conduct annual inspections for fire code violations in all buildings in this category.

More complex occupancies, including hospitals, factories using hazardous materials, and high-rises would be inspected by trained Fire Prevention Bureau inspectors. Consideration should be given to the adoption of a system similar to New Jersey's "Life Hazard Use Program" to structure a routine inspection protocol.

2. Create an expanded Fire Prevention Bureau properly staffed with a sufficient number of inspectors.

Given the size of the City, the task of inspecting every commercial and multi-family building in the city is a large one. Based upon staffing levels in other cities across the country, 50 inspectors would be a reasonable starting point in a newly established Fire Prevention Bureau. Consideration should be given to utilizing existing L & I personnel to fill these positions. Appropriate funding must be provided to support this initiative.

3. Provide specific training to both Fire Officers as well as Fire Inspectors.

Officers should receive basic fire code enforcement education, perhaps as part of a state-of-the-art, first-line supervisor training program, with the goal of achieving Pennsylvania "Fire Inspector" certification under the Department of Labor and Industry as well as the "Fire Inspector 1" certification under the Office of the State Fire Commissioner. Full-time inspectors should be provided with more detailed and technical training to address more complex fire safety problems. In the future, consideration should be given to incorporating fire code training into each new recruit class.

CHAPTER 6

eCLIPSE and the Re-engineering Challenge

The Commission has reviewed the eCLIPSE project and strongly endorses the addition of this software as a means to improve the overall efficiency of L & I, the new Department of Buildings and the new Department of Licensing. The Commission has the following concerns:

- a. the project being almost a year behind the original schedule;
- b. the structure under which the project is being managed keeps evolving;
- c. the engagement of L & I supervisors and staff in eCLIPSE has been less than optimal;
- d. the lack of emphasis on the re-engineering of work processes which, in many cases, is not being conducted in tandem with eCLIPSE development;
- e. the electronic plans component, a critical deliverable, is falling behind schedule.

eCLIPSE stands for “electronic Commercial Licensing, Inspection and Permit Services Enterprise.” It is very ambitious, aiming for "providing all Licenses and Permits online . . . communicating in a paperless method . . . excellent performance for all web-based transactions . . . 24/7 access to departmental information, applying for Licenses and Permits and renewing Licenses."

The system is also to be a solution to process problems confronting the Department, such as expediting information flows, ensuring data accuracy, correctly identifying licensees and permit holders, enhancing the vital interface between L & I's Code Violations Unit and the Law Department, eliminating paper-dependent processes and being able to track and then retrieve documents as needed.

Finally, the system will address the administrative needs of the Department as well as policy goals of the city by providing interactive voice response (IVR) capabilities, mobile devices to enhance inspectors' productivity, reporting tools for monitoring work, statistical reports for executive analysis and an "Open Data Portal" through which the public could view City data sets. The system will replace "all of the core system applications for the Department."

eCLIPSE would replace Hansen (the current software), a system whose limitations create inefficiencies at L & I, and would also move substantial responsibility to customers through online applications and payments, emailed inspection reports and reminders as well as the submission of

scanned electronic plans. For customers without Internet access, the system is currently slated to have kiosks located on the concourse of the city's Municipal Services Building as well as in district offices throughout the City.

The eCLIPSE RFP was put out for bid in July 2012, with a project start envisioned three months after that. That ambitious schedule was not kept. The procurement process and contract negotiations pushed the project plan back almost a year, with phase one of four, Business Licensing, now scheduled to go online in late December 2014, not December 2013 as originally envisioned. The current project completion date is February 22, 2016. eCLIPSE promises to be a game changer for the Department, which is why the Commission has given it particular attention.

In the five months after the eCLIPSE project officially got underway on January 9, 2014, the IT Project governance relationship was unsettled as the Department's IT Director and the citywide Office of Innovation and Technology (OIT) differed over L & I-based resources devoted to eCLIPSE. When first interviewed in February 2014, L & I's IT Director pointed out vacancies in positions budgeted for IT at L & I, including eCLIPSE Project Director. The authority to fill those positions rested with OIT, not the L & I Commissioner. The OIT Director later described this method of governing IT in the departments as a "federated model." In any event, key employees of the federated IT state of L & I felt they weren't getting the resources to support the eCLIPSE project.

L & I's IT Director's resignation in June 2014 was followed immediately by staff changes that saw senior OIT staff stepping in and/or amplifying their time devoted to eCLIPSE, which strengthened OIT's hand in the Department's IT management. In addition, the IT staff positions housed at L & I had just been reorganized and several IT staff at L & I had been reassigned by Commissioner Williams as part of a wide-ranging departmental reorganization. Consequently, governance of IT at L & I, and by extension, of the eCLIPSE project remained unsettled during this period.

With a price tag of over \$5 million dollars, eCLIPSE is a major investment in the productivity of L & I, as well as other city agencies with which L & I transacts business. For financially constrained municipalities such as Philadelphia, systems development and enhancement opportunities like eCLIPSE rarely come around. This is a singular opportunity to "get it right," so it is incumbent upon the City to do all it can to maximize the value to be derived from eCLIPSE.

THE RE-ENGINEERING CHALLENGE

In an ideal world, L & I's processes would be reengineered before eCLIPSE goes live. This is not happening. L & I's day-to-day business occupies most staff. The eCLIPSE project is mostly focused on converting L & I's existing processes, with the contract absolving the vendor of responsibility for any business process reengineering. Though reengineering L & I processes simultaneously with the eCLIPSE roll-out may not be possible, rethinking business practices in the context of eCLIPSE coming on line is critical.

With that in mind, members of the Commission asked most supervisory interviewees about their engagement with, and aspirations for, the development of eCLIPSE since they and their staffs, along with Department customers, are primary users and beneficiaries of the new system. The answers, for the most part, indicated an overall a "wait and see" attitude about the system, with division directors expressing higher hopes and greater engagement than those at the supervisory levels of L & I where most of the clerical heavy-lifting, much of it still paper-based, gets done, and where the greatest potential lies for business process reengineering efficiencies.

Commission members subsequently asked project team members, including vendor representatives, about modifying existing business practices subsequent to eCLIPSE coming online. All agreed that eCLIPSE is easily modifiable so that once the system was running and performing current functions smoothly, any business process improvements made possible by new functionalities could be easily implemented. In addition, many eCLIPSE project elements such as Interactive Voice Recognition (IVR) and mobile tablet computing for field personnel promise to deliver major efficiencies even without any accompanying changes in business practices.

The Commission would underscore that the eCLIPSE contract absolves the contractor and its sub-contractors of responsibility for "any business process reengineering . . ." and that "The City will be solely responsible for facilitating the re-engineering effort and for managing impact on and change to current business processes and procedures." The ball is clearly in the City's court. It is incumbent upon the City members of the eCLIPSE project team to more closely engage Department staff, particularly those supervisors and their staffs that are responsible for permitting, license approvals, plans reviews and property inspections. Buy-in from these units is critical for the success of eCLIPSE. The time is now to make the supervisory teams feel like valued partners in the eCLIPSE rollout, not only for a successful implementation but also for maximizing the

system's potential for process improvements down the road.

Finally, it should be stressed that resourcing for eCLIPSE development remains less than ideal given the potential productivity gains. eCLIPSE is a major advance point for the Department, and for the city, and must be supported to as great an extent as L & I and OIT can manage over the next two years.

RECOMMENDATIONS

The Commission recommends the following actions and steps going forward:

- 1. Due to the importance of eCLIPSE to the City, OIT and L & I collectively must ensure the project is fully staffed, turnover minimized and leadership housed at L & I.***
- 2. To maintain current timelines for project completion, the City, and OIT in particular, should assign additional staff full-time to L & I through project rollout as necessary.***
- 3. Place more focus and attention on process engineering to obtain the desired operational efficiencies.***
- 4. The eCLIPSE project team should more actively partner with the divisional and supervisory leadership of L & I.***
- 5. E-Plans should remain a Phase 3 “go-live” objective, and the City should finalize any remaining issues regarding the contract as soon as possible.***
- 6. L & I should assign a “business owner” group of data quality and integrity outside the IT group. This group will have primary ownership of data quality and interface closely with L & I IT, OIT and other city agencies to ensure shared, accurate information, particularly important with respect to the master file of property addresses maintained by the city’s Office of Property Assessment. L & I’s Compliance Division, which has IT personnel assigned, is a candidate for this role.***

CHAPTER 7

Proper Staffing and Training are Essential

Over the last several years, L & I has experienced a significant drop in its annual budget with a corresponding drop in staff. The Commission notes this staffing trend has recently been altered with the planned hiring of over two dozen new inspectors in Fiscal Year 2015, but years of declining staffing levels have led to enormous workloads for some inspectors. Such overloads lead to poor quality inspections and even occasional cases where inspections were recorded but not conducted. Inspection quality is also at issue with respect to recent Buildings Division directives increasing the frequency of inspections of permitted construction activities, which will only add to existing workloads.

Interviews by the Commission of inspectors have revealed that at least some “Development Division” construction inspectors (inspectors who inspect new buildings and building remodels) have over 600-700 pending inspections under their responsibility. A recent directive from L & I management to inspect each of these sites every 21 days creates a physical impossibility for some inspectors, i.e., a visit to over 25 sites a day. The Commission believes this directive, sometimes couched as a “guideline”, is counterproductive, potentially resulting in very limited verification of code compliance within any of these inspection sites. The Commission further notes that while L & I is currently adjusting district boundaries and personnel distribution to reduce this problem, the lack of sufficient construction inspection staff is a stark and fundamental flaw in the current L & I.

The Commission has studied the overall staffing levels, attempting to identify the optimum levels of personnel. Specifically, it has attempted to identify the total number of construction inspectors and plan reviewers, as well as the “Operations Division” inspectors who deal with issues such as fire code enforcement and property maintenance, needed to carry out their missions. This review has been complicated by issues of L & I employees having multiple responsibilities that cross over different disciplines such as Operations Division inspectors who conduct inspections of more than one code or regulation, e.g. inspectors who conduct fire inspections as well as property maintenance inspections.

While the Commission recognizes that performance efficiency of multi-discipline inspectors may be desirable from a financial perspective, it falls short in terms of actual inspector competency in

the particular field. This issue becomes apparent, particularly in the case of some Operations Division inspectors who are not only responsible for a 300-plus page fire code, but property maintenance regulations as well. No one can be an expert in all disciplines. L & I should not expect an inspector to competently inspect a hazardous materials storage facility under the fire code while also inspecting a building for maintenance deficiencies having nothing to do with fire protection.

The Commission reviewed recent previous studies related to construction inspection and plan review staffing within L & I. In January 2010, the City released a study entitled “Philadelphia’s Development Permit Review Process: Recommendations for Reform” that detailed a number of issues and concerns dealing with the permitting process. While recommendations were made to streamline paperwork procedures and protocols to speed up the process, it does not appear that any specific recommendations dealing with establishing proper staffing levels were made, despite the fact that the number of plan reviewers can also have a dramatic impact on turnaround times. Additionally, the external International Accreditation Service (IAS) review and subsequent September 2013 accreditation of L & I made little note of staffing level shortfalls or plan reviewer/inspector workload overloads, save the plumbing plans examiner problem identified above, and importantly, a lack of trained fire suppression system specialists (which is being addressed by L & I).

STAFF COMPOSITION

With the creation of a new Department of Buildings, an opportunity exists to reorganize the department and personnel deployment. With respect to the Development Division construction inspection and plan review functions, the reorganization should assure that there are sufficient trained state-certified personnel in each discipline (structural, mechanical, electrical, etc.) both in terms of plan reviewers and inspectors. Currently, L & I employs 19 engineers with degrees in the fields of civil engineering and architectural engineering as well as one degreed architect. The Commission believes that additional engineers with degrees in structural, electrical, mechanical, and fire protection engineering should be hired. The Commission further believes that while reasonable plan review “turnaround” times (often set as an unofficial 20-day standard across the U.S.) and rapid-response inspections are very important, the need for high quality of the reviews

and inspections is paramount. Having a sufficient number of trained personnel will directly assist in meeting these goals.

STAFFING LEVELS

The Commission has concluded that L & I is substantially understaffed. While efficiencies may be gained in reallocation of resources in a new Department of Buildings, this will not make up for the significant shortfall of personnel or expertise. In the Philadelphia Quarterly City Managers Report for the period ending June 30, 2014, L & I is projected at year-end as having 296 full time positions, although it is budgeted at 320 positions. As recently as 2008, L & I had 361 employees.

Through the Commission's peer city review it has established that, on average, these cities conducted approximately six construction inspections per inspector, per day. By comparison, Philadelphia construction inspectors (according to the L & I Fiscal Years 2012-2013 Annual Report) conducted an average of 10 inspections a day in fiscal year 2012. Each peer city plan reviewer examined an average of approximately three plans per day, while a review of the 2013 "assigned plan reviews" within L & I averaged fewer than two per day.

TRAINING

The Commission supports the Philadelphia City Council Special Investigation Committee Report on City Demolition Practices and Procedures, and City Ordinances 130685 and 130688-A which promote training through local high schools and community colleges. The Commission also recognizes that safety training outcomes are often measured by the United States Occupational Safety and Health Administration (OSHA) 10 certification and OSHA 30 certification. These are both good measures of an individual's basic employee safety, but do not provide the level of protection the public requires.

Beyond demolition training, there is a need for expanded ongoing training throughout the organization. While L & I currently offers different training programs, the Commission believes that given its critical nature it should receive focused and prioritized attention in the form of a new designated training division.

SALARIES

The Commission asked the City's Office of Human Resources to study pay factors in other cities for employees of departments performing functions similar to those carried out by L & I. Responding cities included Atlanta, Baltimore, Charlotte, Dallas, Pittsburgh, St. Louis, Milwaukee, Miami—New York was not in the mix, nor was LA, cities whose higher living costs might explain higher pay for Building Department personnel. The commission found the report thorough, professional and an excellent basis for better understanding the salary conditions at L & I. The results showed that L & I employees lagged behind their peers who can reach maximum salary levels that are \$11,000-\$13,000 higher than those in Philadelphia.

The five years of stagnant pay was often brought up by employees in response to open ended questions from commission members about attitudes towards the job. The situation was characterized as demoralizing by workers and supervisors alike across the divisions of L & I. Respondents did not blame L & I management but some did blame "the City" and "the Mayor." Wherever responsibility lies, negative performance and poor morale arising from wage stagnation plays out in L & I. "Why should I break my butt when I haven't had a raise for five years, and everything I'm paying for costs more than it did five years ago?" Statements like this were common, and clearly more than rhetorical in some instances.

Several employees who impressed Commission members as serious and dedicated said they were looking to leave L & I because of the limited prospects for advancement and salary enhancement. Other "stuck" employees were resigned to staying but displayed symptoms of "burn-out:" job dissatisfaction, low energy and focus on ailments perceived as exacerbated by the job. These behavioral responses to limited prospects for career and salary mobility at L & I directly impact productivity by driving down morale, driving away good employees and sustaining an environment where doing less is seen as compensation for getting less.

RECOMMENDATIONS

- 1. The new Department of Buildings should place supervising licensed engineers in each construction “discipline” with a corresponding appropriate number of state-certified construction inspectors.***

It is important that individuals with technical competency in the specific specializations be utilized. Within the plan review function, additional licensed engineers of the disciplines not currently on L & I staff (disciplines other than civil and architectural engineering) should be retained to ensure proper highly-qualified technical expertise within the department.

- 2. The City should hire additional qualified construction inspectors to assure thorough and complete construction inspections are being conducted.***

Based upon our peer city analysis, the Commission believes doubling the number of construction inspectors appears to be an appropriate goal in order to reach a more reasonable daily rate of construction inspections. The number of non-construction inspectors should be determined in light of the potential transfer of some L & I employees to the Fire Department to conduct fire inspections.

- 3. L & I should establish a “Training Division” to create organized training programs for all department personnel.***

This level of organized training will assist employees in their efforts in maintaining the necessary certifications.

- 4. The City should take steps to establish a professionally grounded approach to titles, salary scales and career paths currently in place for the employees of L & I.***

CHAPTER 8

Financial Controls Need to Be Strengthened

The Commission took an in-depth look at the City's financing of the Department of Licenses and Inspections over the last several years and determined the need for stronger financial reporting and internal controls and improved collaboration between City Departments. It should also analyze the actual cost of performing various L & I functions.

L & I's revenues have grown from approximately \$40 million in Fiscal Year 2009 to almost \$60 million in 2013. L & I also achieved actual revenues that exceeded the budgeted revenues by over \$11 million in 2013. This trend does not, in and of itself, mean that L & I is performing at an acceptable level. The fact that L & I's costs are substantially less than the revenues it takes in, which results in "profit" for the City, does not mean that the City is putting the appropriate resources in place to keep its citizens safe.

While L & I's financial performance has been included in the Annual Auditor's Report on Philadelphia's City Agencies for Fiscal Year 2010 through Fiscal Year 2013, the last audit performed on L & I by the City Controller's Office was in 2009.

RECOMMENDATIONS

1. ***Initially, the City Controller's Office should perform financial audits on the proposed Department of Buildings and Department of Business Compliance on an annual basis and publish the results.***

These audits are necessary to obtain the financial documentation necessary for a timely evaluation of the Departments.

2. ***There should be improved financial oversight to ensure that the Departments will be provided with the funding necessary to properly carry out their responsibilities.***

Since the 2009 City Controller's audit of L & I, no evaluation of the internal controls has been published. That latest audit identified numerous internal weaknesses that exposed unnecessary risks to the operations of L & I as well as to public safety.

3. *The annual audits should include an assessment of the effectiveness of internal controls and report any weaknesses.*
4. *The Controller's September 2006 assessment of L & I identified several recommendations to improve the effectiveness of the Department's Housing Inspection and Enforcement Process. These recommendations should be implemented, including the recommendation that called for improving cooperation among all City Departments.*

This recommendation remains critical for the new Department of Buildings and Department of Business Compliance if public safety is to be improved.

5. *L & I should establish a schedule to evaluate the actual costs of issuing licenses, permits, code enforcement, performing inspections, and like activities.*

The Commission understands that it has been more than five years since a cost assessment has been conducted to determine if the City is charging an appropriate fee for these activities.

(Detailed recommendations are attached in Appendix "B".)

CHAPTER 9

Coordination between the Law Department and L & I

The problems and issues relating to the coordination between L & I and the Law Department, brought to light by the Commission with the full cooperation of both departments, have been ongoing for years.

The Law Department gets a heavy volume of business from one of its ‘clients,’ L & I. The relationship is primarily focused on properties with life-safety issues (imminently dangerous, unsafe, lack of fire protection and the like), many of which are vacant properties. With an estimated 25,000 vacant structures in the City, and with L & I estimating that, of those, some 4,000 are unsafe with a smaller number trending toward or actually being imminently dangerous, there are a multitude of issues needing effective legal attention. In compiling this report, the Commission spoke with the Law Department lawyers most concerned with the management and operational issues involving L & I, and with L & I officials charged with the day-to-day workings between the departments. All were helpful but their impressions of the coordination issues differed.

To fully appreciate both the coordination issues and to understand the Commission’s recommendations, the details are important.

The Law Department handles cases initiated by L & I. The cases are either processed through Municipal Court, which is a small claims court, or the Court of Common Pleas, for higher-level cases and cases that require equitable relief. Some are handled out of court.

MUNICIPAL COURT

This court is a small claims court. L & I, without the supervision of any legal counsel, can and does initiate cases in Municipal Court for minor code violations. While there is nothing illegal about this – any citizen can initiate a case in this court without counsel – it has resulted in recurring inefficiencies and delays. Determining whether the case should even go to court, and the gathering of sufficient and accurate information for the filing, is too often not done properly and wastes time in both the Law Department and L & I.

Municipal Court has the authority to impose fines only up to its limit of \$12,000 a case, and it has no power to order that specific actions be undertaken. It holds nine enforcement sessions a week which, according to the Law Department, is sufficient for the current case load.

Law Department attorneys attend the court hearings and prosecute these cases. While there are no systemic delays at the court level and filed cases get a timely disposition, there are delays caused by the interface between L & I and the Law Department as set out more fully below.

THE COURT OF COMMON PLEAS

This is Philadelphia's first level trial court. L & I decides which cases to send to this court and refers them to the Law Department. The Law Department reviews them and may determine a case was referred to the wrong court, or must be returned to L & I due to incomplete or inaccurate supporting information.

After a City attorney investigates the matter to ensure that proper parties are included, a complaint is drafted and filed, and the first hearing is scheduled. An assigned L & I court inspector conducts an inspection prior to each hearing. According to the Law Department, the court inspectors are not informed by their supervisors as to what relief is sought and therefore unable to communicate that information to the attorney. Sometimes, these inspections are incomplete or insufficient causing a postponement of the hearing which delays the resolution of the case.

The Law Department brings more serious cases to this court when L & I seeks enforcement action to abate safety violations because this court has the authority to impose both fines and court orders requiring owners to correct serious violations. This Court also has the authority to issue Orders for L+I to take abatement action, such as demolish or clean-and-seal a property. The judges on these cases are consistently assigned to these cases and are familiar with the process. There is no problem getting these cases into court and heard, once a case is filed. The Law Department can seek immediate action for emergency cases and can usually get before a judge in a matter of hours.

PROCESS SHORTCOMINGS

There are several longstanding and serious shortcomings with the current process employed by L & I and the Law Department.

First, the information flow between the Law Department and L & I leaves a lot to be desired. With the technology available to both departments, stacks of paper files have no place, nor does a system that permits inaccurate information to flow from L & I to the Law Department. Too many cases are dismissed or postponed in Municipal Court because of lack of service caused by not identifying accurate addresses for property owners. This problem stems, in part, from L & I's current Hansen software system. The violations and, subsequently, the Municipal Court cases automatically list the defendants at the address in the Office of Property Assessment data base. Too often these are not accurate, or not a proper address for service, so service is unsuccessful. The need for the Law Department to redo research and preparation of cases previously done by L & I creates delay and unnecessary duplication of efforts.

Second, insufficient resources may play a role in timing and prioritization of certain enforcement cases. While the condition of all properties is the legal responsibility of the owner, in the real world that is not always the case: too many owners are unknown, unable or unwilling to make their properties safe. As a result, the City ends up in the unwanted but, at times, necessary position of undertaking repairs and demolitions of private property and incurring the associated costs.

In its consultation with L & I regarding individual enforcement actions, the Law Department will ask what remedy is being sought and advises L & I of the implications, including the possibility of an order for L & I to undertake remediation or demolition. L & I may then decide that some such cases do not need to go to court immediately, where the condition of the property is essentially stable and does not create an imminent danger. In a few of these cases where no imminent threat was presented, demolition has not yet occurred out even though the court directed L & I to demolish. Based in part on resource considerations, L & I prioritizes where the City needs to focus the resources available for corrective repair or demolition of private property.

Third, there is no apparent system in place to track the progress and outcome of cases that were transferred from L & I to the Law Department. Once a case is "sent to court" by L & I, meaning sent to the Law Department, there are generally no further status updates to L & I's Hansen system or the public 311 system. Without a system to follow cases through their entire lifespan, it is possible for cases to "fall through the cracks." It is also challenging, if not impossible, for L & I to assess performance outcomes or to determine whether there are delays processing cases for filing as complaints in Municipal Court or Common Pleas Court.

Fourth, based on constitutionally protected property rights, government inspectors may not enter any property - including vacant properties - without obtaining the owner's permission to enter. The Law Department has asked the First Judicial District to appoint a court officer to issue civil warrants to enter and inspect a property in these cases.

Fifth, besides instances of insufficient and inaccurate information flowing from L & I to the Law Department, it appears to the Commission that there is a certain amount of triage occurring on the basis of judgment calls as to which property owners are likely to show up in court, and on the basis of avoiding cases in which the City may be required to take corrective action, except, of course, where a vacant property has been declared as imminently dangerous. In the opinion of the Commission, this kind of triage is most likely occasioned by lack of adequate Law Department resources.

RECOMMENDATIONS

- 1. The First Judicial District should consider and approve a Law Department request that a court officer be appointed to issue civil warrants to enter and inspect a property where the property is vacant or where the City has not been able to obtain permission to enter.***
- 2. Only the Law Department should file L & I actions in any court.***

If there is a problem with the accuracy or the completeness of information supplied by L & I for a court filing, it is incumbent upon the Law Department to ensure that the deficiencies in the process are corrected. A faulty submission by L & I should no longer be tolerated as an excuse for a dismissal of an action. The Law Department should establish a training program for L & I staff regarding the preparation of the documents necessary to support a court filing, including the accuracy of the basic property information and ownership.

- 3. The Law Department, with the cooperation of L & I, should develop an electronic form to be filled out by L & I, with a "no-go" feature built in if the information is not complete.***

This would eliminate hand-carrying of paper files between L & I and the Law Department.

- 4. All communications between the Law Department and L & I should be electronic, and a system should be developed to track the progress and outcomes of cases filed.***

The Commission recognizes that these latter two suggestions could be accommodated by the eCLIPSE system given the appropriate input by the Law Department and L & I.

CHAPTER 10

Implementation and Follow-up

The Commission has spent a significant amount of time reviewing a number of wide ranging reports, investigations and operational policies and procedures related to L & I. This information spanned several years of past L & I performance and in particular included two major events where lives were lost. These investigational activities also included meetings and interviews with various managerial personnel, administration staff and employees of L & I, the Fire Department and City employees. The Commission also reached out to key stakeholders, customers, residents and similar departments in other major cities as part of its activities.

This report has generated a number of recommendations that clearly impact the policies and operating procedures of several city departments and the way they will need to interact and work together going forward. In addition, some recommendations are complex, requiring changes to the City Charter, legislative changes, and organizational restructuring. Consequently, successful implementation of these recommendations will require a dedicated and sustained effort by senior City officials to effect any legislative changes, changes within individual departments and coordination of the impact of the changes between departments.

RECOMMENDATION

- 1. The Mayor should form an Implementation Task Force to oversee follow-up process on the Commission's major recommendations.***

The task force would be chaired by the Managing Director, or by a senior City official with similar authority. The Chair would be required to keep the Mayor fully informed of the progress, or lack thereof, on each of the major recommendations via a written report. The Mayor in turn would, on a regular basis, brief the City Council on the status of the Commission's recommendations.

The Commissioner of L & I, or the Commissioners of the new Department of Buildings and the new Department of Business Compliance, and the heads of other City departments

whose area of responsibility includes the implementation of any of the major recommendations of the Commission, would also be required to actively participate as members of the group.

The task force would be dissolved once the Mayor is fully satisfied that all appropriate corrective actions have been taken within the various departments to address the Commission recommendations.



Photograph courtesy of Cooper Media Associates

CONCLUSION

The fisheye lens of the security camera mounted on a SEPTA bus lumbering east on Market Street in Center City forever captures the chilling scene. The one-story Salvation Army Thrift Store on the southeast corner of 22nd Street is intact and open for business. Pedestrians are walking by as the ragged, four-story wall of the adjacent building under demolition thunders down with such force that the store is suddenly flattened, disappearing in a cloud of dust. The pedestrians stagger as the cloud billows over the intersection. In that instant, six people doing very normal things on a very normal day are killed.

It was against that backdrop that the Special Independent Advisory Commission was formed. In announcing the appointment of its members on October 31, Mayor Nutter said, “This Special Commission will take an in-depth and independent look at the Department of Licenses and Inspections. As Mayor, I want to ensure that all of our departments are performing to the highest

standard, and this Commission will provide a detailed analysis on L & I's practices and procedures as well as recommendations for improvement."

The Commission took the Mayor's words to heart. It used safety as the measuring tool for every decision it made. The Commission started on what it thought was a narrow path focusing on a relatively small City agency that had been in place for more than 60 years. What it soon found was a bureaucracy struggling to support an ever-expanding workload in a climate of constantly shrinking budgets with tentacles reaching deep into almost every aspect of City life. The disparate assignments it was given often conflicted, frequently confusing the City residents who needed to use L & I services as well as those who provided them.

The Commission looked at several ways to clear up the confusion within the current departmental structure and to resolve the historic challenges that impacted on its ability to do its job. In these discussions, the overarching, guiding principle was always the safety of the public.

In early August, the Commissioners came to the realization that the best path had to be a fresh start. The tasks historically handled by the Department of Licenses and Inspections had to be divided between two new agencies with more defined missions. The Commission believes these major changes will strengthen the City by putting safety first and foremost.

TABLE OF RECOMMENDATIONS

STRUCTURE

S-1. A Department of Buildings should be established.

S-2. The Department of Buildings should be headed by a licensed professional engineer or registered architect.

S-3. The Department of Buildings should be charged with the following responsibilities:

assuring code compliance and quality control of all new construction, maintenance, demolition and renovations to structures in the City of Philadelphia; identifying and sealing unsafe structures; permitting and inspection of demolitions; the procurement process for public demolitions; and inspection and enforcement relating to the property maintenance code.

S-4 A Department of Business Compliance should be established.

S-5. Administrative staff for the L & I Review Board and Board of Building Standards and the Zoning Board of Adjustment should be housed in the new Department of Buildings.

VACANT PROPERTIES

V-1. The position of Director of Vacant and Abandoned Properties, with an adequate supporting staff, should be created within the new Department of Buildings and, in the interim, within the current L & I Department.

V-2. A Vacant Properties Task Force should be formed and managed from within the Department of Buildings.

V-3. The Vacant Property Task Force should initiate regularly-updated vacant property surveys, using current technology.

V-4. The Vacant Property Task Force should use survey data to prioritize and target enforcement efforts, and assess what additional budgetary resources are necessary for abatement, including demolition.

V-5. For abandoned properties without a responsive owner, the City should lien any abatement costs and work with the Land Bank for foreclosure and transfer to a new, responsible owner.

DEMOLITION

D-1. A background investigation must be required and conducted for pre-qualifying companies to determine responsibility instead of this investigation only being part of the permitting process.

D-2 The appropriate officials in the new Department of Buildings must verify all representations made by demolition applicants.

D-3. City Council should continue in its efforts to create new demolition site safety positions.

D-4. The following requirements should continue to be included in the process for issuing a demolition permit for any structure in the City of Philadelphia, and to be added if they are not already in place:

- a. a detailed site safety plan;*
- b. the identification and signature of the responsible architect or engineer for the project;*
- c. the identification and signature of the responsible owner of the property. In the case of a corporate owner, there must be the identification and signature of a responsible current officer; and*
- d. requirements for additional safety steps such as a requirement of a hand demolition should be delivered in writing to the contractor.*

D-5. Any reports of a potentially unsafe condition should be resolved by a site visit by a qualified inspector.

FIRE SAFETY

F-1. Create a two-tiered system of code enforcement, using existing fire companies as well as a greatly expanded Fire Prevention Bureau.

F-2. Create an expanded Fire Prevention Bureau properly staffed with a sufficient number of inspectors.

F-3. Provide specific training to both Fire Officers as well as Fire Inspectors.

INFORMATION TECHNOLOGY

eCLIPSE

IT-1. Due to the importance of eCLIPSE to the City, OIT and L & I collectively must ensure the project is fully staffed, turnover minimized and leadership housed at L & I.

IT-2. To maintain current timelines for project completion, the City, and OIT in particular, should assign additional staff full-time to L & I through project rollout as necessary.

IT-3. Place more focus and attention on process engineering to obtain the desired operational efficiencies.

IT-4. The eCLIPSE project team should more actively partner with the divisional and supervisory leadership of L & I.

IT-5. E-Plans should remain a Phase 3 “go-live” objective, and the City should finalize any remaining issues regarding the contract as soon as possible.

IT-6. L & I should assign a “business owner” group of data quality and integrity outside the IT group. This group will have primary ownership of data quality and interface closely with L & I IT, OIT and other city agencies to ensure shared, accurate information, particularly important with respect to the master file of property addresses maintained by the City’s Office of Property Assessment. L & I’s Compliance Division, which has IT personnel assigned, is a candidate for this role.

STAFFING AND TRAINING

ST-1. The new Department of Buildings should place supervising licensed engineers in each construction “discipline” with a corresponding appropriate number of state-certified construction inspectors.

ST-2. The City should hire additional qualified construction inspectors to assure thorough and complete construction inspections are being conducted.

ST-3. L & I should establish a “Training Division” to create organized training programs for all department personnel.

ST-4. The City should take steps to establish a professionally grounded approach to titles, salary scales and career paths currently in place for the employees of L & I.

FINANCIAL CONTROLS

FC-1. Initially, the City Controller's Office should perform financial audits on the proposed Department of Buildings and Department of Business Compliance on an annual basis and publish the results.

FC-2. There should be improved financial oversight to ensure that the Departments will be provided with the funding necessary to properly carry out their responsibilities.

FC-3 The annual audits should include an assessment of the effectiveness of internal controls and report any weaknesses.

FC-4. The Controller's September 2006 assessment of L & I identified several recommendations to improve the effectiveness of the Department's Housing Inspection and Enforcement Process. These recommendations should be implemented, including the recommendation that called for improving cooperation among all City Departments.

FC-5. L & I should establish a schedule to evaluate the actual costs of issuing licenses, permits, code enforcement, performing inspections, and like activities.

LAW DEPARTMENT/L & I INERFACE

L-1. The First Judicial District should consider and approve a Law Department request that a court officer be appointed to issue civil warrants to enter and inspect a property where the property is vacant or where the City has not been able to obtain permission to enter.

L-2. Only the Law Department should file L & I actions in any court.

L-3. The Law Department, with the cooperation of L & I, should develop an electronic form to be filled out by L & I, with a "no-go" feature built in if the information is not complete.

L-4. All communications between the Law Department and L & I should be electronic, and a system should be developed to track the progress and outcomes of cases filed.

IMPLEMENTATION AND FOLLOW-UP

The Mayor should form an Implementation Task Force to oversee follow-up process on the Commission's major recommendations.