

NEW JERSEY STATE LEGISLATURE
SENATE COMMUNITY AND URBAN AFFAIRS
COMMITTEE

IN THE MATTER OF:)
)
COMMITTEE MEETING OF)
SENATE COMMUNITY AND)
URBAN AFFAIRS)
SENATE BILL NO. 1824)
SENATE BILL NO. 1825)
SENATE BILL NO. 1826)
SENATE BILL NO. 2046)

Center Place: Rowan University Student
Eynon Ballroom
201 Mullica Hill Road
Glassboro, NJ 08028

Date: August 10, 2006

MEMBERS OF COMMITTEE PRESENT:

SENATOR RONALD L. RICE, Chair
SENATOR FRED H. MADDEN, JR.
SENATOR NICHOLAS ASSELTA

ALSO PRESENT:

ROBERT C. ROTHBERG, Office of Legislative Services
Committee Aide
JULIUS BAILEY, Senate Majority Committee Aide
NICOLE DECOSTELLO, Senate Republican Committee Aide

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1 SENATOR RICE: If I may have your attention, please.
2 Once again, good morning. My name is Ronald L. Rice. I'm a
3 New Jersey State Senator representing the 28th legislative
4 District. I'm also the Chairman of the New Jersey State
5 Senate Community and Urban Affairs Committee. I'm very happy
6 to be here this morning. I just want to say first of all, it
7 was a pleasant drive, wasn't too hot, no oil spills. I'm a
8 little late because I stopped in a diner and had a little
9 breakfast and left some money in the area. It wasn't that
10 much, but in casinos you could probably win off of it if you
11 put it in the right slot. I also want to indicate that I'm
12 very happy to be with my colleagues from the committee,
13 Senator Madden and Senator Asselta. Let me just say that
14 Senator Madden and Senator Asselta are probably two of the
15 strongest legislators in the State of New Jersey when it comes
16 to really being objective about where we have to go for all
17 people and all districts, and Senator Madden has worked very
18 hard on behalf of his district here, and particularly some of
19 the issues impacting us on the Community Affairs Committee.
20 The Community Affairs Committee is responsible for many issues
21 and some of the issues that we are responsible for happen to
22 be issues affecting senior citizens and homeowners in
23 government and local level in general, as well as county in
24 some cases. But I'm not going to chair the meeting this
25 morning; I'm going to allow Senator Madden to chair the
26 meeting. We're here to hear concerns you may have for the
27 record. The State Criminal Investigations Committee had done

1 some research and some investigations. We have concerns about
2 some of the building and the construction that has taken place
3 in the State of New Jersey, the quality of it, problems that
4 exist with it. It is our job to try to as best we can
5 legislatively to correct those fallacies and those problems.
6 My committee members here, Senator Asselta and Senator Madden,
7 are very adamant about that. We don't have all the answers.
8 There's legislation that was introduced by me after looking at
9 all the bills that were in, after looking at the SBI
10 Investigatory report and recommendations, but these bills are
11 really foundation bills for those of us on committee and our
12 colleagues and both Houses of Legislature to consider and to
13 and to work on and hopefully make better.

14 With that, once again, thanks for inviting me, Senator, and
15 let me turn the meting over to you.

16 SENATOR MADDEN: Thank you, Senator Rice, and
17 welcome to Southern New Jersey. I'm sure you had a very nice
18 ride down the Jersey Turnpike at eight o'clock in the morning.
19 I'd like to publicly, ladies and gentlemen, thank Rowan
20 University for extending its ram again. It seems like every
21 time we need a place to have a public event -- and it's a
22 place of comfort with reasonable parking and a theme of
23 professionalism. Dealing with the staff and the
24 administration at Rowan University just always seems to work.
25 We've never had any real problems with the University.

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1 They've always been here for us. With us today representing
2 the President from Rowan University today is the newest member
3 of the administration and that is Rowan University's new
4 Provost Doctor Avi Oshman. Doctor, could you please approach
5 the mic for some comments, please.

6 DOCTOR OSHMAN: Good morning. Can you hear me?

7 SENATOR MADDEN: Doctor, if you could just sit down
8 so we can get the recording.

9 DOCTOR OSHMAN: Good morning, ladies and gentlemen,
10 and welcome to Rowan University. I welcome distinguished
11 members of Senate Community Affairs and Urban Affairs
12 Committee. My name is Avi Oshman. As Senator Madden
13 mentioned, this is my second week, the first official
14 function, and I'm delighted to be here representing the
15 University. Unfortunately President -- could not attend this
16 meeting due to other commitments and I'm delighted to be here
17 and welcome you to the campus. I'm delighted that as a public
18 institution not only do we function as providing education to
19 the community to the young minds as well as to the general
20 public, but also we open our doors to the public to come in
21 here to hold meetings of this importance in here. We have our
22 sports facilities open to the public, our libraries are open
23 to the public, and of course our other facilities, and it is -
24 - the function of a responsible state supported institution
25 and to the extent that we can do all these functions for the

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1 good of the state it's our responsibility and I'm delighted to
2 do so. I want to welcome you to this campus. This is a
3 wonderful day. It's a great day, no humidity, so I trust that
4 you not have a problem with heat and after that hopefully you
5 can go out and do some running and walking and enjoy the day.
6 Enjoy your day. I hope that you enjoy your meeting and you
7 will have a very constructive discussion regarding the issues
8 that affects the lives of the public. Thank you, very much,
9 sir.

10 SENATOR MADDEN: Thank you, Doctor. As a graduate
11 of then Glassboro State College it does me proud just to watch
12 the expansions and the growth of the campus. Ladies and
13 gentlemen, in attendance with us in the audience today we have
14 two dignitaries, that's Councilman Frank Caligiuri from Monroe
15 Township and Councilman Bill Julio from Monroe Township, also.
16 You will be hearing testimony from Councilman Caligiuri in
17 just a few minutes. The first person I would like to call to
18 the microphone is Ms. Tracy D'Andrea. Tracy is from
19 Williamstown and she has a little somebody with her today and
20 some commitments so she needs to testify first. Tracy.

21 MS. D'ANDREA: Thank you. I didn't think I was
22 going to be the very first person.

23 SENATOR MADDEN: Well when you say you got to go
24 early you never know what to expect.

25 MS. D'ANDREA: Oh, okay. Well he's already breaking

1 down, so --

2 SENATOR MADDEN: That's okay. I think the most
3 unprepared comments are generally the most honest, so just
4 take your time and do your best.

5 MS. D'ANDREA: Okay, thank you. And thank you for
6 having me here today and giving me the opportunity to talk
7 about my experience. I am a resident of Monroe Township. I
8 am a homeowner in the Chestnut Green Development. My builder
9 was K. Hovnanian. I'm going to start with last night. As I
10 was preparing for this meeting I began to wonder if I was
11 wasting my time because I thought to myself hasn't this been
12 done before. I sat there thinking about all of the unhappy
13 homeowners I have spoken to across the State of New Jersey who
14 share the same story and issues with their builders that we
15 could finish each other's sentences. I know that many of the
16 people have tried to get their stories out, had sent letters
17 and made noise to the people they thought were out there to
18 help them, but to no avail because the building industry does
19 not have to answer to anyone. You in front of me have to
20 answer to your constituents, which gives you the desire and
21 the motivation to do a good job, as does anyone else who has a
22 job they want to keep. The builders are not voted into
23 office, their companies are making money, and no one is
24 getting fired for doing a bad job on any home because at the
25 end of the day they're still making money.

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1 The old phrase that the squeaky wheel gets oiled
2 does not apply to anyone that purchases a home with defects
3 because the attitude is that you should be happy with what you
4 get. They don't have time to come back and fix their defects
5 because they're too busy building the next house. I realize
6 how tired I am of this entire ordeal of buying my new home.
7 What was supposed to be a happy experience has ended up being
8 a two plus year ordeal of trying to get our builder, K.
9 Hovnanian, to fix our home. It has just sucked the life out
10 of me and my family and has caused stress on my marriage and
11 my children. I am sure that is why a lot of people just give
12 up on trying to have the builder make good on their promise to
13 fix their homes and just make the repairs on their own, which
14 benefits the builder in the end. My husband and I persevered
15 as long as we could in working with our builder to get our
16 issues resolved, but after two years we realized that we
17 needed to go the legal route so our punch list remains as does
18 some serious defects in our home.

19 Our introduction to buying the new home from K.
20 Hovnanian started with our one week prior to settlement
21 walkthrough when my husband discovered the basement floor
22 extremely wet. When he questioned the K. Hov site manager
23 about the situation he obliged my husband that he would look
24 into the problem and contact us accordingly. When the manager
25 called my husband he told my husband that he had good news,

1 there was not a water issues in our basement, but that the
2 construction workers were using our basement as a bathroom and
3 urinating on the basement floor. I remind you that this is
4 one week prior to our scheduled move-in date. Personally my
5 husband and I did not find that to be good news, but
6 disgusting. And the thought of our two little girls, ages 3
7 and 4 a the time, playing in the basement made me sick. I'm
8 sure you wouldn't want your children playing in someone's
9 urine. K. Hov promised to have the problem rectified along
10 with our pre-settlement punch list completed. When we settled
11 our pre-settlement punch list was not complete. That is when
12 the promises began that they would come back to complete the
13 outstanding items. We were advised on our settlement day
14 walkthrough that once you live in the house you will find
15 other items that needed to be added to your punch list and
16 that we should keep track of them for our 30 day walkthrough.
17 Little did we know that our odyssey had only just begun.

18 For two years we submitted punch lists at the
19 builder's request that always went missing. Just so you know,
20 our method of delivery of these punch lists were
21 hand-delivered, U.S. Mail, fax, Federal Express, and certified
22 mail so we can insure that they did receive our punch list as
23 requested. Amazingly they still couldn't find our list. When
24 we pressed for the service to be done on our home the builder
25 would request a walkthrough of our home to look att he issues

1 where once again we would present them with our list. After
2 each walkthrough we were, of course, told that the service
3 tickets would go out for our outstanding items and that we
4 would hear from the tradespeople to set up appointments. A
5 few of the items would be addressed, time would pass, then the
6 process would begin again. We would call for -- about the
7 service that they promised and that was not done, the builder
8 would request our punch list again and request another
9 walkthrough of our house to look at the many items over and
10 over again. I felt like they were just stringing us along
11 hoping that we would just give up and go away. Again, service
12 was always promised. We were even told by the site manager
13 that they dropped the ball on our house when it came to
14 service, yet admitting that they did nothing to get the work
15 done.

16 I'm just going to give you an example of one item
17 that we had on our list, it was our upstairs foyer railing
18 that overlooks -- we have a high ceiling foyer so it overlooks
19 the foyer. The entire railing was loose from the wall and the
20 spindles were also loose. We put this on our punch list in
21 June of 2004. We felt that it was a hazard to our small
22 children. And my sick father who was with us frequently
23 needed to use the handrail, understandingly, to go up and down
24 the stairs. When we shared our feel about the railing giving
25 way to our two small girls we were told to keep them away from

1 the rail. This is how we had to live in our new home, just
2 don't go near the defective item, that could hurt you. Just
3 for the record, it took until July of 2005 for the builder to
4 finally come out and fix the railing, 13 months after it
5 appeared on our punch list. So after more than ten
6 walkthroughs, numerous submitted punch lists, and two years
7 after settlement much of the work still remained and the cycle
8 continued. We were promised in their words a zero defect home
9 and here we are still waiting. You can understand our
10 frustration. I felt like they have beat us into the ground,
11 stressed my marriage, children, and job, and this cycle just
12 kept going on and on and on. We felt like we had no other
13 option other than to file the lawsuit against the builder.

14 So the large cracks in our basement floor remain,
15 the holes in the basement wall that were fixed three times
16 continue to leak water, and we just added another new crack in
17 the basement wall that leaks whenever it rains. I just hope
18 that the mold that was originally in my house the year before
19 does not return since my daughter is an asthmatic. The floor
20 boards on the entire second floor creak so loudly that you
21 have to strategically walk as to not make them creak because
22 they're so loud that I'm afraid they're going to wake up the
23 baby or the kids. None of the doors -- three of the doors
24 upstairs in our house do not close properly, so if you're in
25 the bathroom someone could just push the door open and walk

1 in. We have windows that were fixed that continue to leak.
2 We have an HVAC system that does not work properly, in
3 addition to many other items that still remain on our list. I
4 can go on and on. And I'm sure that many people here have a
5 similar story. I hear it from my neighbors, the people I've
6 communicated with throughout New Jersey, same story just a
7 different house in a different development. Your home is one
8 of the biggest investments that you make in your life and yet
9 people are having their lives ripped apart with defective new
10 homes and there is no one to turn to. So some don't have the
11 will to fight and others don't have the funds to pursue legal
12 action against the builder, so there the biggest investment in
13 their lives may be just causing them the greatest heartache.

14 I feel someone needs to hold these builders
15 accountable for their substandard work. The fines that are
16 levied are too small and what punishment that can be assessed
17 is almost equivalent to a slap on the wrist. I don't
18 understand how the home industry -- building industry is
19 running the State of New Jersey. As I sit here testifying in
20 front of you there is a very excited person out there settling
21 on a new home who could very well be sitting in this seat next
22 year giving you the same story I and others are presenting
23 today. This is the largest investment that many people will
24 make in their lives and yet there almost should be a sign on
25 every new home warning the buyers that states, as is, because

1 that is what it's like to buy a new home. We, your
2 constituents, need your help. The local government is
3 powerless. The state government is powerless. We need to
4 give the protection back to the consumer and the homebuilding
5 industry needs to be held accountable. Thank you for your
6 time. Thank you.

7 SENATOR MADDEN: Thank you, Tracy. Thank you,
8 Tracy. I hope you get to your meeting on time and thank you
9 for your testimony. My colleague Senator Asselta. Senator,,
10 if you would like to make a comment please do.

11 SENATOR ASSELTA: Briefly, Senator and acting
12 chairman today, I think this is a fantastic forum and this
13 type of bringing government to our local areas is very
14 important. You know, many times there is criticism from our
15 constituents that government knocks on your door and asks you
16 many times what could I do for you, how can I help you, and in
17 this case we're trying to help and we're trying to get out
18 here and trying to get input, positive input, from our
19 constituents. So, Mr. Chairman, thank you for creating this
20 forum today. I'm very interested in hearing some of these
21 complaints. And I guess my only question to that particular
22 homeowner is after you first realized that you had water in
23 the basement and you went through why would you then purchase
24 that home?

25 MS. D'ANDREA: When we -- no, they came back to us

1 and claimed that it was not water in the basement.

2 SENATOR ASSELTA: But what was it?

3 MS. D'ANDREA: That they were urinating in our
4 basement. It was not water. We did not get water in those
5 areas again. The areas that were leaking in our home in the
6 basement was on these other walls, what they called snap ties
7 holes, where they put the wood, I guess, against the concrete
8 when they pour it so when they pull it out the nails that were
9 in there create a hole that needs to be plugged.

10 SENATOR ASSELTA: Was this an entire development
11 that you bought into? Obviously Hovnanian --

12 MS. D'ANDREA: Yes, it was -- yes, there's 70 homes
13 that they built.

14 SENATOR ASSELTA: Were there other examples of
15 similar problems that you experienced in this particular
16 development?

17 MS. D'ANDREA: Similar problems in our -- we have a
18 -- our basement floor is cracking and in areas it's lipping so
19 the cracks are dropping -- the cement is dropping. You can
20 tell that the floor below is hollow. And there's another
21 neighbor that I know of also that has the same problem.

22 SENATOR ASSELTA: So has there been an effort to
23 join forces with other homeowners in that particular
24 development to pull your resources in the ability to get these
25 things done legally?

1 MS. D'ANDREA: Yeah. Well actually in 2005 my
2 husband, I, and two other neighbors got together and we had a
3 petition signed by just about every resident that was in the
4 development at the time, you know, requesting -- you know,
5 about not being happy with their homes. We then had a
6 community meeting at my home. And then after that we
7 organized a large meeting in our home where we invited the
8 councilmen, assemblymen. A mayor came, representatives from
9 John Corzine's office came, and the media was there, so we had
10 a really big community meeting in my home where people were
11 just getting up and, you know, very disappointed in the
12 builder and expressing the problems and issues that they were
13 also having with their homes. While I find that that kind of
14 brought us to the front, you know, it was short-lived because
15 once all that media went away it just became the same cycle
16 again that we were right back where we were before, the
17 builder not responding, not getting the work done on the
18 homes. I found that some people, you know, persevered. They
19 keep on pushing to get their issues done. Others I found
20 would just, you know, hey, what are we going to do, we'll just
21 fix it ourselves. So they were just resolved to not dealing
22 with the builder. If you drove through my development now
23 just about every -- it's two years old so they're ripping up
24 driveways that needed to be repaved. My one neighbor had five
25 driveways put in. Porches are being ripped out and redone

1 because I guess they were not installed properly. So if you
2 drove through there's still a lot of work being done in that
3 development.

4 SENATOR ASSELTA: I'm just curious, in this
5 particular development was there a sample home leading into it
6 where you could actually look at a sample of what you were
7 actually going to buy?

8 MS. D'ANDREA: The sample home for my model home my
9 husband and I saw at the Hainesport Development that they did
10 because they did not have the sample there. They did have
11 another -- they do have another --

12 SENATOR ASSELTA: So you went to another location to
13 see the same --

14 MS. D'ANDREA: Right, we went to another location to
15 see my model home. They did offer a sample at another
16 development that they did down the road, Stockton Run, and
17 there was a sample there of one of the homes, I believe it was
18 the Amherst Model, that you could see. And then --

19 SENATOR ASSELTA: Right. So when you went in there,
20 through the chair, did you check the railings there,
21 everything looked like it was -- the floors didn't creak, was
22 it --

23 MS. D'ANDREA: Right, I did not notice any of those
24 things.

25 SENATOR ASSELTA: You didn't notice those kind of

1 problems in the sample home?

2 MS. D'ANDREA: Yeah, and actually that's one of the
3 things we did was like when they finally did put the model in
4 we did walk through it just to -- you know, you see things
5 that are in your home and you look around just to see hey,
6 they -- you know, how it was built there. Ours -- I think we
7 got the lemon.

8 SENATOR ASSELTA: Thank you for your testimony.

9 MS. D'ANDREA: Thank you for your time. Any other?
10 Am I okay?

11 SENATOR MADDEN: Senator Rice, do you have any
12 questions?

13 MS. D'ANDREA: Thank you.

14 SENATOR RICE: Yes. I know you're rushing, but let
15 me just say --

16 SENATOR MADDEN: Tracy. Tracy.

17 MS. D'ANDREA: I'm sorry.

18 SENATOR RICE: I know you're in a hurry.

19 MS. D'ANDREA: I'm not in a hurry; I'm just trying
20 to keep him happy, that's all.

21 SENATOR RICE: Sure, we're going to keep him happy.

22 MS. D'ANDREA: As long as he doesn't bother you
23 that's fine with me.

24 SENATOR RICE: He can come up here and chair if he
25 wants to, you know, that will keep him happy. What period of

1 time are you talking about, is this after March 2005, before?

2 MS. D'ANDREA: We settled in '04. I'm sorry.

3 SENATOR RICE: In '04?

4 MS. D'ANDREA: Correct.

5 SENATOR RICE: Okay. Did you have an opportunity to
6 testify before The State Commission of Investigations at all?

7 MS. D'ANDREA: No. I believe that happened -- that
8 was going on, I guess, as we were getting ourselves together
9 and organizing our development. We -- you know, we were new
10 to this. We were new to what was going on and then, you know,
11 just talking to people and getting our story out you heard --
12 you know, I found out about the hearing. But no, we did not
13 testify. I believe that happened before we had our meeting.

14 SENATOR RICE: I just want to say to my colleagues
15 that the models have not been an issue in terms of development
16 in the state, certainly different models. The problem has
17 been the quality of construction and so even if a developer
18 was to put up through his contracts a model you're not going
19 to necessarily find those problems because K. Hovnanian and
20 others are so large they bring in contractors today they never
21 use them again so the contractor putting this model up may be
22 very capable of doing the job the way it should be done by
23 code, et cetera. The contractor putting up the same model at
24 another site may not be capable or just simply don't care or
25 have the ability. So, you know, I just wanted to try to

1 figure out what frame we're talking about because my concern
2 is while we are moving legislation building is still taking
3 place in New Jersey and will continue to take place. And I
4 just want to make sure that we're not getting "after the fact"
5 as to the investigation problem from some of the same people
6 who were actually brought in to be interviewed. Okay, thank
7 you.

8 MS. D'ANDREA: Right, didn't testify. Thank you.

9 MR. ROTHBERG: Just the way these microphones work
10 for the members and for the members of the audience there's a
11 single button to the left, you turn that on, the red light
12 will go on. After speaking -- after ceasing to speak for a
13 few seconds it's going to go off by itself so you may have to
14 push the button again to make the red light go on and make the
15 mic go on.

16 SENATOR MADDEN: Thank you, Tracy. You did a great
17 job.

18 MS. D'ANDREA: Thank you.

19 SENATOR MADDEN: Ladies and gentlemen, there has been
20 a hand or two go up in the audience. As a matter of setting
21 protocol what we do is we will call a person to the table to
22 testify, they'll be subject to questions from the senators at
23 the panel. If you have something you would like to put before
24 the Senate Committee we have a sign up sheet here for you to
25 testify. If you just come down the aisle here we'll get

1 somebody out there to get your name and whatnot for you to
2 sign up, okay. That being said, we'll move along. The idea
3 here was to take the four bills that have been put together as
4 a result of the State Commission of Investigations' report on
5 substandard housing and procurement issues. We have what we
6 call these four bills, we have them as what we call basically
7 a working product. There are a number of different hearings
8 that have been going on in Trenton and throughout the state.
9 The intent here, the Legislative Panel is to simply hear from
10 the people, give you a chance to read the proposed language in
11 those bills before we advance them in our committee, to give
12 us a chance to amend them and change them appropriately to
13 make them stronger and better. The intent, I will tell you
14 right now, of the Community and Urban Affairs Committee is
15 simply to pass legislation that will be extremely consumer
16 friendly all the while balancing the needs for housing growth
17 within the State of New Jersey. Our next speaker I would like
18 to call up is Councilman Frank Caligiuri from Monroe Township.
19 He's going to make comments on Senate Bill 1826.

20 COUNCILMAN CALIGIURI: Thanks for the opportunity to
21 speak today. And I congratulate the Legislators for bringing
22 the public in to comment on this Legislation. I'll be real
23 brief. I don't want to get into the punch lists for the
24 homeowners of Chestnut Green, but I have seen it and it's
25 thick enough to fill a New York City telephone directory. And

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1 it's interesting to note that the problems that they've
2 experienced in many cases are repeated problems. I know in
3 particular they had carpet problems throughout the entire
4 development where carpet was cut short and stretched, and
5 every single home was affected and only a handful of residents
6 even complained. So I know that they have their hands full,
7 and a similar situation in Holiday City, as well.

8 But I wanted to talk about S-1826. I believe that
9 that is the appropriate Legislation to consider adding a
10 provision that would give the township the discretion, but not
11 necessarily the obligation, to withhold fee owes from
12 developers with pending township punch lists on any other
13 project in progress. In other words, what we're experiencing
14 I know in Monroe Township from say a particular developer is a
15 history of problems that we have no control over. A developer
16 may come in, complete a development, have a number of punch
17 list items, move on to the next development, and we see history
18 repeating itself and we really have no teeth to stop the
19 proliferation of the problem. And I think that a provision of
20 that nature would give the township an incredible amount of
21 leverage on the developer and provide the developer with a
22 very strong incentive to complete the punch list items from
23 the prior development promptly. That's all I have. I'll open
24 for questions.

25 SENATOR MADDEN: Senator Asselta, any questions?

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1 SENATOR ASSELTA: (No verbal response)

2 SENATOR MADDEN: Senator Rice?

3 SENATOR RICE: Yes, Chairman. Let me make sure I
4 get this correct. Right now if you're building in a -- by the
5 way, I spent 16 years on Newark City Council so I'm a local
6 government person, as well, and former Deputy Mayor. But
7 right now a certificate of occupancy is not provided until
8 most punch lists are completed. Are you saying that there
9 should be something else? In other words, do inspectors --
10 your local inspectors inspect these buildings as they go up?
11 For example, if you're building a house from the ground,
12 you're putting the foundation in, once you go in the ground
13 the hole is open someone should be inspecting that from the
14 municipality? Once the foundation goes in someone should be
15 inspecting -- in other words, every phase of the development,
16 the framing, has to be inspected then the house is completed.
17 Are those things being done at that point, because the punch
18 list is also generated by the municipality inspectors?

19 COUNCILMAN CALIGIURI: I'm talking specifically
20 about off-track improvements within the infrastructure we
21 have, for example, at Chestnut Green issues with the drainage
22 basin and a commitment to resolve those issues. There is
23 issues within the infrastructure with ponding and a number of
24 other similar issues in yards with swails that are not
25 correctly working. And what amazes me is with those issues

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1 pending and with a very slow response from the developer we
2 have no leverage to prevent that developer from coming in and
3 building another development, starting another project and
4 placing that project in process at the moment. There's no
5 Legislation in place that enables us to do that. So I would
6 propose a provision that would give the township that
7 discretion to hold back COs on a development in process
8 pending the resolution of problems from a prior development
9 within the same township.

10 SENATOR RICE: Yes. Bob, Julius, do you guys
11 understand the question?

12 MR. ROTHBERG: Yes.

13 SENATOR RICE: Put that down. We need to take look
14 at that.

15 MR. ROTHBERG: Okay.

16 SENATOR MADDEN: Thank you, Councilman.

17 (Pause)

18 SENATOR MADDEN: The next person we will call to the
19 microphone is Mr. Ed Knorr from the Green Action Alliance.

20 MR. KNORR: Can you hear me?

21 SENATOR MADDEN: Yes, right on your left, Ed.

22 MR. KNORR: Oh, okay. I'll have to try out for that
23 commercial. My name is Ed Knorr, Chairman of the Green Action
24 alliance. I'm here today over situations that I have
25 encountered with new homebuyers over the course of the last

1 four to five years. Back in 2002 I was running as a candidate
2 for mayor and I was going door to door in my Township of
3 Monroe in Gloucester County. And most of the time what I got,
4 responses from individuals, was not about your platform, but
5 complaints about their new home. I went home each night and
6 wrote down a list, went out the next day, and it seemed to
7 repeat itself. To cut a long story short, I didn't get
8 elected, but I did get a lot of complaints of new homes. My
9 background -- I went to Texas Tech for architecture and urban
10 design. My field for the last 27 years has been in the
11 environmental industry. I do home inspections, privately for
12 some individuals, but I do mostly from an environmental
13 standpoint. Over the course of the last three years I've been
14 to many different housing developments throughout South Jersey
15 and a couple in North Jersey. There were issues there that
16 were unbelievable. I have a background in building
17 construction. I've worked doing building construction. I
18 used to work with the Gloucester County Planning Department,
19 was out on site inspections for new home developments way
20 back. The quality then was good; the quality now, to put it
21 nice, shabby. The concerns are where does it leave the
22 individual homeowners. They have been left in a quandary.
23 When asked for -- I sat down with Senator Madden and we had a
24 good discussion, and I appreciate everybody here today and
25 Senator Madden on his ability to move things.

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1 The concern though is are we always going in the
2 right direction. I looked today when I came in and I seen
3 four bills. Our request back in 2002 was to develop sort of a
4 lemon law, a lemon law to cover all this. The concern you
5 sometimes have, one homeowner may have a problem here, one may
6 have a problem here, here, one may have a problem here, here,
7 here. This opens up too many avenues, too many concerns, too
8 many stumbling blocks. We have issues that are health issues,
9 structural issues, financial issues to the homeowners. I've
10 been in some homes over in Harrison Township. People have put
11 their life savings into their home. They're told to get an
12 attorney. They have no recourse. There has been no recourse.
13 What can a lemon law do? Interesting enough, 1980,
14 Legislators, State of New Jersey, the Legislator finds --
15 Legislation finds that the purchase of a new motor vehicle is
16 a high major consumer transaction and the inability to correct
17 defects in these vehicles create a major hardship and an
18 unacceptable economic burden on the consumer. 1980, a new car
19 cost \$10,000, top of the line. Today a home costs 400,
20 300,000, 20 times that cost. And we put on a treadmill the
21 concerns and issues dealing with people's rights as to where
22 they can go to solve their problems. Foundations cracking.
23 The lady that made mention about urine in her basement -- I
24 inspected a home where there was fecal matter in the basement
25 because there wasn't a rest area provided for the workers.

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1 That is totally unacceptable. Mold issues, prevalent
2 throughout these homes.

3 The problem also is the warranty system. When a lot
4 of these problems develop new homes look great. Another was a
5 was a comment about sample homes. You see picture windows in
6 the store. They don't always tell you what the product is
7 you're going to buy inside that store. The problem is you
8 don't find that out until four or five years down the line.
9 Experiences in the new homes that I've learned throughout from
10 the structural, environmental, health, become financial and
11 they become social issues. They've got to be met in a way
12 that will provide homeowners one resource, a lemon law, that
13 will say here, we're going to take care of this issue, we're
14 going to have setup where anybody that has a problem can go to
15 one area. I appreciate the fact that a lot of the work has
16 been put into various bills, but there's warranty issues.
17 People go to warranty companies and get fought tooth to the
18 nail. I went in one home where a natural gas fireplace was
19 leaking and they said don't worry about it, the home
20 developer, because it's natural gas it won't hurt you. These
21 are \$650,00 homes. There's no excuse for what is
22 happening out there. The concern is that the problem needs to
23 be addressed. It's great that there's all hearings and all
24 these meetings and everything, but problems just don't get
25 resolved here. I was at meetings two and three times and the

1 same situations occur. The problem is they're becoming more
2 occurring, not less. So in closing I would just ask that if
3 you are going to do something for the protection of homeowners
4 try to put it into a lemon law that's going to make the
5 developer responsible for what they build. This issue of
6 building and running and let the taxpayer and let the resident
7 foot the bill and get attorneys is unacceptable in the State
8 of New Jersey. Thank you.

9 UNIDENTIFIED SPEAKER: You said a mouthful there,
10 brother.

11 SENATOR MADDEN: You did a great job. Ed, I will
12 tell you the comments regarding, let's just say the concept of
13 a lemon law, that has been debated and thought about and it is
14 actually in one of the bills, the ability to -- we're going
15 down that path. And again, these are bills that are kind of
16 in the works. We have a difference of opinion right now on
17 maybe the existing language, but in Senate Bill 1825 you'll
18 see there was an amendment to that already out of Committee
19 when we had testimony back in Trenton, and we're going down
20 that path. There will be something established as there is in
21 that bill under the concept of a lemon law for houses. It's
22 just a matter right now there's a difference of opinion. I'm
23 not quite sure the Committee is in unison enough to get enough
24 votes on this particular issue right here regarding who would
25 purchase the home, whether it would be the Department of

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1 Consumer Affairs and then have that commissioner go after the
2 builder or if we would force the builder to do it. There are
3 some legal issues and hurdles that have to be debated with our
4 legal advisors, but I assure you the genesis of that
5 particular bill is focusing on a lemon law type initiative.
6 And you've been a very, very good staunch consumer reporter,
7 so to speak, in my time in the Senate and I appreciate your
8 input, and thank you for taking your time to come out and
9 share your comments with the rest of the Committee today.

10 MR. KNORR: Thank you.

11 SENATOR RICE: Mr. Chairman.

12 SENATOR MADDEN: Senator Rice has a question.

13 SENATOR RICE: Well it's not really a question --

14 SENATOR MADDEN: Okay. A statement.

15 SENATOR RICE: It's -- you know, I probably go up
16 and down the state more than most of my colleagues in the
17 Legislature and that's because I've been there 20 years, and
18 when I go I try to educate the public, whether they like it or
19 not. I certainly agree with your comments. I've been at this
20 for a long time. If you come to my district -- if you listen
21 to the radio you'll think Newark is the worst place in the
22 world to live when in fact it's not. If you travel every
23 corner you turn there are brand new houses going up. We have
24 the same problems. (Indiscernible) in our areas, as well and
25 other parts of districts, too. But the problem we have when

1 you say you attend these meetings, I attended meetings for the
2 last 20 plus years and over as a citizen as well as elected
3 official. We work to get things done. Unfortunately when we
4 get them done we still don't satisfy the expectations of what
5 Legislation should look like for everybody, and the reason
6 that is is because in government there has to be some
7 compromises. For me to get these bills through once we finish
8 amending them we're going to need 21 votes in the State Senate
9 out of 40. We're going to need 41 in the Assembly and the
10 governor's cooperation without a veto or conditional veto.
11 And so we're on the right track now thanks to SCI, thanks to
12 the residents in the State of New Jersey, and those of us who
13 complain. I chair the Committee. I didn't chair the
14 Committee back then. I was a member of it. Let me assure you
15 there will be some Legislation, more so than what we have in
16 place presently. It may not be perfect, but it will at least
17 be the next step because we want accountability. And so I
18 just wanted to at least say that to give you some comfort
19 level. Senator Madden and Senator Asselta are very serious
20 about this issue and that's why I'm here today and that's why
21 the Committee is here. And we'll be going elsewhere in the
22 state before we go back to Trenton to make some final tweaks
23 and decisions, but we want comments from you. And those who
24 do not testify today please make sure any suggestions you have
25 based on the problems you see -- and I'm talking about common

1 sense suggestions -- that usually works -- get them to us. It
2 does not mean it will be int his bill, but we don't have a
3 monopoly on brains collectively and we know that. We usually
4 do our best work when we hear from the public. So I just
5 wanted to go on the record with, Mr. Chairman.

6 SENATOR MADDEN: Thank you, Senator Rice. Senator
7 Asselta, any questions?

8 SENATOR ASSELTA: I'm fine. Thank you.

9 SENATOR MADDEN: Thanks again, Ed.

10 MR. KNORR: Thank you.

11 SENATOR MADDEN: Next person being called to the mic
12 is Mr. John W. Trimble from Trimble and Associates
13 representing many homeowners.

14 MR. TRIMBLE: Thank you, senator Madden.

15 SENATOR MADDEN: There's a button right under the
16 mic. There you go.

17 MR. TRIMBLE: Thank you, Senator Madden. And I got
18 word of this meeting late last night from some of my clients
19 that called and said are you going to be there, so I hope I
20 can read some of the notes I just scribbled down during some
21 of the other testimony. Thank you for your time. I am a
22 local attorney who represents approximately 150 homeowners in
23 South Jersey who have been the victims of shoddy construction
24 by new homebuilders. As you all know the purchase of a home
25 is typically the largest transaction any individual is ever

1 part of. Most of my clients thought they were purchasing a
2 dream home, when in fact they purchased new homes that are
3 structurally unsafe, unsound, unsafe to live in, and not
4 resellable. The builders when faced with complaints by the
5 homeowners typically take the position that there are no
6 defects despite the obviousness of the defects and typically
7 take a come and get us approach. The builder knows that most
8 homebuyers after giving them their hard earned savings to the
9 builder are not in a position to pay to fight the fight
10 against the builder. I am hoping today our elected officials
11 will step up and finally protect the new home buyer in New
12 Jersey.

13 The New Jersey Consumer Fraud Act is one of the most
14 powerful consumer protection statutes in the country. Excuse
15 me one second. As I was saying, the New Jersey Consumer Fraud
16 Act is one of the most powerful consumer protection statutes
17 in the country. It protects consumers from deceptive mail
18 order practices, deceptive motor vehicle advertising
19 practices, the sale of meat at retail, protects consumers from
20 delivery of household furniture and furnishings that are not
21 in compliance with the contracts, protects the consumer from
22 deceptive automobile sales practices, from deceptive practices
23 concerning automotive repairs and advertising. It protects
24 consumers from the sale of unkosher meats and it protects the
25 consumer in regard to deceptive practices regarding the

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1 purchase of animals, among other things.

2 While it is my opinion that the Consumer Fraud Act
3 generally applies to new home construction, the courts have
4 varied in their views. Currently the courts have found that
5 it could be a consumer fraud violation to substitute inferior
6 grade of lumber in the construction of a home if it is a
7 custom home. They have found that a technical violation of
8 the Home Improvement Act is a per se violation of the Consumer
9 Fraud Act, but they have not specifically found that a
10 violation of the adopted Uniform Construction Code is a
11 violation of the Consumer Fraud Act, despite the Code being
12 adopted mainly to protect the -- the welfare of consumers and
13 homebuyers in New Jersey. A violation of the Consumer Fraud
14 Act provides that a victim of a business violating the
15 Consumer Fraud Act is entitled to recover three times the
16 damages caused by the business' violation of the act. In
17 addition, it requires the violator of the act to pay a
18 reasonable attorney's fee to the victims of the violation of
19 the Consumer Fraud Act.

20 Today I am asking that our Legislatures clarify the
21 law, take whatever steps are necessary to hold that a
22 violation of the adopted Uniform Construction Code is an
23 unlawful practice under the New Jersey Consumer Fraud Act.
24 The law protects victims, as I indicated, of the improper sale
25 of kosher meats. It protects victims of deceptive automobile

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1 sales practices, but it does not specifically protect
2 consumers in the purchase of a new home. If the law were
3 clarified and the builders knew that violations of the
4 Construction Code would expose them to treble damages,
5 attorney's fees and costs of suit, they would self police
6 their work. They would know that if the home was built
7 defectively homeowners would be able to hire private attorneys
8 to file lawsuits to recover their damages. It would not cost
9 the state a penny. If new homebuilders are not subject to
10 Consumer Fraud Act for building code violations the home buyer
11 will not be able to be made whole and have their house fixed
12 without spending significant monies on attorney's fees and
13 experts to fight the builders.

14 I ask that this Committee give homebuyers the sword they need
15 to fight the builders, simply make violations of the Uniform
16 Construction Code per se violations of the Consumer Fraud Act
17 and the building practices of new homebuilders in New Jersey
18 would change instantly. Thank you for your time.

19 SENATOR MADDEN: Members of the Committee have any
20 questions?

21 (No verbal response)

22 SENATOR MADDEN: Senator Rice?

23 (No verbal response)

24 SENATOR MADDEN: Senator Asselta?

25 (No verbal response)

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1 SENATOR MADDEN: Thank you, Mr. Trimble.

2 MR. TRIMBLE: Thank you. Thank you, Senator Madden.

3 SENATOR MADDEN: Next we would like to call
4 Christine and Bob Gipple to the microphone. Now I know that's
5 not --

6 MS. GIPPLE: No, it's --

7 SENATOR MADDEN: We know that's not Bob in your
8 arms.

9 MS. GIPPLE: No, he's not here. I just put -- I
10 didn't know if you wanted the names --

11 SENATOR MADDEN: No, that's fine. Thank you.

12 MS. GIPPLE: Okay.

13 SENATOR MADDEN: There's a button -- thanks,
14 Christine.

15 MS. GIPPLE: Good morning. First, I didn't really
16 prepare anything in writing. The first woman that spoke,
17 Tracy, I can completely identify with her as can, I imagine,
18 other people that live on my street. I am a member of Sawyers
19 Creek development. K. Hovnanian was our builder, and we all
20 had numerous issues. There are several of us here that had --
21 we live on the side of the street with wetlands behind us.
22 When we -- me specifically, when I purchased our home we were
23 told that we not only had the amount of land behind us -- what
24 I really want to address today is just the wetlands issue that
25 we have and just -- I'm for the bill -- I think I actually

1 checked the wrong box on my sheet -- the bill that you're
2 trying to pass.

3 But anyway, when we first moved into our house we
4 were told that not only do we have use of the ground behind
5 us, we also had an additional 25 feet beyond that, but that we
6 couldn't build on it, we couldn't do anything with that
7 ground. Several months ago we received a certified letter
8 saying that we were going to be fined by the Department of
9 Environmental Protection and that it was \$10,000 a day if we
10 didn't comply. And I said comply with what. And I said what
11 are we in violation of and they said maintaining the grass
12 behind our home. Well that's basically our whole backyard
13 which they're now saying is wetlands and we cannot use. So if
14 in the bill when you're protecting homeowners you could put
15 something where they have to specifically -- like I don't
16 think there's any restrictions in our deed and that was a
17 whole issue, as well. We had people that had a township deed
18 that showed one thing on their survey. They had surveys that
19 they were given in their settlement that were also different
20 and then state surveys that were different, as well. So I'm
21 just frustrated.

22 We also had workers that -- with K. Hovnanian that
23 urinated in our basement a week before our walkthrough and it
24 was not near a window. We saw a wet spot and it smelled very
25 pungent and we realized oh, that's what was happening. You

1 know, we had a lot of -- we still have a punch list of items
2 that have not been handled. And like Tracy said, we have
3 given up. You know, I did start contacting K. Hovnanian
4 again, but I got pregnant and, you know, there was a lot of
5 things happening in between. I didn't have time to call them
6 every single day and follow up. My husband is pretty handy.
7 He handled a lot of issues, you know. So I think a lot of
8 homeowners do give up and that's the frustrating part of
9 buying a new home. And we were told as well that -- from the
10 foreman of the job that we fell through the cracks because
11 ours was the last street in the development and we just fell
12 through the cracks. So it's just frustrating as a homeowner
13 to just sit back and allow -- just kind of be -- you almost --
14 you do give up, you know. It's just frustrating because
15 there's nothing you could do. You can call the builder 8,000
16 times and they tell you absolutely, you're on the list, you're
17 on the list, we'll get back to you, and nothing happens. So
18 that's really all I wanted to address. And the wetlands issue
19 is a big deal for us obviously because we can't afford to pay
20 \$10,000 a day for simply cutting our grass.

21 SENATOR MADDEN: Have you heard from the department
22 of Environmental Protection regarding your wetlands and the --

23 MS. GIPPLE: Yes.

24 SENATOR MADDEN: -- maintenance of the backyard?

25 MS. GIPPLE: Yes, there is another homeowner that's

1 here that I believe has been working directly -- I'm sorry --
2 that has been working directly with you and we also sent
3 certified letters, have called the DEP, so we're in constant
4 contact with them and --

5 SENATOR MADDEN: Have you had some resolve, at least
6 temporarily?

7 MS. GIPPLE: Yes.

8 SENATOR MADDEN: Okay.

9 MS. GIPPLE: We were told, you know, for this year
10 we can maintain our property, maintain the grass cutting.

11 SENATOR MADDEN: Okay. Allison Philips is my
12 Legislative Aide. As you go down the center aisle she's in
13 the last row on the lefthand side. Allison will meet you back
14 there just to confirm that you're on our contact list.

15 MS. GIPPLE: Okay. Okay, that's fine.

16 SENATOR MADDEN: Thank you for your testimony,
17 Christine.

18 MS. GIPPLE: Thank you.

19 SENATOR MADDEN: Members of the committee, any
20 questions?

21 SENATOR RICE: Yes, I have one.

22 SENATOR MADDEN: Senator Rice.

23 SENATOR RICE: I meant to ask this to the first
24 speaker. Your warranty program what happen to that in this
25 process, homeowner's warranty?

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1 MS. GIPPLE: As far as our punch list items you
2 mean?

3 SENATOR RICE: As far as the conditions, the
4 abatement of the conditions period.

5 MS. GIPPLE: Well as far as -- we didn't have a
6 whole lot of structural issues that we found in our home so
7 there weren't really -- is that what you're like -- we didn't
8 really have warranty items in that regard that needed to be
9 addressed except for there's one big structural issue in our -
10 - we have very high ceilings in our family room and apparently
11 the walls weren't braced properly on the outside family room
12 wall. And I have heard through neighbors that somebody's
13 family room wall literally fell over because they didn't -- it
14 fell onto the property next to them because they didn't -- I
15 don't know the right words or how they did it, but they didn't
16 brace --

17 SENATOR RICE: Support it.

18 MS. GIPPLE: -- they didn't support it properly.
19 And when we were first doing our final walkthrough we did have
20 red flags all over saying the firewall wasn't done right and
21 they
22 -- instead of doing what they were supposed to do they put
23 little, you know, pieces of plywood across. So I mean -- I
24 don't know -- I want them to rip off the -- that's another
25 thing I now have to go back to the builder and John Dixon's

1 office, the engineer who came out, and address that because I
2 would like our siding ripped off to have them check to see
3 what exactly was done underneath as far as the bracing and
4 making that wall supported.

5 But as far as warranty we didn't have a ton of
6 issues where we had to go back and forth with K. Hovnanian.
7 It was just -- it was small items, but that was the stupid
8 stuff that we ended up doing ourselves. You know, things that
9 were cracking. We had tons of nail pops. Our hardwood wasn't
10 finished. There are sections where it's literally cracked and
11 spaced apart. There's nails popping out. There's corner
12 molding that wasn't put on. And, you know, we just got to the
13 point where we were like, you know what, we have to pick our
14 battles because we don't have the time -- I didn't have the
15 time to keep taking off of work. I mean now I'm home a
16 couple days a week with her, but I wasn't before that. And,
17 you know, I was constantly taking the day off here and there
18 for work and, you know, every couple months I was taking two,
19 three days at a shot for them to come in and then they
20 wouldn't show up and they'd go to a house down the street, and
21 I'd be like I'm taking a day off here and you're working two
22 houses down the street to supposedly lend them a ladder or do
23 something and he'd be gone for 45 minutes, you know, an hour,
24 and I'm like you're supposed to be at our house. And so those
25 are the issues we just kind of -- I gave up on so -- and I

1 think that the bill that you're passing will help people to
2 get their homes the way they want them and not have to go
3 through what we're going through.

4 SENATOR RICE: Thank you, very much. Mr. Chairman,
5 through you I'm going to ask the staff to make a note.
6 There's some questions that I never got an answer to because I
7 never raised them. I didn't really see them in the report.
8 Bob, could you just make a note, send a letter to SCI. I need
9 to find out -- and to DCA. We need to find out all the
10 complaints that they had and reviews that they've taken. I
11 need to know if they identified who -- we know the developer,
12 but the question is who was the contractor for the work. In
13 other words, there's a general contractor and there's
14 subcontractors. If, in fact, it's a foundation problem who
15 was the contractor for that particular house where that
16 problem was. And the reason being we need to take a look at
17 is this same foundation contractor the foundation contractor
18 on several properties that had the problem because they keep
19 shifting contractors in these big organizations. If it's a
20 plumbing problem, you know, who that subcontractor was -- who
21 the general contractor was and the subcontractor because the
22 general contractor selects and goes out and gets bids and
23 whatever way he does it to subcontractors because we may have
24 reach a point where we have to take a look at the people from
25 what we know based on other jobs they're doing. There may

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1 have to come a point in time where we have to bar people from
2 doing work in the state period. But we never had that
3 information. So if you could make a note to do that, okay,
4 because I don't -- I think they took testimony. I don't think
5 anybody went back and really try -- and the other thing is if,
6 in fact, they identify the contractor and general contractor
7 then the question becomes whether or not they look at the
8 specs for the house, the actual specs, because the specs will
9 tell you that you're going to put firewall here, here, here,
10 and here, and this is your parameters or whatever -- because
11 we may have to come up with something -- when we get these
12 kinds of complaints that someone other than the developer had
13 to correct it -- have to take a good look at those specs and a
14 look at the contractor. You follow me? So we need to know
15 those two things because if it's HMFA money they're going to
16 look, they're going to send this back because they're going to
17 look, they're going to deal with the contractors; but if it's
18 not HMFA money -- you know, is this the developer, if people
19 are going to the banks, if it's private money, the question is
20 where in that arena do we get the same check and balance when
21 it comes to complaints. Who responds and lays the specs out?
22 Thank you.

23 SENATOR MADDEN: Yes.

24 MS. GIPPLE: As you were talking I thought of a few
25 other things. As far as the contractors, yes, we had a lot of

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1 electrical issues when we moved in and apparently a nail was
2 hit against the wire and we didn't know it and we had things
3 that were shorting out all over the house and we didn't know
4 why. And, you know, originally we were told well, you know,
5 everything is fine, you're okay. And I'm like look, we can
6 use this outlet today and the next day we can't, and here
7 there was a wire that was pushed in and exactly what you just
8 said happened, there was a different contractor and it took
9 weeks for them to come back out and actually resolve our
10 issues because it was a different electrician that had
11 originally done the work and they were having -- I don't know
12 what the issues was, but K. Hov was not dealing with that
13 contractor any more. And we also had plumbing issues
14 where they dropped a elbow fitting into our sewer line and two
15 days after we moved in the master bath had overflowed, had
16 nowhere to go, went into the powder room, that backed up, and
17 that had nowhere to go so it went downstairs into our
18 basement, into our vents, and ran all the way into our heater,
19 and the one place where we out all the boxes when we moved in,
20 that's exactly where all the sewer -- the water underneath.
21 And when I went down the basement to look at it I said -- or
22 when I went down the basement with the plumber guy that came
23 out there was water that ran all the way across the floor and
24 he told me that it wasn't a plumbing issue. And then they --
25 you know, they came back, they came back, and it was a

1 plumbing issue and once they had the whatever -- Roto Rooter
2 or whatever came out. So it's just crazy, all the stuff.
3 Like I'm -- I forgot about half of that stuff because it
4 happened three years ago, but that's the kind of stuff that we
5 were dealing with, you know. And a lot of our things got
6 ruined because for two days they were being soaked in water
7 that we didn't even know was leaking. And when the plumber
8 came out he looked in our basement before we even went down
9 there and said everything is fine down there. And then it
10 overflowed again, I called him again, you know, within a half
11 hour, and he came back out and then we went down the basement
12 with him and I was like there's water halfway across the
13 basement, didn't you notice that when you came down to check.
14 So, you know, there's just -- it's crazy what they can get
15 away with. Thank you.

16 SENATOR RICE: Thank you, very much.

17 SENATOR MADDEN: Thank you, Christine. Senator
18 Rice, one thing, there have been a number of developments that
19 have had issues regarding the procurement of the property.
20 Really there's -- what it appears is though what is being
21 questioned are the disclosure issues or the disclosure
22 requirements that are necessary at settlement or even at the
23 time the individual puts their deposit down to buy the home.
24 The scenario being, I go into a -- either a model home or a
25 trailer and I select the model of the house that I want built.

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1 I put my thousand dollar deposit down on it. I see the plot
2 plan and the map that's showing all the bushes and where I
3 would be placed and I do that and there's no disclosure --
4 there's allegations of no disclosure at the time that the plot
5 or the lot that I'm putting my money down on actually has a
6 wetlands issue and when the individuals would go to
7 settlement, as confusing as settlement is with the signing of
8 many papers and just all the excitement and the pressure and
9 the stress of making this purchase, that wetlands may or may
10 not have been fully disclosed at settlement. Some people say
11 that well it was on a survey that you had there and whether it
12 did or did not appear that's even be under dispute by a number
13 of different homeowners through various homeowner groups that
14 are represented today. So as we advance these, Senator, what
15 I'm looking to do is try to make sure that we put more
16 guarantees out there for our consumers that when you put a
17 thousand bucks or you put your deposit down on a home you'll
18 know up front that hey, this lot has issues or restrictions on
19 it, they'll be clearly disclosed and then reaffirmed again
20 before the person -- you know, as they are going through the
21 settlement process. Just -- along that way so as we advance
22 through these particular issues that's something that I want
23 to make sure that we address.

24 SENATOR RICE: Mr. Chairman, okay, I don't have a
25 problem with that, but I'm a little concerned primarily

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1 because the law presently requires in the event that you're
2 going to purchase property or land that a search be done, a
3 title, search, and what happens is that in the recorded
4 instruments at the county all of those issues should be there
5 if, in fact, there's a common driveway, if in fact there are
6 right aways, if in fact there's wetlands, and things of that
7 magnitude. And so I'm concerned because the question then
8 becomes if I'm right -- and the attorney can tell me if I'm
9 right and Bob can tell me
10 -- if I'm right then the question becomes who closed the deal
11 because -- who read the title search because those are
12 conditions on titles that must be abated before you can even
13 get a title policy for the property that you are conveying.
14 Am I right, Bob?

15 (No verbal response)

16 SENATOR RICE: So would the wetlands be actually
17 showing already? In other words, if it's a wetland area
18 wouldn't that already be showing when they do the flood
19 searches and do the -- all the different searches that --

20 MR. ROTHBERG: That's a very good question. I do
21 not know whether wetlands -- we have an attorney who is a
22 practitioner in the audience who's offering --

23 MR. TRIMBLE: I'm going to put you guys on the
24 clock, all right, I'll send this to senator Madden -- that --
25 you're right, the disclosures are required. The problem is by

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1 the time the typical home buyer requests a title report the
2 home is constructed. They're already -- they're well into the
3 transaction. They have given their money, that have either
4 sold their other home, they're waiting for a closing.
5 Typically, you know, you get the title reports two weeks,
6 maybe a week, before the closing. And while -- and I've --
7 quite frankly, I've looked at this because some of the
8 homeowners have called me with the same situation. Many of
9 the deeds do disclose -- the surveys -- excuse me -- do
10 disclose the setbacks, the transitional setbacks, which
11 basically say that you're not allowed to do anything with that
12 area because of environmental regulations. The surveys show
13 that on many of these. The problem is in many of the
14 scenarios the homebuyers would show up to a closing and the K.
15 Hov reps would either not be there -- there would be a title
16 company there -- and the surveys weren't at the closing. The
17 surveys were mailed to them after the closing. So even if
18 they had the documents -- sometimes even if they had the
19 documents in front of them they wouldn't know how to interpret
20 them and many attorneys don't know how to interpret them. And
21 many times -- and I'm not accusing anybody of doing anything
22 improper -- but it seemed a little funny to me that the
23 surveys were mailed after the closing so nobody could really
24 object or question what the issues were.

25 Good homebuilders -- and there are many of them

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1 around here -- we're not knocking every new homebuilder
2 because there are a lot of new homebuilders around here that I
3 never get a call about and that's what I tell my family when
4 they call me and they say I'm going to have this person --
5 this company build me a home and I say that's good because
6 nobody has ever called me about that homebuilder which tells
7 me they're quality, and I deal with substantial practice with
8 construction defect. Good new homebuilders have those
9 disclosures in their agreements. They have the environmental
10 disclosures and they make you sign documents and initial here
11 and they have their own, if not the surveys already prepared,
12 they make you acknowledge that you know there are going to be
13 certain areas of your property that you're not entitled to
14 use, even cut the lawn. So the good ones do it. The bad ones
15 don't because I think it probably leaves them with a lot or
16 two less than they would in these big developments which
17 ultimately comes down to them not making as much money. So I
18 don't think it's a big problem.

19 I think it's a great idea by Senator Madden to have
20 those disclosures required. I don't think they're required in
21 the initial transaction, but they do show up in the county
22 documents typically if it's done properly. They do show up in
23 the title work and in the surveys, but by the time the typical
24 home buyer gets it it's too late and then, you know -- one of
25 the issues that I had with your bill about the buyback having

1 -- one of the bills I just read briefly -- you have a buyback
2 scenario where if the builder -- there are defects, ultimately
3 the resolution doesn't work out the state can come in and buy
4 the property back. Many times with the market as it was in
5 the last five years the builders wanted you to walk from a
6 contract because the time they built the home the home had
7 already appreciated a hundred thousand dollars and they'd say
8 well here, we'll give you your deposit back. You don't like
9 what we're doing with your home, here's your deposit back and
10 they'd go and make another hundred thousand dollars on top of
11 it. You follow me on that? If it's a simple buyback and you
12 get your deposit back many times that doesn't make the
13 homeowner whole because they've been waiting for a year,
14 they've invested in this property, now the market has changed
15 a little bit -- maybe that wouldn't be such a bad thing, but
16 on a market that's appreciating I know that many people have
17 been -- when they complained at the closing they'd say -- the
18 builder would say okay, you want your deposit back -- now they
19 have a moving truck out in front of the title agency -- you
20 want your money and your deposit back. Sure, we'll give you
21 your money and deposit back because we're going to go flip it
22 in a month and make another hundred thousand on it. So -- and
23 I don't know what the answer to that is.

24 SENATOR RICE: Well I do.

25 MR. TRIMBLE: I think the bills are great bills, but

1 I'm not sure what the answer to that is.

2 SENATOR RICE: The answer is right now we have
3 nothing. So the answer is they'll give us something.

4 MR. TRIMBLE: And I agree.

5 SENATOR RICE: And then the other part of the answer
6 is to -- to make sure that no one comes and says here's your
7 money back because we're going to identify them up front,
8 hopefully, and get them in violation which we're not doing
9 now. So hopefully that becomes somewhat of a moot situation.
10 (Indiscernible) another question, if I may, through the Chair,
11 the closing of these units to your knowledge -- you work with
12 a lot of them I know -- are most of the closings by the
13 builders -- like the main groups done by -- there are title
14 reps because (indiscernible) put together a whole in-house
15 structure where they do the mortgages, the titles -- they
16 started at nothing, but they went to the whole (indiscernible)
17 just pushing everybody into the mix -- and the reason I raise
18 that is because Opinion 26, you know, indicated that people
19 who close in title -- on title officers, et cetera, you know,
20 have to be very careful about being lawyers versus being title
21 people and to me that will prevent "maybe" some explanation or
22 disclosure because if I was closing a document as much as I
23 want to tell you something I may be concerned about the thin
24 line between the explanation and practicing law. The other
25 side of it as you know as an attorney, the title business

1 (indiscernible) the underwriters don't really care because
2 they get the title money anyway, but all of a sudden everybody
3 in the world from out of state is coming in here saying well,
4 the deal is we're going to have what we call a signature
5 closing. So now you've kind of gotten away from the title
6 officer closing who has some basic skills and training to
7 understand the law versus a notary who's just getting a
8 hundred dollars a pop. And my concern would be is whether or
9 not some of these homeowners are getting their own attorney to
10 come to the table to view these documents or are they using
11 Hovnanian's people on both sides so it would disclose you. I
12 don't know. And I'm using Hovnanian as an example -- the
13 other builders, too.

14 MR. TRIMBLE: My experience is typically there is
15 not -- the title agents will run the closing and that's just
16 about the money -- the title agents that are complying with
17 Opinion 26. And, you know, they give no opinion and they're
18 not supposed to give any opinion about what they should do if
19 they discover a defect or any other issue arises. But what is
20 curious of me is that at many of these closings you never have
21 a builder's representative there where the issues can be
22 addressed. You rarely have a builder's representative there.
23 So in the times that I have represented homeowners in these
24 transactions you show up and there's no one to talk to. The
25 title agent is there and then if there's a problem you're on

1 the phone with the mortgage company and the builder and things
2 like that. So there's nobody really face to face. So I don't
3 think anybody is really working awry of Opinion 26. I don't
4 think they're failing to meet the obligations of Opinion 26.
5 And I think Opinion 26 has done what it's supposed to do, it's
6 basically said don't give any advice, you should hire the
7 attorney.

8 Now the problem is many people don't hire the
9 attorneys and sometimes even when there are attorneys involved
10 I'll tell you -- you know, I review a lot of these
11 transactions because the majority of my practice is the
12 litigation. I get involved after the things have gone bad.
13 Many attorneys don't, you know, see those transitional lines,
14 and the question is you show up for a closing and there's no
15 survey there and your clients have their moving truck out in
16 front of the building there and there's no survey. And they
17 say well, they've been out to the site and they know what the
18 lot lines are and everything and they have checked out the
19 house. Do you tell your client at that point don't go through
20 the closing until I see that survey, cancel the closing. And
21 it's a tough call and I'm sure many attorneys say look, this
22 is a business decision here. I don't have to -- I know what my
23 advice is and the attorneys in my office is because I have
24 given strict memos. You don't have the survey you're going
25 to have the client sign something saying you're permitting the

1 closing to go forward without having that survey there. I
2 think it's very dangerous. To me there's always -- but I deal
3 with the bad end of these transactions and when there is not a
4 survey there it's a flag to me. So it's a problem. And the
5 question is, you know, is it intentional or is it not
6 intentional. And, you know, there's significant problems.
7 One other area that I didn't --

8 SENATOR RICE: Are they closing on -- excuse me --

9 MR. TRIMBLE: I'm sorry.

10 SENATOR RICE: -- I have a question through the
11 Chair. Are they closing on -- how do they get a policy
12 without a survey? How do they get a title policy without a
13 survey?

14 MR. TRIMBLE: Well that's one of the issues. You
15 know, that's my argument. You had it, there's no reason it
16 should have been mailed or it should not have been at the --
17 or I mean, that's the inference --

18 SENATOR RICE: You're talking about at the closing?
19 You had mentioned that it may be available, but it's not at
20 the closing itself and they are proceeding anyway without
21 calling for a faxed copy or something?

22 MR. TRIMBLE: Yes.

23 SENATOR RICE: Okay.

24 MR. TRIMBLE: There's no question that there are
25 surveys and title policies issued because that's protecting

1 the money, that's protecting the lenders. Now the question is
2 why is that not being provided at the closing or five days
3 before the closing or why is it not being provided, you know,
4 before you sign the transaction, sign up to purchase it. Now
5 sometimes the properties haven't been divided and -- at that
6 point, but typically at some point there has to be a moment in
7 time where they show you that survey and you can walk away
8 with no damage to you and no damage to the other side, and
9 that's just not how it is in a typical transaction. You're up
10 against a wall and you got to make hard decisions and by that
11 time you've already made the life decisions to move and buy
12 this house.

13 One other issues in regard to the warranty. I've
14 reviewed many -- thousands and thousands of warranty claims
15 against different builders throughout the state and typically
16 if you don't have an attorney in those warranty claims you're
17 not going to win. And the reason I say that is I've seen
18 people file warranty claims on the back of a cocktail napkin
19 saying I have a huge crack in my house in the main beam of my
20 house and they move towards warranty on that and then you'll
21 have an arbitrator say well it's a covered item, spackle the
22 drywall, all right, which isn't fixing the problem. The
23 symptom is caused -- the symptom is the cracked drywall, but
24 the underlying problem is the cracked supporting beam. So
25 you'll have a warranty and unless you have an engineer and --

1 at least an engineer, maybe an attorney with you, handling
2 those warranty claims you're going to lose 80 to 90 percent of
3 the time even though you have real problems with your home. I
4 think if there were some aspect of this bill that would permit
5 at a minimum engineering costs for someone that goes through
6 the warranty as it exists today -- the performance standards
7 under the 210 warranty -- there is no provision that permits
8 attorney's fees or engineering costs at this time. Now if the
9 state -- I've been involved in some of these warranty claims
10 after the fact, after the people have been successful and then
11 the method of repair wasn't agreed on -- many times the state
12 will say look, you don't agree on a method of repair, they
13 refuse to do the work, but now you have an engineer saying
14 here is the proper way. We agree with your engineer. We have
15 used his opinion. We're going to pay for that engineer,
16 whether it be five hundred or a thousand dollars for this
17 engineer's report. The problem is when you get into these
18 complex arbitrations you don't have somebody on your side
19 that's familiar with these types of arbitrations to me it's
20 the -- the warranty isn't worth the paper it's on because if
21 you have to hire an attorney -- the purpose for the warranty
22 is so it's a cost effective means to get your -- supposed to
23 be a cost effective means to get your issues addressed, but
24 the majority of those -- if you do any studying on the
25 majority of the arbitration homeowners are losing those

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1 arbitrations on a regular basis in huge numbers. And that
2 doesn't mean there aren't defects in the homes; it means that
3 once you get into it you don't understand that you need to
4 prosecute that claim, you need to prove your case. And many
5 people say well if I take a picture and send a letter along
6 with this picture and say look at this problem, I'm covered.
7 That's not what happens. And what happens is I get the call
8 after the fact and I say you know what, you're stuck. You
9 went through the arbitration. You lost. It's binding.
10 You're going to end up paying for that problem in your house
11 regardless of Code violations or anything else once you elect
12 that remedy. So I think another means to maybe protect the
13 home buyer is to have something in there that says -- a
14 certain threshold -- if this occurs you're going to have to
15 pay attorney's fees and engineering costs; otherwise the home
16 buyer that is involved in what is supposed to be a cost
17 effective resolution is forced to hire an attorney and
18 engineers and things like that. They're going to spend, you
19 know, five to ten thousand in engineering and attorneys just
20 to get to an arbitration, and I don't think that was the
21 Legislature's underlying purpose of the warranty program. I
22 don't know if you've performed or if the state has performed
23 any studies to see the success rate of homebuyers on the
24 warranty, but if you did it's very, very low. All right.
25 Thank you.

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1 SENATOR MADDEN: Thank you, Mr. Trimble. Just as --
2 what we were saying under S-1825 it's the -- what I'll call
3 the lemon law avenue -- we do allow for additional expenses
4 regarding remediation, legal fees, things of that nature, but
5 what you're speaking about I believe are strictly the focus on
6 the home warranty issues. Probably I guess when somebody
7 lines it up and says hey, it's going to cost me this much in
8 legal fees and additional ancillary services that bill is so
9 high I might as well just pay somebody to come in and fix it
10 myself because it's a dollar issue, which is very, very good.
11 Thank you for testifying. We'd like to call up Mr. Glenn
12 Pellet from The American Institute of Architects, the New
13 Jersey Chapter. He will be testifying, Senators, in favor of
14 the Legislation and suggesting amendments.

15 MR. PELLET: Thank you for the opportunity to speak
16 to you today. Again, my name is Glenn Pellet. I'm
17 representing the New Jersey Society of Architects. Listening
18 to several of the issues that have been discussed by some of
19 the presenters here today it appears to us that -- and based
20 on our knowledge of the construction industry -- there are
21 issues of quality control at the job site, issues about the
22 scope of work that the contractors are to perform, issues
23 regarding the coordination of the entire building project, and
24 secondarily the appropriate designation of a responsible
25 individual to deal with all of the above. In that regard I

1 have given to the gentleman over to my right some written
2 testimony that we have gone through your bills and we have
3 some suggestions about how we might be able to work with the
4 Committee -- speaking from the New Jersey Society of
5 Architects -- how we might be able to assist you in achieving
6 the goals of this important piece of Legislation. To that end
7 -- I don't want to dwell on all the particulars in that
8 particular issue at the moment, but there are some key issues
9 that we think that are appropriate that I mention at the
10 moment, and that is that we believe that there are existing
11 laws that if appropriately enforced would protect the home
12 buyer against the kinds of quality control issues and scope of
13 work issues that are being discussed here today.
14 Additionally, we believe that there ought to be an inclusion
15 of additions and repairs in the scope of these bills not just
16 for new home construction. A significant amount of the work
17 that is done in New Jersey for residences is in additions and
18 repair work, so I think that that should be included in the
19 scope of this work.

20 We support the idea of having a clear understanding
21 for the homeowner or home purchaser that they -- as to what
22 specifically they will be receiving in the way of a built
23 product. The problem with the process currently is that it
24 appears that many homebuyers are unaware of specifically the
25 technical expectations that they are going to get out of their

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1 home. And the opportunity for a perspective home buyer to
2 have sets of drawings that set the standard for the quality of
3 the construction is important and appropriate for the
4 discussions as they move forward through the process and
5 ultimately for the idea of having homeowners have the ability
6 to have independent inspectors to inspect the quality of the
7 work as it's going in and before the actual purchase is made.
8 So those are some of the key issues that we feel are
9 appropriate. But again, I would like to say that the American
10 Institute of Architects, New Jersey Chapter, is at your
11 disposal for the purpose of working through some of the fine
12 points and to -- that are involved in this particular piece of
13 Legislation. So with that, thank you.

14 SENATOR MADDEN: Senator Rice, Senator Asselta, any
15 questions?

16 SENATOR RICE: Yes. There is something that's been
17 bothering me and maybe you can answer this, and this comes
18 from experience with trying to figure out how to address it in
19 some of this Legislation or maybe another bill. A developer
20 comes in and hires a general contractor and the general
21 contractor continues to tell the developer that he can't
22 really build from those specs, those specs need some
23 modifications. But the developer tells the general
24 contractor, you work for me and you will build the way I say
25 you're going to build or I'll default you. Meanwhile the

1 contractor says well I'm not going to pursue this any further
2 because I built a hundred units of houses or more, I've got a
3 hundred plus problems. And in this case there was a third
4 party involved, Housing Authority. You go to the Housing
5 Authority and say well we don't have a contract -- general
6 contract with the developer. And you don't want to go
7 litigate the thing because it ties the project down. And I
8 was reading an AIA book someplace -- just happened to pick it
9 up -- and it said that an experienced developer -- or builder,
10 rather, have a right to supersede or do some things. The
11 point is how can we address that in a bill like this where if
12 you do have a capable builder out there, experienced builder,
13 but the debate is with "the developer" on what it is he's
14 supposed to be building from, and rather than just giving the
15 job up they move forward and then some of these problems may
16 come to be, is there something we can put in here -- is there
17 AIA language that addresses some of that appropriate to put in
18 the bill? You understand what I'm talking about or did I
19 confuse you?

20 MR. PELLET: Yes, I believe I do understand what
21 you're talking about. We're talking about the issue about
22 what the original project was to be. That is based on what
23 was submitted for a building permit. If the drawings that
24 were submitted and support as building permit were prepared by
25 the appropriate individuals and include all the issues that

1 are supposed to be addressed by the Uniform Construction Code
2 then we will have a clear path forward as to what was to be
3 built initially. There are often times many changes and
4 opportunities to make modifications to the building that occur
5 along the way, but who -- the question is who is responsible
6 for permitting those particular modifications to be made.
7 Usually in my particular practice, and this is what I believe
8 the AIA documents say, is that if there is proposal for a
9 change that it must go through the appropriate design
10 professional and be supported and approved by the local
11 construction official prior to that particular work being
12 done.

13 SENATOR RICE: Would the authority in this case be
14 the architect for the developer, the engineer for the
15 developer, that's what you're talking about?

16 MR. PELLET: Yes, I think that the architect for
17 those individuals, if they were acting in an independent
18 manner, which is a requirement for licensure in the State of
19 New Jersey, then you would get that independent judgment.

20 SENATOR RICE: Okay. All right, I'm going to move
21 off this, but I've got to check on some things because I think
22 this may have been a partnership where the architect -- the
23 engineer -- but it may not have been, but the point is is that
24 it was the architect and engineer that kept saying move
25 forward. The developer -- the builder was smart enough to say

1 I'm not going to do it and he built a model at his own expense
2 to try to show them when you open the bathroom door it never
3 opened because it hit the toilet. When you look at the
4 kitchen the kitchen is in where the living room is supposed to
5 be, et cetera, and that was specs that they kept saying, Mr.
6 Architect, we need to talk, there's a problem here. You build
7 the way I want it built. Think about it, if there's something
8 that we should be doing, because my point is is that if -- I'm
9 looking at contractors now. I'm looking at the contractor
10 where one of the residents here or some other ma have had a
11 contractor who may have tried to bring to their attention
12 (indiscernible) that we should not proceed this way, you need
13 to go back and modify something, and no one listened and
14 rather than tearing up the contract and walking away and
15 losing dollars they just built. You understand what I'm
16 saying? I need to be able to make sure that's the case
17 because that gives us another -- but I don't want it to be a
18 barrier -- it gives us another internal policing of the
19 project, if you will, from someone who's experienced, because
20 the developer -- anybody up here can be a developer, all they
21 have to do is have a lot of money like John Corzine -- maybe
22 not that much -- and then go out and hire contractors or have
23 the builder get some credit line from the banks and find some
24 land and say I'm a developer. That's all you have to do. The
25 builder has been building for years don't have the money so he

1 doesn't call himself or herself a developer, they just build,
2 you see what I'm saying. And in that -- in between there
3 there's this thin line where there's some potential for harm
4 based on the experience of the contractor or the builder
5 versus the developer or the owners who are driving the job
6 with their architects or engineers. At the end of the project
7 you have a builder or contractor praying nothing goes wrong to
8 come back and place them in harm's way as it relates to
9 liabilities, who's going to pay when everybody gets joined in
10 suit. So if you could think about it and maybe pass it to the
11 Senate or to myself or someone I'd really appreciate it.

12 MR. PELLET: We would be happy to do so. There is
13 no excuse for bad design in our opinion, but that's my
14 opinion. (Indiscernible) it was in the way, I mean, it's
15 definitely an issue, but --

16 SENATOR MADDEN: Senator Asselta?

17 SENATOR ASSELTA: I'm fine.

18 SENATOR MADDEN: Thank you for your testimony, Mr.
19 Pellet.

20 MR. PELLET: You're welcome.

21 SENATOR MADDEN: Next we would like to call Mr.
22 William Obert from Williamstown, New Jersey.

23 MR. OBERT: I live in Holly City at Monroe. It
24 should be changed to Nightmare City at Monroe because there's
25 a lot of people in there living nightmares right now. They

1 have water in their basements -- crawl spaces constantly.
2 They're getting sick from mold and mildew in their homes. We
3 have structural damage. One house is falling right into the
4 crawl space. We also have termites. Where was the Attorney
5 General when all this -- was taking place? These meetings
6 should have been held 16 months ago when the SCI exposed
7 widespread corruption in this state. By now we should have
8 had a lemon law for houses, a Bill of Rights for homeowners
9 and -- to protect future buyers in this state. Secondly, if
10 your congressman, senators, and government did their jobs
11 honestly and diligently we would not have corruption in this
12 state. Three, we had a meeting with Rob Andrews (phonetic)
13 about three years ago. I told him I felt our houses were
14 built illegally in the wetlands and I thought possibly there
15 was violation of the state law. I asked him to investigate.
16 I also asked him to bring the Federal Government in and
17 investigate the builder and the DCA. He told us he was going
18 to find out who authorized him to build our homes and he was
19 going to call the Attorney General and get to the bottom of
20 it. He did nothing. Four, I think the FBI should come in
21 here, investigate this state because I think the state is
22 corrupt from the top to the bottom. Five, the DCA has to be
23 investigated because they're not doing the job they're
24 supposed to. They're not enforcing the Code Laws. If
25 anything, they're weakening the Code Laws, creating more

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1 problems. Six, my home has code violations in it right now.
2 I've been in there eight years. I'm 76 years old, supposed to
3 be living my golden years. I'm fighting a corrupt builder for
4 eight years. I want the inspector that inspected my house to
5 go to jail. I want Mr. Connolly, the Director of DCA, and his
6 cohorts to go to jail because they're the one allowing these
7 people -- this builder to commit these atrocities. I also
8 think there should be a revolt in this country to throw all
9 Legislators out of office and keep throwing them out until we
10 get an honest government that's going to work for the people
11 and not for themselves. Any questions?

12 SENATOR MADDEN: Senator --

13 SENATOR ASSELTA: Might as well just adjourn the
14 meeting, Senator.

15 SENATOR RICE: I don't have any questions. I think
16 the senator has one.

17 MR. OBERT: Senator Rice, I sent you a letter, which
18 you didn't acknowledge.

19 SENATOR RICE: I have your letter and -- well you
20 may not have gotten -- I think you sent me a letter asking me
21 to -- something about Mr. Connolly, is that correct?

22 MR. OBERT: I don't remember what it was. I sent --

23 SENATOR RICE: Yeah, that's what it was about.

24 MR. OBERT: We also sent a letter to the government
25 which should be in front of you right now.

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1 SENATOR RICE: Let me just say this to you because I
2 love to travel the state. I don't mind heat. I'm probably
3 the greatest heat taker because I'm a Vietnam Veteran. I'm a
4 former cop. And I don't --

5 MR. OBERT: Is that your --

6 SENATOR RICE: I don't disagree with you on some of
7 the comments you are making, but let me tell you the problem I
8 have, and take a good look at me and understand it. I don't
9 like being painted, and I accept it because that's -- because
10 I'm an elected official -- but to paint with the same brush
11 that everybody else is painted with -- when I go to these
12 meetings people say you shouldn't say anything, just ignore
13 it, you don't have to go back. No, I have to let people know
14 how I feel in my heart. Try to be an honest Legislator.
15 Can't speak for the rest of them. And this Committee works
16 very hard trying to accomplish things, but it's a process that
17 we have to abide by. There are federal rules that govern what
18 we can do. There are state rules that govern what the
19 administration can do. And we have to try to change those
20 rules like we are trying to change now to benefit folk. I try
21 to respond to everybody I can throughout the state whether I'm
22 in your district or not. And let me say something else to
23 you. If I wasn't concerned I would not have gotten up at six
24 o'clock this morning, drove the Turnpike after being in
25 Trenton all yesterday, to be here. But I'm concerned because

1 I want to hear these kinds of comments about the conditions.
2 I don't mind the comments about characterizations of people.
3 I don't mind people saying throw all of us out because all of
4 us are never going to be thrown out. There will be changes as
5 we move along based on the job we do and the districts we are
6 from. But I want to hear the issues about the problems. The
7 problems in your house that's been caused, we didn't know
8 about those problems. We hear other -- we need to know that
9 this Legislation is moving in the right direction so that we
10 can do a better job as a government even after I'm gone as we
11 move into the future because New Jersey is booming. I think
12 when the economy starts to shift it's going to still boom in
13 certain areas. So I needed to say that. But I wanted you to
14 know you have some very fine Legislators on this Committee.
15 Maybe I'm the bum because I'm the Chair, but I know Senator
16 Madden, Asselta, and the rest of my colleagues -- are working
17 very hard to bring these issues to the administration's
18 attention. We're the Legislative Branch and we're not the
19 Administrative Branch. And I'm not going to speak for --
20 Andrews and anyone else. So I'm not here to offend anyone,
21 but I do want good testimony on this record as it relates
22 directly to the problem of constructions, the problems of your
23 houses, how you think we can abate them, whether we can get it
24 through or not that's why I'm here. And I will continue to
25 move up and down the state as long as I'm an elected official.

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1 I'm not going to (indiscernible) everybody, but I will speak
2 out when I think that I am trying to accomplish a mission and
3 I'm not going to waste my time. And I think that people are
4 so frustrated -- and I understand that because I been in this
5 position myself -- I'm so frustrated that I take it out on the
6 whole world. That's not going to be the case here. This
7 record -- and I'm going to shut up because it's not a
8 question, you don't have to respond -- this record is to get
9 substantive information that can be of an asset to those of us
10 who have to deliberate in a couple months to get Legislation
11 through to try to get accountability and abate some of these
12 problems. Thank you, Mr. Chairman.

13 MR. OBERT: If you knew --

14 SENATOR MADDEN: Thank you, Senator Rice. Senator
15 Asselta, any comments?

16 MR. OBERT: If you knew the problems that existed in
17 my house it would make your head swim. My house has been
18 practically rebuilt from the top to the bottom and it's still
19 out of code. This builder's license to build houses should
20 have been revoked a long time ago. We had a meeting with the
21 DCA, Mr. Connolly, five years ago voiced our complaints. He
22 should have taken action then and put this builder out of
23 business because in my estimation he's not fit to build a
24 doghouse.

25 SENATOR RICE: Well let me say this -- I said I

1 wasn't going to say anything else -- I'm not speaking for Mr.
2 Connolly, maybe he should, maybe he couldn't -- right now
3 we're moving forward and this person you're talking about when
4 we -- may still be part of the business, but give us an
5 opportunity to do our job. And I understand the frustration.
6 My father is 81. He has problems with the house up in
7 Pennsylvania he has. I've had floods and things in houses
8 I've bought. So I understand what frustration is. I
9 understand what it is not to have any real income or real
10 dollars to keep putting into a problem that's not your
11 problem, that someone else should be resolving, and it seems
12 like nobody is responding. We're here to try to respond and
13 that's all I'm saying to you. You can accept that or you
14 don't have to accept it, but one thing about me, anybody in
15 New Jersey will tell you when I communicate with you I'm
16 honest about what I'm telling you. We're here to try to help.
17 That's all I can say on that subject, okay.

18 MR. OBERT: One last thing. I understand your
19 concern about us, but we don't want your concern, we want
20 action. We want these crooks put out of business permanently.

21 SENATOR RICE: All right.

22 MR. OBERT: Thank you for your time.

23 SENATOR RICE: Thank you.

24 SENATOR MADDEN: Take care, Mr. Obert. Thank you
25 for your testimony. Next to the microphone will be Mr.

1 Michael De Palma. Mr. De Palma is the Monroe Township
2 construction official.

3 MR. DE PALMA: Good morning or good afternoon,
4 whichever it is now. And thank you for letting me testify
5 here today. As I was sitting here I heard a lot of testimony
6 in accordance to home warranties. And I think -- there's a
7 lot of subjects I'd like to touch upon, but I'll try and do it
8 as briefly as I possibly can. I don't know who knows and who
9 doesn't know -- there are two types of home warranties in a
10 house and one is issued by the builder, which normally runs
11 for a year. Some builders have two year warranty. That's the
12 recall work after their CO is issued if they have any problems
13 with nail pops, cracks, dry wall, rugs, interior finished
14 stuff. That goes back to the builder and the builder goes out
15 -- supposedly goes out and fixes it. As we heard testimony
16 today earlier, that is one of the places where K. Hov dropped
17 the ball. They were not getting back and doing their warranty
18 work and all that does is make disgruntled homeowners. And I
19 agree a hundred percent and I've tried to help as much as I
20 possibly could. I did everything I could to try to get them
21 back in to do that. Unfortunately, we're working under the
22 guidelines of the UCC and there's nothing in the Uniform
23 Construction Code that supports warranty work after it's done
24 -- after the home is done, the warranty work for the builder.

25 On the structural issues if there are structural

1 problems -- first, when we go out now -- well I've been -- let
2 me start by saying I've been in the construction business
3 since 2001, so some of these homes were built and I inherited
4 most of these developments when we came in, and things have
5 changed greatly since I got there. And we have whole new
6 inspection team in Monroe Township from what was previously
7 there. When it comes to an inspection when an inspector goes
8 out on a job and looks at the job plans have to be on site and
9 it's inspected strictly by the plans. The plans are sealed.
10 Plans -- documents drawn by an architect -- files are drawn by
11 an engineer and they have to be on site and they make them in
12 accordance with those plans. One of the questions that came
13 up before was what happens if they're changed. If those plans
14 are changed or deviated from the job fails, it goes back to
15 the architect, and he has to submit new signed, sealed
16 documents in accordance as to what they did, if it's okay with
17 him, but he's got -- it has to be done and then the inspection
18 is made upon them.

19 The other warranty issues that I was getting around
20 to is the homeowner warranty which is a ten year warranty that
21 is actually included in the purchase price because the
22 developer has to buy that -- the homebuilder has to buy that
23 and pay for it. Any cracks in the concrete, like concrete
24 walls or block walls, structural issues -- if some beams twist
25 or maybe crack, which can happen, that goes through a

1 structural warranty program, which in my opinion doesn't work,
2 okay. These people do have some major problems with things
3 that happened and they're not getting any results. Cracked
4 foundation walls and the -- warranty goes out and tells them
5 it's not structural and won't be fixed. They patch it. And
6 again, that's not fixing the problem -- it's like trying to
7 put a band-aid on a cut that should have been stitched.

8 Other than that one of the other things I wanted to
9 hit upon if I could is when we talk about our large builders -
10 - I think probably 80 percent or maybe 90 percent of the
11 people here are all related to one builder -- had their home
12 built by one major firm. When we talk about these large
13 builder is the builder is just a label -- the word builder is
14 a label. They're not really builders. They've never swung a
15 hammer. They've never -- they are extremely well educated
16 businessmen and they have just chosen building a house as
17 something to do to make money. What happens at that point is
18 if they're building homes in a development and they're not in
19 the black, they're in the red, all the pressure is put upon
20 the job site superintendent. We've had some of these homes
21 at Holiday City -- we heard testimony earlier that some of the
22 houses settle without a survey. We had some settle without
23 COs. The house was never final inspected and CO'd and they
24 settled, all right, because some of the people had forged COs
25 in that development. And this is all pressure put on by the

1 main -- the big builder on the job site superintendent to
2 develop a product.

3 SENATOR ASSELTA: I'm sorry, forged? Did he say --

4 SENATOR RICE: I'm sorry, they had what? Excuse me?
5 Forged?

6 MR. DE PALMA: Pardon?

7 SENATOR RICE: They are forged Cos?

8 MR. DE PALMA: Forged, yes. They actually forged
9 the COs. And some of these people could testify to that.
10 They do know that from Holiday City. These are some of the
11 major, major problems that we dealt with and tried to
12 straighten out. When I first came in and we tried to get a
13 handle on the Holiday City builder I went out and stopped
14 every job we had going out there, every house was stopped so
15 that I can get them to do the jobs in accordance with the
16 architect's plans.

17 The only thing that I was opposed to in here -- one
18 of the problems I think that we have is we have our production
19 builders building houses in 45 days or less. I think that
20 that myself is totally ridiculous. I don't know if there's
21 any way we could possibly put any kind of constraint on that
22 or not, but that's -- to build a house that fast in my opinion
23 is just asking for problems. One of the things that's in this
24 1826 is the fact that if the local enforcement agency cannot
25 perform the necessary inspections in a timely manner, which in

1 accordance with the Uniform Construction Code we have three
2 days to do that, that they can hire an architect or an
3 engineer to go out and make the inspections and continue. I
4 think that just strengthens their quickness on how they build
5 a house, and I don't -- you know, that's the only thing that I
6 was opposed to about this 1826. Other than that, again, when
7 they build a house that fast sometimes the house gets very wet
8 during the building process and they actually get closed in
9 and sealed off while they're wet. So now you have sealed off
10 from the inside and the outside wet plywood, wet two-by-fours,
11 you've added insulation and you sheet rocked over the top of
12 it. To me -- my understanding of mold this is a perfect
13 breeding spot for mold. Some of these people have mold in
14 their house so bad they can't live in them. And there is no
15 way -- I don't believe they have a recourse. I don't know
16 where they go with this other than to sue the builder which is
17 what they are doing. If you have any questions I'll gladly
18 answer any questions.

19 SENATOR MADDEN: Senator Asselta?

20 SENATOR ASSELTA: No questions.

21 SENATOR MADDEN: Senator Rice?

22 SENATOR RICE: Yes, Mr. Chairman. You're saying
23 that part of the problem with the warranty program they're not
24 getting back in time -- sufficient time to do the warranty
25 problems prior to the warranty running out? I mean give me a

1 little bit more clarity on that. I need to know -- put it
2 this way (indiscernible) warranty what do you think should be
3 changed?

4 MR. DE PALMA: We're talking about -- what I was
5 talking about is when they were talking about a punch list,
6 they have -- the developer tells the new home buyer that they
7 could develop a punch list and that they will come back and
8 correct any problems they may have, cracked trim, cracked
9 drywall, nail pops, rugs. They didn't do it. No matter how
10 many times some of these people applied to have it done they
11 just didn't do it. And I contacted as high up the scale as I
12 can go in that company -- I talked to ten, fifteen different
13 people trying to get them back in to do the warranty work.
14 They started a new development in town, it's called Brandywine
15 Village. I tried to hold up their permits -- not issue the
16 permits for Brandywine Village until they satisfied some of
17 the problems in Chestnut Green. I was told by the Department
18 of Community Affairs -- they called the Department of
19 Community Affairs and I was told by the Department of
20 Community Affairs that I could not do that. So I had to issue
21 these permits.

22 SENATOR RICE: Okay. Then that's the problem that
23 the -- was that the councilman -- who spoke earlier? That's
24 the issue that the elected official is speaking of in terms of
25 giving the municipality some capability to hold up the CO.

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1 That's what -- okay. We'll take a look at that, okay. The
2 other -- I'm sorry.

3 MR. DE PALMA: No, that's all right, I just want to
4 answer your question.

5 SENATOR RICE: Okay. What about the bond? These
6 projects -- well all of them may not be bonded though. That
7 may be a problem. But are the projects to your knowledge, in
8 the areas that you work in, are they bonded or they're just --
9 cash and money with no bond -- they finance their own
10 projects, no bond, no backup, no collateral?

11 MR. DE PALMA: That's an area that I really can't
12 answer every question or -- I'm not an expert in this area is
13 what I'm trying to say. But the site work is bonded. Most of
14 the site work in the development is bonded, the roads, the
15 sidewalks, the curbs, that's all bonded. Individual property
16 sites are not. And what I think that Mr. Caligiuri was trying
17 to hit on is that they wouldn't get a CO until the grading is
18 properly done. And we're trying to hold up Cos in the new
19 development until they satisfy -- Chestnut Green still has
20 problems with their detention pond. This has been going on
21 for at least four years and it hasn't been satisfied yet. He
22 was trying to hold up Cos for homebuyers and for a new
23 development by the same builder. It's not a bad idea, but
24 we're actually kind of punishing the new home buyer at the
25 same time. If we wait that long to hold them up it actually

1 is like kind of punishing the new home buyer because he has no
2 place to go; once he sold his house he has nothing to move
3 into. I would rather hold it up at permit stage, prior, you
4 know, so they can't even start the house. And, of course,
5 getting back to the fact they build in 45 days some of these
6 people can testify to the fact they were probably told they
7 would be able to move in their house in 60 days or less when
8 they bought it, and it's not even started yet. They haven't
9 even dug a hole, you know. So if we hold it up at the permit
10 stage I think that would be the best spot if we possibly
11 could.

12 SENATOR RICE: Would you send your recommendations
13 to Senator Madden and to the Committee the way you would see
14 it so we can review what you're saying. And also maybe te
15 gentleman -- I forget your name -- the attorney -- I'll refer
16 to him as esquire --

17 SENATOR MADDEN: Trimble -- John Trimble.

18 SENATOR RICE: -- Mr. Trimble -- we're talking about
19 Trimble damages -- that's not you -- okay -- but if you could
20 maybe -- and then, Bob, you could look into this, too -- I
21 know that some projects require a bond for the whole project
22 as for builders, et cetera; other projects do not because it
23 may be -- they have more than enough money to cover the
24 project and to back it. The question is is there something
25 that's required of a bond that we should require folk who

1 don't need a bond, you understand what I'm saying, some of the
2 element? In other words, do they have to put up X number of
3 dollars to -- a retainer so big that it's like a bond? I
4 don't know. But we need to look at how do we get back to this
5 whole issue of getting resolutions to those problems right
6 away because in a bond situation what will happen is someone
7 will call and they are -- they'll go after the bond during the
8 course of construction. I'm not sure what happens after the
9 construction and the people move in. I think the bond still
10 sits until punch list stuff is done. You know, but on the
11 private side with the capabilities that a big organization
12 that K. Hovnanian and others have I'm almost sure they don't
13 do bonding in certain areas. But we need to look at that bond
14 area as to how to get accountability.

15 MR. DE PALMA: If I can, I think that what you might
16 be referring to is maybe a bond for each individual house, and
17 maybe if the developer or builder were to put a \$5,000 bond or
18 whatever the number may be, \$10,000 bond, for warranty issues
19 after the CO and -- that would definitely make them get back
20 in there and do their warranty work, and if they didn't it
21 would just be released -- after a year be released to the
22 homeowner.

23 SENATOR RICE: Okay, we'll look at it. Thank you.

24 SENATOR MADDEN: Thank you, Mr. De Palma.

25 MR. DE PALMA: Thank you.

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(Pause)

MR. DE PALMA: I'd like to say one more thing if I could.

SENATOR MADDEN: Sure.

MR. DE PALMA: Which I did forget to mention. I heard in the conversations previously from some of the other testimonies about the developer and the contractor, the difference between the developer and the contract. If -- well I hate to use Hovnanian -- but say Mr. Hovnanian as the developer hires me as a contractor the ultimate responsibility is still through K. Hovnanian. He is responsible for his subcontractors.

SENATOR RICE: I know that, but what I was trying to get at -- and you're a good example because you know the business -- you don't have the economic wherewithal to be "a developer" the way they identify a developer. That's just -- person with some money -- by the government and it's their responsibility ultimately. But in the process which you experienced in this whole industry -- you know more about it than the developer would ever know -- and you are going over specs and plans, you are telling them we can't build this, you have to put this here, put this, but as architects and engineers you bring them to the table with you and say no, we insist you move this way or we'll default you. And so you being a little contractor or general contractor trying to make

1 ends met, you got your money laid out, you got workers on the
2 side, you're -- all of a sudden you're arguing with someone,
3 you're not going to court, you don't know who else to go to,
4 so you say fine, your project, I'll build it this way. But
5 then at the end of it people have problems then liabilities
6 come back and you get painted the bad guy when, in fact, you
7 built it -- maybe you should have walked out, but walking out
8 would have cost you too much money, too many hardships, and you
9 did what the developer asked you to do. I'm trying to figure
10 out how to close that gap where a developer ultimately is
11 going to have to pay attention to the builder, as well. In
12 other words, everybody -- it's supposed to be a partnership
13 and what happens is it seems like once the architect -- the
14 job or the engineer there's no more partnership with the
15 builder and often times the builder knows more about building
16 these projects than our professional service people ever know.
17 You know, it's nice to draw a picture and say here's how it
18 fits, but you will tell him in theory that's the way it's
19 supposed to fit, but it's not going to fit that way and it
20 will fall down if you don't support it this way. That's what
21 I'm trying to get to and that's what I was saying.

22 MR. DE PALMA: Well that's why I said in accordance
23 course of the Uniform Construction Code there has to be
24 approved, signed, sealed documents on the job site for an
25 inspection. If it's deviated from it has -- it's supposed to

1 -- it may not happen in every town, but it does in Monroe --
2 it goes back to the architect or the design engineer for a
3 resubmittal and then he has to give us new signed, sealed
4 documents saying what they did is okay or what they want to do
5 is okay, all right. And that's the way it's supposed to be
6 handled. Let me use one example we had out there in Chestnut
7 Green. They have replaced numerous sidewalks, driveways, front
8 porches. And I also want to say this, I -- one of the
9 requirements I had with the developer out there is that they
10 gave me a signed letter indicating that the dirt under the
11 concrete that was cast in place met the architect's
12 specifications. So we have a letter from each one of these
13 houses. Since then we had all this failure rate now they have
14 to be a signed, sealed document from an engineering firm
15 stating that the soil under the concrete meets the architect's
16 requirements. Getting back to is they replaced all these
17 sidewalks, even basement floors for people who have been
18 living in their house for a year-and-a-half, two years and
19 they're going in and tearing out your basement floor. I don't
20 know how you get through this, but they do. And I made the
21 statement to one of the gentleman when they came in -- one of
22 the developers or representatives for the developer, K. Hov --
23 I said how's the concrete guy, what do you do with this, you
24 got to pay this guy? His answer was he sat back and said no,
25 we're going to bankrupt this guy. All right. I mean, to me

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1 that's -- and they put the pressure on in the beginning get
2 the job done, get the job done, get the job done and if it
3 fails at the end oh, we're just going to bankrupt the guy.
4 That's their attitude.

5 SENATOR MADDEN: Mr. De Palma, when you testified
6 you used a term that there were forged documents. Has that
7 ever been reported to anybody?

8 MR. DE PALMA: Yes, that was reported --

9 UNIDENTIFIED SPEAKER: (Indiscernible)

10 SENATOR MADDEN: Excuse me. Excuse me.

11 MR. DE PALMA: It went up in front of the Department
12 of Community Affairs and the gentleman that did that was -- I
13 don't know if he -- again, there was no license for a
14 superintendent. He was put on probation. He was a young
15 superintendent, young man trying to make a living. He was
16 trying to get the jobs closed. I mean, it was totally his
17 fault, but he was -- the amount of punishment he got I felt
18 was not just for what he did, but --

19 SENATOR MADDEN: The concern of myself and the panel
20 is simply if you're testifying that there were forged
21 documents and there was never followup on that we wanted to
22 make sure that we followed up on that --

23 MR. DE PALMA: Yes, it was.

24 SENATOR MADDEN: -- after today. But it had been?

25 MR. DE PALMA: Yes, it was.

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1 SENATOR MADDEN: Okay. Thanks, Mr. De Palma.

2 MR. DE PALMA: We're going to call two individuals
3 up to testify representing the Chestnut green Development,
4 Robert Gianni and Kelly Fleming.

5 MR. GIANNI: Ms. Fleming had to leave.

6 SENATOR MADDEN: Oh, she had to leave.

7 MR. GIANNI: Yes. Good afternoon. My name is
8 Robert Gianni. I live in Chestnut Green. I've lived there
9 approximately two years. I'm in the construction industry. I
10 have a degree in construction management and engineering. My
11 house has a substantial amount of defect, ranging from the
12 HVAC system through the framing of the house. I have copy of
13 my entire folder that I received from the township on -- I
14 guess it as probably close to a year ago. The designed
15 framing plan was deviated from. It called for a specified
16 series 250 TGI. They installed a 230, which is a substandard
17 TGI, so the joists are weaker than what was specified. What I
18 was told is that they were changed. I have documentation
19 saying that it is weaker. The township doesn't have any SK
20 drawings that a change was made and signed and sealed and
21 approved by the township. So I personally have a problem with
22 that, that the builder is making changes, not submitting it to
23 the township and just moseying on right through the homes. As
24 well as that --

25 SENATOR RICE: The township didn't have any --

1 MR. GIANNI: No, the -- my folder --

2 SENATOR RICE: I'm sorry. The township didn't have
3 any cut sheets in your folder?

4 MR. GIANNI: They did not have a revised drawing
5 from the builder. The only drawing that was in there was the
6 original drawing which was approved when my permit was pulled,
7 so they already deviated from the approved plan and made
8 changes to it, which my home was approved. I have deflection
9 in my floor. If you walk upstairs you'll see my ceiling fan
10 just move up and down.

11 Also on the blueprints that were submitted it
12 clearly states that the floors were not designed for ceramic
13 tile loads. I have ceramic loads in my house. K. Hov sold me
14 ceramic tile, did not ever make any provisions for ceramic
15 tile. I would never have known that if I didn't have all
16 these problems. I would have went through and put ceramic
17 tile down in my foyer and in my kitchen five years down the
18 road with a dead load on the floor joists they would have
19 failed. They may or may have not, I don't know. I'm not a PE
20 so I can't answer that, but there is a potential. If I see a
21 blueprint that says don't do this I'm not going to do it.

22 In regards to the gentleman that was here from the
23 AIA, he's at fault, as well. In my house my garage -- it was
24 a two car garage I was sold. It had two doors on it. When
25 the house was built they installed a two care garage with the

1 two doors on it and the stairs protruded out into the car
2 path, so I basically couldn't fit two cars in my garage. Once
3 I had my car in the garage I couldn't get into the house. I
4 have doors that hit other doors. It's an architect issue, you
5 know, it's their issue. It's not my issue. It's the builder
6 and the architect. There's an accountability issue here.
7 When I'm building a project if I have an issue and it's not
8 going to work it's my obligation as a qualified contractor to
9 bring it up and say, Mr. Architect, you have an issue here.
10 We need to resolve this. That's not the case with this
11 builder.

12 This builder is also -- I'm sorry -- this developer
13 is also the builder. Everybody keeps thinking that K. Hov is
14 just the developer and he subs out to a general contractor.
15 That's not the case. In the residential market more than
16 likely nine out of ten times the builder is also the developer
17 in which he subcontracts out to second tier subs who -- in my
18 opinion I think you guys from a state level and a township
19 level need to look into seeing how you qualify and certify
20 contractors to be legitimate contractors. Anybody that works
21 out of a pickup truck is a builder or a contractor or a
22 carpenter. That's not the case. There's certified training
23 programs for that and that should be implemented.

24 As far as the mold issue -- I moved here from
25 Philadelphia. I've never had any respiratory problems in my

1 life. My wife never had any respiratory problems. I moved
2 into this house, she had pleurisy, now she has respiratory
3 problems, now asthma. Now I have to have someone come in and
4 test my house to see what the problem is with the air in my
5 house. That's another expense. I paid a lot premium of
6 \$7,000 for -- to have a pond behind my house which is the
7 detention basin, basically the \$7,000 is nobody is going to
8 build behind me so I have a little bit of privacy and in front
9 of me I have a little bit of privacy. What I have is a swamp.
10 I bought swamp land in New Jersey. I killed a mosquito the
11 other day that was bout the size of a quarter. I've called
12 the Mosquito Commission. I also called the DEP. I sent an e-
13 mail out to another part of the state and they told me to try
14 to have a public meeting with our officials, which I started
15 laughing because we did that a year ago, and Senator Madden, I
16 think you were invited and you did not attend our meeting at
17 Chestnut Green, but I think you had a representative there.
18 My front wall has been leaking from day one since I moved into
19 the house. My basement is finished. It's just -- everything
20 that everybody else has said I have, also.

21 I think this gentleman over here was talking about
22 punch lists versus owner punch lists and township punch lists.
23 There's two different punch lists. The township punch list
24 for a CO is any items that are not up to code that has to be
25 completed before a CO is issued. An owner punch list isn't

1 going to hold up anything. It's not going to hold up any
2 money. They're still going to force you to go to settlement
3 because they have a right to take you to court if you don't go
4 to settlement when they give you notice. So there's no
5 protection there on the homeowner. Also, with my HVAC system,
6 once again, there -- I have a significant amount of problems
7 with my HVAC system. My thermostat is set at 74 downstairs in
8 the summer, my upstairs is over 79 degrees on a daily basis,
9 and in the winter it's the exact opposite. My son's bedroom
10 is over my garage. In the winter it's approximately 50
11 degrees and I documented that to everybody.

12 It's just -- it's one thing after another, you know.
13 I can go here and talk about my whole house secondhand because
14 I'm in the industry, so they hate me. I go around and point
15 out everything and anything I possibly can. If I would have
16 had a set of blueprints when they were building my house I
17 would have caught all these items from the beginning, and I
18 know my house would have been built properly. I did not have
19 it. I think it should be mandated that every homeowner gets a
20 copy of their blueprints when the house is built. Any
21 engineered lumber that's put into that house the homeowner
22 should also have a copy of that sealed drawing and a proof
23 from a licensed engineer and architect, as well as the
24 township. I'm one of the few, I know what's going on.
25 There's a lot of people in my development that have no clue

1 Hovnanian house and Quaker built my house. They had the
2 Quaker people still continuing to build the house. Now, I
3 have three certificate of occupancies, one from the builder
4 that didn't build it before it was built that was faxed to the
5 municipal service building, one for the wrong model house, and
6 another one, so this proves -- certification of certificate of
7 occupancies. Then I have a construction permit for the wrong
8 model house which I don't have. I have a regency and they
9 gave me a Mercer. They gave me a construction for a Mercer
10 and a certificate of occupancy for a Mercer and I have a
11 Regency. Okay. I also have a letter from the engineer from
12 the township that said a certificate of occupancy should not
13 be issued because of the wetland problems. And he was another
14 one the next date that the municipal service building forged.
15 You could tell the handwriting is different. It was stamped
16 October --

17 SENATOR MADDEN: Michelle, just push the button
18 under your microphone.

19 MS. GOLDENBERG: Oh, sorry about that.

20 SENATOR MADDEN: It's okay. Great.

21 MS. GOLDENBERG: It was stamped October the 14th. I
22 made settlement October the 15th. Now how did they fix the
23 drainage problem in one day? I also have that they knew that
24 my house was wet -- all about the wetlands ahead of time, from
25 June 3rd, 2003, and they kept on building my house. And

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1 today's date I still don't have the drainage problem fixed as
2 you can see. And that's all I have to say. Oh, wait a minute
3 (Indiscernible) I paid \$3,000 to get extra to get the floor
4 reinforced for ceramic tile. Forget it. It's sinking all
5 over the place. It looks like -- I make eggs it goes to one
6 side of the stove.

7 SENATOR MADDEN: Michelle, go on record --

8 MS. GOLDENBERG: I paid \$8,000 for a premier lot.
9 I don't have a lot. I have ten feet behind my house. The
10 State of New Jersey took it back.

11 SENATOR MADDEN: That's what I -- I wanted you to
12 put that on record. Put that on record, what shape your lot
13 is in.

14 MS. GOLDENBERG: I had to let the grass grow up to
15 here because I keep getting letters stating that the land is
16 not mine. Here's the letters. And that's it. That's enough.

17 SENATOR MADDEN: Okay. Michelle, the spelling on
18 your last name for the record. We need it recorded. If you
19 could spell your last name for the record.

20 MS. GOLDENBERG: Goldenberg, G-o-l-d-e-n-b-e-r-g.

21 SENATOR MADDEN: Thank you. Thank you.

22 MS. GOLDENBERG: And my whole house is falling
23 apart. I mean, the floors -- you feel like you're going to
24 sink in it. My wall unit is leaning. The washer and dryer
25 doors don't even stay on the thing. They're off. The whole

1 house is falling apart. I'm waiting to fall through the
2 floor. The bathroom wall has mold in it. The bathtub goes on
3 an angle like a sliding board. And there was a half a hoagie
4 and hamburger under my bathtub because when they fixed it I
5 had a tile guy come in to do another bathroom and the
6 hamburger and hoagie they found under the bathtub half eaten.
7 But I have all this evidence from the township. You want to
8 take all this up -- there's a whole book. Oh, here's another
9 thing from the -- they knew about my house ahead of time.
10 Here's the wetlands.

11 SENATOR MADDEN: Michelle --

12 MS. GOLDENBERG: Oh, and --

13 SENATOR MADDEN: Michelle, what I'd like you to
14 testify to are the steps that you've taken under the Home
15 Warranty Act.

16 MS. GOLDENBERG: The what?

17 SENATOR MADDEN: Under your New Home Warranty Act.
18 Could you go on record with what steps you've taken and what
19 responses you've been having.

20 MS. GOLDENBERG: I called a thousand times and I
21 just keep getting on hold and they'll get back to me, they'll
22 get back to me, and they never did. But I mean, I have solid
23 evidence. I had to get a lawyer.

24 SENATOR MADDEN: And who are you calling when you
25 call?

1 MS. GOLDENBERG: I forgot his name.

2 SENATOR MADDEN: Just in general. Is it the
3 builder?

MS. GOLDENBERG: Oh, from Hovnanian.
4 Alvin Fisher and Mr. Dixon. And Mr. Dixon comes to my house
5 with a stick and quarters to measure the floor -- quarters.
6 He puts quarters under the thing and says oh, we only get four
7 quarters then we don't have to fix your floor, it's under New
8 Jersey law. Oh, and then I paid extra to get the floors
9 reinforced 12 inches on center. I paid \$3,000 for it. They
10 didn't put a nail in it so how is it doubled to hold up the
11 ceramic tile. So that was \$3,000 out the window. My windows
12 are -- oh, the back windows are falling backwards. The man
13 comes to my house and looks at the windows and sees that
14 they're slipping backwards and he says oh, who did your floor.
15 Then he calls his company and he goes oh, your floors are fine
16 because they were the one that sold the wood.

17 SENATOR MADDEN: And you are -- are you represented
18 by legal counsel?

19 MS. GOLDENBERG: Yes.

20 SENATOR MADDEN: Okay. Next. What we need each
21 person to do is state their name for the record.

22 MS. LONGO: Okay.

23 SENATOR MADDEN: Just spell your last name if you
24 could.

25 MS. LONGO: Hi, my name is Rose Ann Longo, L-o-n-g-

1 o, and I'm from Sawyers Creek. And first I'd like to read you
2 a couple things from K. Hovnanian's pamphlet that they give
3 you before you buy your house. A home buying experience
4 should be satisfying and trouble free, it should be enduring
5 value, it should be pleasant and worry free. Building a great
6 home in a great neighborhood, taking care of our customers we
7 stand by our product and take great pride in what we do. We
8 design and build more styles of dream homes for you to choose
9 from. A home is typically the largest investment in your
10 lifetime. With a reputation for excellence, reliability,
11 service, and integrity K. Hovnanian's commitment to quality
12 means that every home is built to last for generations. Look
13 for the finest quality, materials, craftsmanship in your home
14 we build. Our goal is to build our homes right the first time
15 ever time, all the time. We are dedicated to doing his or her
16 best to provide you and your family with the best home money
17 can buy, which is why we could proudly say that our family
18 stands behind every home we've ever built. I just figure, you
19 know, that was, you know, what they told us before we bought
20 the house. I read that to you.

21 When I first moved in I -- it took awhile -- like I
22 knew something was wrong with my floors, they started to
23 slope, and over a period of time they just got worse and
24 worse. After phone calls, after phone calls we were not
25 getting phone calls back. My sink underneath was leaking.

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1 After five months I called for the last time. They said they
2 didn't even know about it. They told me to send another list
3 of all my problems. They never even came out after a year t
4 fix drywall, nails that were popped out -- millions of nails
5 that were popped out. All the things that were on my warranty
6 list which I now have in front of me which you can hardly even
7 read now -- some of it you can read, but some of it's so worn
8 out after three years -- never got done. Over probably about
9 six months ago they started to do my punch list. They sent
10 people out from the landscaping business who not only did work
11 outside, they were doing work inside on your house, tearing
12 floors up. I never knew landscaping people did work inside
13 people's houses. I always thought that they did work outside
14 the houses, not inside. They were coming out of vans that
15 looked like they should have been in a junkyard. I don't know
16 where they got these people to come fix your house. They came
17 to fix something and they broke something else. They were
18 putting some kind of black mortar to fill in a hole from my
19 sitting area in my bedroom to the other part of the floor
20 which was probably about that wide. They put this black
21 mortar stuff to fill in the hole. The guys rinsed it out in
22 my sink. My sink was gurgling for about a couple months.
23 Finally my garbage disposal got fixed after five months, but
24 before it did it bubbled like the underneath of my cabinet
25 because the water was laying under there and I didn't know for

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1 awhile that it was under there. They told me that the garbage
2 disposal was hooked up wrong so when it vibrated it cracked it
3 and the water started to leak out.

4 Let me see. Finally I decided to get a structural
5 engineer because I had it. My floors were so bad. My
6 bathroom upstairs in the hallway is now sloping like this. My
7 son's room whose room is right next to it is sloping this way.
8 When you walk in the hallway up there you can see how the
9 floor is sloping. There's bumps in the floor. There's humps.
10 There's squeaks like a 50 year old house. I got a structural
11 engineer to come out and do my house, you know, because they
12 sent their structural engineer and his name is Jonathan Dixon.
13 He came out -- like Michelle was telling you, that he came out
14 with a level -- long level -- where he thought there was a
15 problem he went around, he got the level, and he stuck
16 quarters underneath the opposite side. If there were five
17 quarters and under they weren't liable; it was within
18 tolerance. If it was more than five quarters then they were -
19 - they would say they would fix it. So I finally got my own
20 structural engineer to come out. I paid \$700 for him to come
21 to my house. Everything that was a problem he hit right on
22 the head. Point loads were missing, this was missing. My
23 steel beam was sitting on mortar bricks instead of cement
24 bricks. Well they told me that he wasn't reputable because he
25 didn't sign his name at the bottom of the paper, so they

1 weren't going to go by my structural engineer who didn't know
2 anything about me or my problems, they were going to go by
3 Jonathan Dixon's who had hardly anything on his structural
4 engineer report. He came in my house with an attitude,
5 condescending. He told me -- after they came in and they
6 tried to fix parts of my floor -- they took out -- you'll see
7 within the picture -- pieces of boards. They put the mortar
8 down. They tried to screw nails down. Some of the floor was
9 uneven; some was like this, some was like that. They tried to
10 nail this part down to meet this part. In my closet I have
11 humps and bumps and so I told Jonathan Dixon that it's very
12 annoying that when you're trying to get changed and you pay
13 \$25,000 for your house that it's very annoying to be stepping
14 on, you know, humps and squeaks and this and that. And he
15 said what's annoying about it and I said excuse me. He said
16 what's annoying about it. I said what's annoying about it --
17 I said when you pay so much money for a house that's what's
18 annoying about it. And he just was so condescending, so
19 cocky. And that's what they do, they send people out who
20 intimidate you, who don't care about you, and they don't care
21 about anything that's wrong with my house. I have structural
22 problems. They're in my house actually today after three
23 years, after they pushed me aside, stepped on me, abused me,
24 did everything they could, pushed me off to the side. They
25 now have people in my house today that I have to completely

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1 move myself out of the house again for them to come in and put
2 point loads in, put like five or six joists underneath the
3 house because it's not structurally sound. They have to go in
4 my garage now -- I'm missing a pole in my garage. They have
5 to go in my garage and dig a hole up now in my garage to find
6 out if there's any -- I forget what they're called -- in the
7 ground to hold the posts.

8 SENATOR MADDEN: Footing.

9 MS. LONGO: Footings. They don't even know if
10 there's a footing there because I don't have a post. And in
11 my things it says that there's supposed to be a post there.
12 Everybody that has the Mercer in my development has a post
13 there and I don't have one. They came in -- when they came in
14 and fixed -- tried to fix part of my room in my house in my
15 bedroom they cut a seam in the middle of my rug right down the
16 middle which is still like that now. It's still got the cut
17 right down the middle of my rug. It was never fixed. The
18 landscaping people came in in my family room and cut a hole.
19 I guess they were looking for point loads that -- you know, to
20 see if they were there -- and they left a hole. That's been
21 in my house for five months. I have drywall that they came in
22 and patched up that needed to be patched up, the nails.
23 They're still circled out. They still were not sanded
24 correctly.

25 My daughter, ever since moved in there, has had

1 really bad allergies where they wanted me to go to a sleep --
2 have her -- sleep apnea because she's had so many problems.
3 Her bedroom is hot in the summer and freezing in the winter.
4 I don't know what it is with the heating system, but it
5 doesn't work right. I blow fuses all the time. I don't know
6 if there's problems with the electricity. I also -- with the
7 wetland issue, I paid \$3,500 extra for the wetlands -- for the
8 premium lot. I now come to find out, which I didn't know
9 anything about, was the DEP told me that I had -- my pool is
10 on wetlands. I got a permit. I had my pool put in. They
11 want me to now take my pool, pick it up, move it closer to my
12 house with five tons of stone around it, and then right after
13 the pool they want me to let my grass grow. And before I --
14 when I moved in -- I have a dog and there was no gate there
15 and my dog would run into the woods. Well my dog was so
16 infested with ticks that they were so engorged they would just
17 fall off of him. My husband is highly allergic to poison ivy.
18 When he was back there putting in the fence he looked like the
19 elephant man. I had to rush him to the hospital because he
20 got so much poison ivy on him he had to go get a steroid shot.
21 And they want me to let my grass grow. Now the land that I
22 thought I have I don't have. And they told me that if I don't
23 let my grass grow high then I'm going to be fined up to
24 \$10,000 a day.

25 They're also now -- they didn't -- my next door

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1 neighbor just moved back in and the lady down the street just
2 moved back in. They were out of their house for like almost
3 two months. They have to reinforce my family room wall. I
4 have pictures in here it shows that all they did was put -- I
5 don't know -- I guess two-by-tens or whatever they are. They
6 were just a straight run in the family room. It's cathedral
7 ceiling. It wasn't braced well enough. So now what they did
8 -- I watched them do my neighbor's -- they're coming in and
9 like, you know, the things sticking up, they're sistering
10 them, each one of them, with boards on the side of them, then
11 they're putting more wood across the top and then putting more
12 wood across the, you know, the -- going this way. They're
13 taking all the wood off and all the aluminum -- all the vinyl
14 siding and then they're putting it back on because people --
15 like someone had said that their wall just fell over and hit
16 the next door neighbor's house. It's not structurally sound.

17 So now I have to move my whole house up. I have to
18 move out so these people can come in and destroy my house and
19 it's probably still not going to be structurally sound at all.
20 And I don't know what to do. You know, I had -- you know, I
21 went to talk to a lawyer. I've talked to a couple lawyers. I
22 just don't know what to do. They tell me that I have to let
23 them come in and fix it and that's what I've been doing.
24 Finally they finally came to fix it after three years. But
25 I'm thinking that the reason why they came in to fix it is

1 because they realize they have so many problems with these
2 houses. As far as what I understand now there's like -- they
3 were up to 70 houses where these people are moving out of
4 their house because there's structural damage. And I know of
5 a neighbor who tried -- when their house was being built they
6 tried to get out of their house because they knew they were
7 having problems and they told them that they weren't allowed
8 to get out of their -- the agreement, that if they got out of
9 their agreement that they were going to lose their deposit.
10 So that's why I'm here at the meeting today.

11 SENATOR MADDEN: Thank you, Rose Ann.

12 MS. LONGO: Mm-hum.

13 SENATOR MADDEN: Just a question about the grass
14 cutting and moving the pool. Have you had, at least
15 temporarily, a reprieve from DEP on that?

16 MS. LONGO: I haven't gotten anything in writing.

17 SENATOR MADDEN: Maybe over the past 30 days or so?

18 MS. LONGO: Yeah. I haven't gotten anything in writing. I've
19 heard that we're allowed to cut the grass until this year.

20 SENATOR MADDEN: Yes.

21 MS. LONGO: But I haven't gotten anything in
22 writing.

23 SENATOR MADDEN: You -- what is that -- Allison --
24 okay, we're going to followup. I mean, this was all I think
25 about 30 days ago. Was that about when we got a hold of you,

1 Michelle, somewhere around 30 days ago? You have a temporary
2 reprieve -- working with DEP on a case by case issue to try to
3 help you out that way, okay. Thank you, Rose Ann.

4 MS. LONGO: Thanks.

5 SENATOR MADDEN: Kimberly Ann.

6 MS. MANNA: Hi, my name is Kim Manna. I live at 19
7 Mississippi Trail in sawyers Creek, as well. I'm not the
8 original homeowner. I bought it from someone who owned the
9 house prior. I was unaware of all the problems in the house
10 when I bought it. One thing that I was aware of was the yard.
11 There was a problem with the drainage. And in the book that I
12 have you can see the before pictures and at the very end of
13 the book is the after which is really no difference. I had
14 several people out and talk to me about the yard. In the
15 beginning Alvin Fisher came to me and said that I should call
16 my realtor and try to get him to do something about it, that
17 it wasn't their problem. After going back and forth finally I
18 did get them to do something about it. I had Sean Herman who
19 is supposed to be the expert on the land as far as the
20 problems with te drainage. He said it's costing K. Hovnanian
21 about \$40,000 to fix your yard. They got it done one night
22 before my son's graduation party. It took them a whole week.
23 I have pictures. They brought in big pipes this big. They
24 dug up my entire backyard. After it was finished I couldn't
25 have anyone outside for two weeks to walk on the grass. I had

1 46 people in my house that were supposed to be outside. They
2 put yard drains in my house that were about three feet by
3 eighteen, two of them. I feel like I'm living in a city. My
4 yard looks like crap. It was flat, now it goes into a big
5 dip. I fell six weeks ago in it because the water still does
6 not drain and as a result I'm in therapy right now for my
7 knee. I came close to having to get surgery. And when I
8 talked to Chris, who is now in control of the whole situation,
9 he said well you can fall anywhere and laughed.

10 As far as all the problems in my house it seems to
11 be with everybody. There's a lot of people here, we all sound
12 the same, so I won't get into too much of it. But they sent
13 someone out, you give them a list of all your problems. They
14 say okay, we'll be back -- we'll get back to you within a week
15 or so. They never call you back. You call them everyday.
16 Every other day you're sending faxes, you're hand -- giving
17 them into their hand the paper. By the time they get back to
18 you or you get back to them and finally get somebody on the
19 phone they say oh, so and so quit, we have to get someone else
20 out. They send a new person out who is in charge of the
21 problems. You send them a list, you give them a list, the
22 same thing goes on. I've gone through this five times. I've
23 had it. I can't afford to get an attorney. Nothing against
24 attorneys, but it's not cheap and this -- people getting
25 attorneys are still not any further than I am and I didn't get

1 one.

2 They did come in and take my house apart. My
3 basement cost me \$15,000. I had the whole thing done before I
4 knew all these problems in the house. They come back and tear
5 my entire basement apart, put it back together, and it's not
6 right. And I told the person in charge that I want someone
7 else to come out and fix it. He said that's not an option.
8 They have to come back and fix it. They cut all my drywall
9 ceiling apart. I did not move out of the house. They never
10 told me that I shouldn't have had my air conditioning on and I
11 had the air conditioner running the whole time. I was told
12 that's not -- that wasn't supposed to be that way. Everything
13 that was on my list -- one man named Matt Dimaglio (phonetic)
14 told me everything was going to be done. It was going to take
15 four to six weeks. They were going to stay at my house until
16 everything was done. They did nothing except the basement
17 with the point loads. The problem with my kitchen floor is
18 not right. My whole entire roof is screwed up. My daughter's
19 floor, her boards squeak so loud that if you're in the kitchen
20 you can't even stand it it's so loud. And that started after
21 they worked on the house. Every time my kids take a shower it
22 sounds like there's a helicopter in my house because now my
23 pipes are rattling so bad, and they said oh, you just have air
24 in your pipes. I don't think it should be -- this has been
25 like six weeks now and it's still rattling. The gas fireplace

1 does not work at all. I told him about it. He said well
2 that's not really our problem, but I'm going to find out who
3 you can call. I have not heard anything on that. I keep
4 calling him.

5 My powder room floor slopes to a V. My kitchen
6 floor when you walk on it it bounces. Something -- the
7 flooring is not adhered to the -- board. They told me all I
8 have to do is pick out the color floor I want because they're
9 going to take my appliances out and my cabinets and they were
10 going to fix it. I picked out the color. I asked the girl
11 who works at Oscar's why they are not getting my floor done,
12 what's
13 going on. She said they never even called, that there was no
14 ticket submitted. They said they were submitting a ticket.
15 I've been told this for two months, three months, four months.
16 It's been over and over that all they have to do is call and
17 get a ticket. Well where's the ticket? My kitchen floor is
18 getting worse. Everybody who walks in my house can feel it.
19 The wall downstairs they had to take a cut apart because there
20 was a big gap. Now I have a ledge going down the side of my
21 wall and they messed up -- the rest of the wall they have to
22 come back and fix. The guys who were in there working -- I
23 have recessed lighting. Half of the rings aren't even back on
24 my ceiling. They didn't put my fire alarm back up. They got
25 drywall patching in my rug and they just went around with

1 their fingernail and tried to scrape that off. As far as my
2 roof goes there's no starter strips. The shingle pits are not
3 evenly matched. There's no -- metal. There's no -- overhang.
4 We had an engineer come out, John Dixon, who has a
5 major attitude. He says he's not on anybody's side, but I
6 honestly think that K. Hovnanian is probably paying him off.
7 And everything that's in my report was supposed to be taken
8 care of and it has not been taken care of. And I didn't move
9 out because I have pets and I have a business in my house, so
10 I didn't cost them anything there. When they did come in to
11 patch the walls in my family room three walls had been
12 patched. They said they will not paint the entire room, that
13 they have to paint it with the paint that's up there which I
14 don't have the paint any more, so it's basically my problem.
15 My house looks like it has -- it's got spots all over the
16 house. My bathroom is like that. And they're not going to
17 paint any of the rooms because I don't have the paint. If
18 they do get the paint they're going to paint one coat and
19 that's not -- so I still have to paint someone to paint my
20 house, which this is not supposed to be my problem. The spots
21 in my kitchen where they did paint that look like a two year
22 old person did it. I mean, it was horrible. They botched it.
23 And I keep calling and Chris had come out and said everything
24 that was wrong they were going to fix it. Now they're
25 starting other houses and they still haven't finished mine. I

1 was the first one on our street getting done and apparently
2 they're not finishing it, and they're starting other people's
3 houses. So I'm tired of getting lied to. I've gone through
4 Lou Romano, Brian, Matt Dimaglio, now we're working on Chris
5 Tranchetti (phonetic), which I don't know how long he's going
6 to last. And we have nail pops that are still there that they
7 didn't get them all. My rugs have been ripped open, you know,
8 pulled away, and they're not restretched. They haven't taken
9 care of that. That's been over a year ago.

10 SENATOR MADDEN: Kim, when did you take possession
11 of the house?

12 MS. MANNA: November of '04.

13 SENATOR MADDEN: And when did you start moving
14 towards the warranty action?

15 MS. MANNA: November -- very end of November, like I
16 guess two weeks after I moved in there.

17 SENATOR MADDEN: Right after you took control?

18 MS. MANNA: And the thing is with the electric -- I
19 have major problems with my electric. My garage door did not
20 work. I had a garage door opener put in. I just had an
21 electric fence put in for my dog, which that failed because
22 the electric keeps blowing out. And when I told them about it
23 they said that I have too much stuff. So I got an electrician
24 who's been an electrician for 30 years. He said there's major
25 code violations in the house. He wrote everything out.

1 SENATOR MADDEN: Have you gone to the local
2 township? In other words, here's what we're trying to get to
3 here with everybody really. We have bills here we are trying
4 to move. The issues as you say a lot of people have, a lot of
5 the different issues, a lot of them are structural in nature.
6 What we're trying to do is give you the best we can, a lot of
7 teeth. If you pick up the phone and there's a recording
8 mechanism that you got competent response, that's not
9 happening. And I'm going to call three more people up and
10 they'll testify to the nightmare in which they've had to deal
11 with and we will listen to that. But for the benefit of the
12 hearing, too -- we're trying it from a process understanding,
13 also, where we can help you in terms of writing our
14 Legislation --

15 MS. MANNA: Well how about --

16 SENATOR MADDEN: -- much like the legal fees that
17 you cannot afford --

18 MS. MANNA: Right.

19 SENATOR MADDEN: And as we testify -- even when I
20 spoke to Mr. Trimble I said, you know, you got to go down that
21 avenue or you just get it fixed yourself, and either you can't
22 afford to get it fixed or some people say it's cheaper just to
23 do it myself and all those frustrations and that fact that
24 maybe legal fees and all should be in the ability under the
25 Home Warranty Act. We wrote it in our lemon law piece which

1 is where you're losing the entire house and giving it back,
2 but we have nothing under the home warranty. So from a
3 Legislative concept procedurally you went and it just seems
4 you've had this well over -- you're into 18 months of
5 possession trying to fight with them. You're going nowhere.
6 Your neighbors have been into this for years. There's
7 drainage issues. I know from being on site having walked some
8 of the lots and working with the DEP I understand the issues
9 regarding acquisition and the wetlands, whether it was
10 disclosed or not disclosed. We're going to try to address
11 those in one of the bills if we don't do a separate bill.
12 Maybe we should have disclosure more appropriately up front.
13 (Indiscernible) were conversing and there's got to be some
14 kind of a -- something in place where the surveys are
15 presented, maybe not upon giving you -- putting down your
16 money, maybe a 30 day -- well before you get to settlement and
17 this house is up and now you got this big thing. So that's
18 what we're really trying to help with. Did you ever go to the
19 township? Let's maybe just generically ask that. The
20 township comes out, they inspect it. They must have something
21 on record. You -- and this is a question basically for the
22 three of you.

23 MS. MANNA: What we were told was -- I think a lot
24 of us have been talking back and forth. We're all finding out
25 we have problems with our house. Some people went to

1 attorneys, some people didn't. Basically everybody goes back
2 to the builder, K. Hovnanian, to take care of it. Then we
3 find out later that the state is being involved in this and
4 our township, Tom, sent us a letter stating to sign a paper,
5 they were going to come through and fix everything. And I
6 sent mine in right away and they were going to -- one of the
7 processes was to have an engineer come through, who was
8 Dickinson who came through, and he was going to write up the
9 problems and everything was going to be taken care of. And I
10 have a letter here stating that everything was going to be
11 taken care of. Everything was not taken care of. So you go
12 back to the builder again. When I did call about a warranty I
13 called that number, I talked about getting an attorney. They
14 said you either have to go through the warranty -- if you get
15 the warranty people to work on this you can't get an attorney;
16 if you get an attorney you can't deal with the warranty
17 people. So it was a lot of confusion in the beginning when I
18 first moved in. I didn't have a copy of it. They had to send
19 it to me.

20 But, you know, just going through the house you
21 could see a lot of these things could just simply be taken
22 care of. But my question is, first of all, how are they still
23 building houses. I think the supervisor got paid off or
24 didn't come out and do his job and that's why we all have
25 these houses, because I said to him the other day, you --

1 something about the way the house was -- I said how did this
2 house even pass inspection. He said well good thing I wasn't
3 here. Well he was in office when that house got passed.

4 SENATOR MADDEN: Okay. I actually think we had the
5 Councilman Frank Caligiuri testify probably two hours ago, but
6 he made a good point about the municipality possibly having
7 some teeth in itself where it can stop giving building permits
8 if you've got a serious issue within the same venue already
9 with the builder, and we had heard that. It was -- I think it
10 was a very compelling piece of testimony and I believe that's
11 kind of almost what you're saying. I mean, you got this and
12 they're continuing to build without having to go back and fix
13 things and --

14 MS. MANNA: I was told that they're in debt to
15 Oscar's for money. They don't have the money to pay their
16 bill so that's why they're not getting our kitchen floors
17 done. And then you open up the Philadelphia Inquirer they got
18 a full page add, K. Hovnanian. And you know what, I would
19 love to destroy their -- if I could tell everybody in the
20 world to never buy a house from them I would. And I had
21 someone come to my house and they asked me about who built it
22 and I told him. He said we were looking at a house. I said
23 well don't buy it. And then they come to your house and laugh
24 because I have lead inside my windows. He said can you take
25 them down. I said can you get my house fixed. I mean, it's

1 just back and forth every week. And then there was a sexist
2 comment that the reason my garage doors didn't work was
3 because it was a woman trying to close the door. It turned
4 out that they never adjusted the springs properly. And it
5 just goes on. I mean, everybody in here probably has the same
6 things, just -- you feel like a tape recorder and there's a
7 million lists I have here that I faxed over to him, what's
8 wrong, what's wrong, and they keep coming through and it's
9 just -- we'll go on like this for 20 years if you just --
10 something doesn't happen.

11 SENATOR MADDEN: Senator?

12 SENATOR ASSELTA: I just want to make a few comments
13 relative to not fully allowing a municipality to get off the
14 hook here because it's their responsibility also to develop a
15 master plan where they should build and where they should
16 develop and where they shouldn't develop so many of these
17 issues that are kind of redundant here as far as DEP related
18 your municipality where these other developments are, their
19 city or municipal master plan should have shown that
20 development can't take place in a specific area. So let's not
21 allow the municipality to totally be off the hook here and
22 throw responsibility upward as many times they do. Relative
23 to Hovnanian, I don't know -- how many homes do they build a
24 year, does anyone have that information?

25 UNIDENTIFIED SPEAKER: A lot.

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1 MS. MANNA: I know they're in Wildwood now, too.

2 SENATOR ASSELTA: Hundreds of thousands.

3 UNIDENTIFIED SPEAKER: Yes.

4 SENATOR ASSELTA: Hundreds of thousands. So not to
5 side with them, but I think much of the problem comes with the
6 amount of volume that this company continues to do and when
7 you do volume the quality does suffer, I mean, that's obvious.
8 So restrictions on development in particular municipalities
9 are key and important. I live in probably the hottest county,
10 development wise, in this state, Cumberland County. And I
11 live in Vineland. Vineland is the largest municipality in the
12 State of New Jersey with 69 square miles. There are
13 developers in here all the time trying to buy land and trying
14 to develop housing tracks. Our community is really a stickler
15 on the master plan to make sure there are areas there that
16 shouldn't be developed because problems that you're facing and
17 some of these other people have with no backyard would never
18 occur if the municipality has a master plan that says we
19 cannot build here. And knowing your community and how that
20 community developed, Washington Township, over a long period
21 of time, over the last 30 years, they were very developer
22 friendly for whatever reasons, and now you're starting to feel
23 the pressure of it not only here, but in your school systems
24 and your school taxes, et cetera, et cetera. It's an ongoing
25 problem that is growing and I think many of the communities

1 here need to take some of the responsibility and begin to
2 limit development in some of these areas. And so let's not
3 let them off the hook here. And, you know, some of the
4 construction officials come here, the mayor, the council
5 people, they want to kick the problem upstairs all the time.
6 They are in control. They could meet us for enabling
7 Legislation at times, but they have the ability to limit
8 development through a master plan process. So I just wanted
9 to put that on the record. Mr. Chairman, I appreciate the
10 opportunity to come here. I have meetings in my Legislative
11 District coming up at two o'clock and I got to get back to
12 that area, so any help I can lend to you support wise.
13 Obviously co-sponsorship in these bills are very important.
14 We know that and we're looking forward to voting on these
15 bills when we get back in session in September. Thank you.

16 SENATOR MADDEN: Take care, Senator. Thank you,
17 Michelle, Rose Ann, and Kim. Thank you. These photos --
18 Angela Henderson and Michelle Leon. Ladies and gentlemen, we
19 have the room -- Rowan University has booked the room for us
20 until 2 p.m.. That has to be the close of our meeting. Right
21 now it's ten after one. We have seven people left to testify.
22 The genesis of what the meeting is about is it's about the
23 Legislation to try to take the bills that we have. Hopefully
24 you have read or reviewed the bills, heard about them, and
25 we're looking to try to have you improve upon those bills the

1 best you can. We will surely listen to specific issues and we
2 just want to try to make sure everybody gets a chance to
3 testify. We have about 50 minutes left. Thank you.

4 UNIDENTIFIED SPEAKER: (Inaudible)

5 SENATOR MADDEN: Did you sign up to testify, sir?

6 UNIDENTIFIED SPEAKER: Yes.

7 SENATOR MADDEN: Okay.

8 UNIDENTIFIED SPEAKER: And you know what, the other
9 guy got up and left, the other senator. You don't leave and
10 walk away from a meeting with all these people here. Who the
11 hell do you people think you are?

12 SENATOR MADDEN: I'm here.

13 UNIDENTIFIED SPEAKER: Second of all, you're going
14 to put a lemon law out -- you want to protect these people.
15 You're going to put a lemon law out -- you put a lemon law
16 out that the townships are required to have a structural
17 engineer go out there every day --

18 SENATOR MADDEN: Sir, we'll give you a chance to
19 testify.

20 UNIDENTIFIED SPEAKER: I've been sitting here for
21 three hours, four hours.

22 SENATOR MADDEN: All of us have. I will --

23 UNIDENTIFIED SPEAKER: No, no, he just got up and
24 left. And (indiscernible) here, he was outside while there
25 was testimony going on.

1 SENATOR MADDEN: Don't -- don't --

2 SENATOR RICE: I was out there trying to -- you know
3 what, why don't you just leave because you're here to disturb
4 the meeting. I was outside, ladies and gentlemen, talking to
5 --

6 UNIDENTIFIED SPEAKER: Let me tell you something, my
7 house -- my house has been -- my house -- my house has been
8 declared --

9 SENATOR RICE: -- I was -- and I'm trying to help
10 the house. I was outside -- I was outside -- for the
11 audience, I was outside talking to two people that left so
12 they could send me some additional information to try to help
13 you resolve your problem.

14 UNIDENTIFIED SPEAKER: You know what, my house says
15 -- you know what the township said, the township said to me
16 get out of your house, it's uninhabitable. They will not let
17 me move back in my house because of K. Hovnanian. And you sit
18 here and you talk about all this and you're not here to listen
19 to their --

20 SENATOR RICE: We are here to listen. Why do you
21 think we're staying here? Why you think we're staying here?
22 Why you think I drove from Newark at six?

23 UNIDENTIFIED SPEAKER: Oh, come on.

24 SENATOR RICE: Maybe it don't mean much to you, but
25 it means much to someone and you know what, it means something

1 to me.

2 UNIDENTIFIED SPEAKER: I understand that, but you
3 know what --

4 SENATOR RICE: No, no, you don't understand it
5 because what you're doing is --

6 UNIDENTIFIED SPEAKER: -- they want action now.
7 They don't want action three years from now.

8 SENATOR RICE: -- no -- what you are doing is you
9 are criticizing the people here that's trying to help.

10 UNIDENTIFIED SPEAKER: They don't want action three
11 years from now. They're paying high taxes for this -- in this
12 town --

13 SENATOR RICE: I understand that, okay, but there is
14 a process --

15 UNIDENTIFIED SPEAKER: All you guys do is say oh,
16 we're going to do this and we're going to do that and it's
17 three, four years, five years down the road and everybody --

18 SENATOR RICE: And it may be another five years. It
19 may be another five years, but somebody is here trying, okay.

20 UNIDENTIFIED SPEAKER: Trying.

21 SENATOR RICE: I'm going to let you go, but I'm
22 going to put -- one thing about me, I was staying toe to toe
23 with you, okay, on this.

24 UNIDENTIFIED SPEAKER: This has been going on --
25 builders have been having this problem for 15, 20 years.

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1 SENATOR RICE: I'm here to help you if I can; if I
2 can't then it won't happen, but I'm here to try. So take your
3 frustrations with you, but I'm here.

4 UNIDENTIFIED SPEAKER: No, you know what, my house
5 is condemned --

6 SENATOR RICE: And if you care you will stay and
7 listen to the rest of it.

8 UNIDENTIFIED SPEAKER: If my house is condemned
9 because of building problems --

10 SENATOR MADDEN: We need to hear your --

11 UNIDENTIFIED SPEAKER: -- you guys didn't do
12 anything for 15 or 20 years except go and collect a big
13 pension at the end.

14 SENATOR RICE: And we didn't buy it and we didn't
15 build it, okay.

16 SENATOR MADDEN: Well I've been in office two years.
17 What I need -- what I would ask you to do, sir, if you could
18 please -- please, would you stay and put your testimony on the
19 record? Would you please --

20 SENATOR RICE: And if not I have no problem coming
21 out talking to you.

22 SENATOR MADDEN: Just if you would please --

23 SENATOR RICE: I don't hide from people. I'm going
24 to stay. You stay and do your --

25 UNIDENTIFIED SPEAKER: You see these people here --

1 SENATOR RICE: -- look, if I can come down you can
2 testify.

3 UNIDENTIFIED SPEAKER: -- these guys have been in
4 the service. I would say their wives have dedicated
5 themselves to making a happy home (indiscernible) make much
6 difference to me --

7 SENATOR MADDEN: Senator --

8 SENATOR RICE: Yes?

9 SENATOR MADDEN: Senator, come on. I have two
10 people I've called to the mic to testify. If you wish to
11 testify and get on record I would appreciate it, so would
12 senator Rice. If you wish to leave then leave. Sorry about
13 that. You know -- Michelle, Angela. Okay. Who wants to go
14 first?

15 MS. HENDERSON: I'll start.

16 SENATOR MADDEN: For the record we just need you to
17 spell your last name.

18 MS. HENDERSON: Angela Henderson, H-e-n-d-e-r-s-o-n.

19 SENATOR RICE: Hit your light there, the button --

20 SENATOR MADDEN: Right there on the left it will
21 turn red. There you go. And if you just lean in a little
22 bit. Thanks, Angela.

23 MS. HENDERSON: I also am a resident of Sawyers
24 Creek in Washington Township in a K. Hovnanian home. I live
25 on Mississippi Trail. I will not go through the issues with

1 my home. You've heard it all from the other folks who
2 testified. I've been in my house for two years, problems
3 documented from the time that I did my walkthrough. They have
4 just started working on fixing my home, but it's not completed
5 and I really don't have much confidence that it will be done
6 right at all. Specifically I do want to mention that my
7 property is on wetlands also. I went to settlement with no
8 survey. I had an attorney who indicated -- at that time I
9 didn't even know what a survey was. He realized that it was
10 missing, but had indicated that it's common with new
11 construction for surveys not to be provided. Not knowing what
12 I was even missing, I never thought about a survey until I
13 went to research having an in ground pool put in. The pool
14 company mentioned that I should have survey, tracked it down
15 to the company who did my closing. They finally mailed me my
16 survey after I requested it. This would have been in June of
17 2004. Of course I couldn't understand how to read one, took
18 it to the pool company and found out I had about ten feet in
19 my backyard. So I can never own a swimming pool. I barely
20 have a swing set up. I am -- have always -- a lifetime
21 resident of Philadelphia, I looked forward to moving to New
22 Jersey, always heard that it was a consumer friendly state and
23 have found out that is the case except when it comes to new
24 home ownership.

25 I've looked through the bills that you guys are

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1 working to pass. Particularly I think that is it important
2 that these builders be stopped going from community to
3 community repeating the same thing. So anything that you can
4 do to hold up permits I think would be effective. And of
5 course the proper disclosures. I don't understand why surveys
6 can't be provided when you're working on your agreement of
7 sale. Surely someone has gone through to see which lots are
8 where. Someone knows that there's wetlands. So had I been
9 given it when I signed my agreement of sale and had ten days
10 to go through it, an attorney would have looked at it and told
11 me guess what, your backyard is only ten feet big. I could
12 have chosen another lot. At that time they had regular lots.
13 I paid an extra \$5,000 for what I thought was a premium lot
14 that would provide the space I was looking for. I'm a half
15 acre plus, my lot. I have a -- and that's what they told me,
16 oh you have one of the biggest lots in the development. They
17 didn't tell me it was not usable land. So, you know --

18 SENATOR MADDEN: Angela, have you received the --
19 also the referral from DEP regarding being able to cut? I
20 know you said you're about ten feet off the back of your home.
21 Did you --

22 MS. HENDERSON: Correct.

23 SENATOR MADDEN: I mean, I'm just curious personally
24 because we've been dealing with this on -- I know it's been a
25 case by case with DEP. Have you had -- have you received word

1 that you're able to mow and use the yard?

2 MS. HENDERSON: Well I received the word from your
3 office so I'm greatly appreciative to all the work -- I have
4 received -- we were in constant communication throughout the
5 whole process with DEP so I did get the word from your office.

6 SENATOR MADDEN: It's just a band-aid I know, but I
7 just wanted to make sure you had --

8 MS. HENDERSON: Yeah, it's just a band-aid for now,
9 but at least it's something. And I do want to thank you and
10 your office for all the work that you've done because when you
11 came out and met with us we were at a loss of what to do next.
12 And even though right now what we have just a temporary
13 solution at least we feel like we're headed in the right
14 direction and someone is listening to us because it is really
15 a sin what the township -- the township, the builder, DEP -- I
16 don't know who dropped the ball, but there's no way that we
17 should be allowed to live in houses where we can't cut yards,
18 your children can't play, you have to worry about mosquitos
19 and everything. It's just crazy. It's ridiculous. That's my
20 testimony.

21 SENATOR MADDEN: Thank you, Angela. Okay, Michelle.

22 MS. LEON: My name is Michelle Leon. Again, I live
23 in sawyers Creek in Gloucester County. I also have an issue
24 with the DEP problems on my lot. I did have a different
25 builder and although I had my issues with my builder, I feel

1 fortunate to be in Sawyers Creek and not have had K.
2 Hovnanian. But again, when we purchased our lot and we
3 selected our lot we were told, you know, we have just about
4 six tenths of an acre, it's in a cul-de-sac, it backs to the
5 woods, and we paid a lot premium of \$6,000. I paid that lot
6 premium because I wanted a place for my children to play where
7 they are in the backyard, they are learning about nature,
8 they're not running around in the streets getting in the way
9 of traffic. We had some additional privacy which was gained
10 by backing to the stream and the woods.

11 I've come to find out approximately a year ago when
12 I had the DEP knock on my door and tell me that the swing set
13 and the picnic table and the bench that I had in the wooded
14 area of my property needed to be removed because it was in the
15 wetlands transition area. I've come to find out the
16 transition area comes to about 20 feet beyond my back door on
17 six tenths of an acre. I was told that not only did I need to
18 remove all those items from this transition area, but that we
19 couldn't walk on that land. My children, who are three and
20 five, are not allowed to walk in the woods. I bought that
21 property solely for that purpose. The builder knew that I
22 wanted that lot because I wanted my kids out back playing.
23 And basically they did not disclose to me that there was any
24 restrictions on that other than I couldn't fill it, I
25 couldn't, you know, build big permanent, you know, sheds and

1 things like that. Our homeowner's declaration states that we
2 can fence it and that we have free use of that property. The
3 DEP told me that that land is under an additional deed
4 restriction which they cannot provide to me. I've searched my
5 title report. I have a stack of paper this high that lists
6 it. And it does mention a transition area, but it never gives
7 me the restrictions of that transition area. Had I known that
8 I couldn't walk on it I wouldn't have bought it. In my
9 opinion I pay full taxes on that property and I think it's an
10 atrocity that I can be sold land that I can't walk on. I just
11 don't understand how that can happen. So they haven't taken
12 my land through eminent domain; they're just not going to let
13 me use it. I can't -- you know, I'm just amazed that that can
14 happen.

15 So we did, you know, pay the lot premium. We have
16 no recourse. If I can't use the land behind my house in my
17 opinion my house is almost worthless because I bought it as
18 much for the land and for my children to be outside playing
19 and not inside playing video games and, you know, going on the
20 computer and becoming victims of all kinds of other things. I
21 wanted them outside in the fresh air. So, you know, we I
22 think really have a reduced value of our home because of not
23 being able to use our land. We're victims of our home. Thank
24 God it's not falling apart on the inside, too.

25 SENATOR MADDEN: Could you take a second and explain

1 to Senator Rice just briefly how your lot is laid out.
2 They're adjacent, Senator. It's the standard development plot
3 plan, if you will.

4 MS. LEON: Would this help?

5 SENATOR MADDEN: What happens in the DEP has
6 permitted them because it's established -- it's classified as
7 wetlands --

8 SENATOR RICE: Right.

9 SENATOR MADDEN: -- they're not allowed to even walk
10 on it.

11 SENATOR RICE: Is there a fence up? I mean, how do
12 you --

13 SENATOR MADDEN: No, it's open. It's open. You buy
14 the lot basically -- what is the depth of your lot?

15 MS. LEON: Two hundred and --

16 SENATOR MADDEN: Two hundred --

17 MS. LEON: -- fifty feet on the one side. It's a
18 pie shape.

19 SENATOR MADDEN: So you figure you have a lot that
20 might be standard, 75, 80 feet, 40 feet wide, and the depth is
21 200. When they build the home the home is placed on the lot,
22 but the rear part of the lot is established as wetlands.

23 SENATOR RICE: Right.

24 SENATOR MADDEN: And now they have a home up -- I
25 believe most of the homes are either --

1 MS. LEON: There's a wetlands buffer area.

2 SENATOR MADDEN: There's a transition line? They go

3 --

4 MS. LEON: -- and the builder is then allowed to --
5 there's a transition area that is typically 50 feet from the
6 wetlands line. The builders are allowed to swap the wetlands
7 in a development and create a modified transition line, so
8 lots that were virtually unbuildable because they were too
9 close to the wetlands that wetlands transition area can be
10 swapped out to a larger lot so that they have more buildable
11 lots and therefore more money in their pockets. I have one of
12 the lots what got a lot of the swapping in. So what they did
13 is they basically reserved my building envelope and everything
14 else was then now classified as a modified transition area.

15 SENATOR MADDEN: I may clone this term today, but it
16 sounds like your lot might have been -- part of it might have
17 been unwetlands, so to speak, so they pushed it someplace else
18 to open up the ability to build on your lot.

19 MS. LEON: Correct.

20 SENATOR MADDEN: But yet you're still left with the
21 water issues. Now you have the state coming in saying you
22 can't --

23 MS. LEON: Well my land isn't wet.

24 SENATOR MADDEN: Okay.

25 MS. LEON: There is a stream in the backyard. There

1 is nothing that would prevent my children from being down
2 there playing. I don't have a drainage issue as some of the
3 people down the street do. My lot was perfectly usable,
4 except I can't walk on it, so therefore I can't use it. But
5 every time I've talked to the DEP they have failed to yet
6 present me with this deed restriction. They're saying that my
7 land is so restricted that we can't walk on it.

8 SENATOR RICE: Quick question through the Chair. I
9 guess I'm -- I understand you can't walk on it, but I'm
10 getting confused -- is there a wall or something? If I walk
11 on your property right now I can accidentally walk on the
12 piece of property you're not supposed to walk on --

13 MS. LEON: Correct.

14 SENATOR RICE: -- or someone put a barrier up?

15 MS. LEON: No, I could go out back. There's a hill
16 that goes -- it goes down a hill, but there's nothing
17 physically preventing me to walk on that land. There is no
18 barrier. It's not fenced off. I own that land. I pay full
19 taxes on that land.

20 SENATOR RICE: So if you weren't paying attention to
21 the children --

22 MS. LEON: Oh, my children can go back there anytime
23 they want.

24 SENATOR RICE: That's what I'm saying, they just go
25 back there --

1 MS. LEON: As long as the DEP doesn't se them, I
2 guess.

3 SENATOR RICE: That's my point. Okay.

4 MS. LEON: I'm sure that if the DEP shows up at my
5 front yard and my children were back there playing I could get
6 a \$10,000 fine.

7 SENATOR MADDEN: Thank you. Thanks, Angela.
8 Thanks, Michelle. We would like to call Violet Peterson and
9 Violet will testify, Senator, on 1825 and 1826.

10 SENATOR RICE: Okay.

11 MS. PETERSON: (Indiscernible) that person who was
12 angry take my place and I can send an e-mail later if you
13 don't mind?

14 SENATOR MADDEN: So you're going to -- okay.

15 Sophia. SENATOR RICE: No, she said let the gentleman
16 take her place that was angry.

17 SENATOR MADDEN: Okay. Does the gentleman have a
18 name? All right.

19 SENATOR RICE: Sir.

20 SENATOR MADDEN: Sir, in the back row, is you wish
21 to testify you're up. We just don't have a -- I don't know if
22 we have a sign up sheet for yourself. Do we have -- did you
23 sign up to testify?

24 MR. JACOWSKI: Yes.

25 SENATOR MADDEN: Are you James?

1 MR. JACOWSKI: Yes.

2 SENATOR MADDEN: Okay. So for the record, we will
3 have James Jacowski and Sophia --

4 MS. GIOVINE: Sonia.

5 SENATOR MADDEN: Oh Sonia.

6 MS. GIOVINE: Yes.

7 SENATOR MADDEN: Grovine?

8 MS. GIOVINE: Giovine.

9 SENATOR MADDEN: Giovine. Okay. Sonia, when you go
10 to testify if you could spell your last name for the record.
11 It's being recorded. I'd appreciate it. And the same with
12 yourself, Mr. Jacowski. Thank you.

13 MS. GIOVINE: Okay. It's Sonia Giovine, 36 Molly
14 Pitcher Drive, Manalapan, New Jersey. On the last meeting I
15 came on June 10 something, which I show Mr. Rice a picture of
16 my house that is not done yet. I show the picture. The same
17 one is still there. I would like to note that they haven't
18 fixed my house. I would like to write something. I spoke to
19 the Committee on June 8th, right. The code violations in my
20 house have still not been repaired after over two years of
21 waiting. At the appeals hearing on May 25th, 2006 we agreed
22 with the developer, Centex Homes, that Centex would provide
23 the specifications for the repair of our home so that we could
24 review and sign off. But we still don't have any revised
25 specifications they promised to give. They gave something to

1 Mr. Betz, my engineer, that informed me on August 4th that the
2 documents provided are not revised specifications. There is
3 nothing for him to review. The documents provided do not have
4 my address on them and the documents are not revised
5 specifications for my home. So Centex home took down our
6 stucco almost two years ago in October. We have cooperated
7 for years. (Indiscernible) they didn't take the stucco down,
8 but Centex Homes continued to change their stories and doesn't
9 provide complete and proper specification in 2006.

10 If anyone in this state thinks that we are totally
11 wrong please write to us, tell us why, or if not please
12 someone like elected officials, the governor, the U.S.
13 Attorney, or any other good citizen who cares about welfare of
14 the public please help us. It is common in New Jersey for big
15 companies and powerful law firms to refuse to honor their
16 commitment and bully the homeowners without any law applied to
17 them. Can anyone send us that that law of New Jersey that
18 allows developers to ignore agreements made at the
19 construction board of appeals? How am I going to get the
20 revised specifications so we can move forward. Please would
21 you help me? Tell me. Thank you.

22 Please I would like to add, to fix my house they
23 promised to send me new specifications, which I never have
24 them, but they insist -- they're really pushing me to sign a
25 UCC form. The UCC form says it's described in the attached

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1 proposal whatever they're going to do to my house. I don't
2 have any attached proposal, nothing. What am I going to sign,
3 sign a blank check? This is supposed to be attached to
4 specifications for my house which they sent me specifications,
5 yes, but it's not my house, it's not my address. If I could
6 show it to you. It's not my address right here. And they
7 want me to sign specifications. If I sign this UCC what's
8 going to happen to me? I'm signing a blank check and they do
9 --

10 SENATOR MADDEN: Didn't you have that document in
11 Trenton?

12 MS. GIOVINE: Excuse me?

13 SENATOR MADDEN: Did you have that document with you
14 in Trenton when we saw --

15 MS. GIOVINE: This one?

16 SENATOR MADDEN: Yes. When we --

17 MS. GIOVINE: That's the UCC they want me to sign,
18 which is not --

19 SENATOR MADDEN: Did you testify in June --

20 MS. GIOVINE: This one. Look at the address.
21 That's not my house. That's why I don't want to sign
22 anything. Once I sign it and they do my house I'm lost.

23 SENATOR MADDEN: This appears as though it might
24 have been faxed or at least it was a copy of a fax. Where did
25 -- who --

1 MS. GIOVINE: They sent them to every homeowner, the
2 same copy.

3 SENATOR MADDEN: Who -- where did you receive -- who
4 did you receive it from?

5 MS. GIOVINE: From the Centex Homes, I think, from
6 the PG.

7 SENATOR MADDEN: From the builder?

8 MS. GIOVINE: Yeah.

9 SENATOR MADDEN: Okay.

10 MS. GIOVINE: The builder has a subcontractor.

11 SENATOR RICE: Let me ask through the Chair while
12 he's reviewing that --

13 MS. GIOVINE: Excuse me?

14 SENATOR RICE: When you testified before -- now
15 you're in Manalapan, right, okay. And the problem with your
16 home is the stucco specifications? Could I see that paper
17 before you leave? Before you leave -- I want -- to testify
18 first, okay. And there were supposed to send you
19 specifications and these are the specifications they sent you,
20 which is not your property?

21 MS. GIOVINE: It's not my house. Those
22 specifications mostly are in general.

23 SENATOR RICE: Okay.

24 MS. GIOVINE: In general is when the house --

25 SENATOR RICE: That's the whole --

1 MS. GIOVINE: -- have the stucco still. My house
2 has been uncovered for two years. I don't think those are
3 specifications there for my house. My house has been like
4 that for two years. How are they going to send me
5 specifications like everybody else -- everyone have their
6 stucco still on
7 their house. My house gets wet every single day that rains.
8 I don't want to accept that. It's just --

9 SENATOR RICE: What I'm going to do is --

10 MS. GIOVINE: I need some help.

11 SENATOR RICE: Yeah. In that particular case there
12 we're going to make sure -- make sure Julius gets your name
13 and phone number before you leave. I need to call you and
14 ask some personal questions. We're doing a general record
15 here now to deal with the big problem, but I need to call you
16 on that and see if we can --

17 MS. GIOVINE: Do you recommend me to sign that
18 specification?

19 SENATOR RICE: Yeah, I recommend that you call --
20 give me your number.

21 SENATOR MADDEN: Sonia, the number that you wrote on
22 the sign up sheet, is this the -- you have one phone number
23 here, so that would be the best number to catch you at?

24 MS. GIOVINE: Yes, my home number. Yes, yes.

25

1 SENATOR MADDEN: Okay. Thank you, Sonia.

2 MS. GIOVINE: Thank you.

3 SENATOR MADDEN: Mr. Jacowski.

4 MR. JACOWSKI: Thank you. First of all, the thing
5 that got me upset was the gentleman getting up and leaving and
6 saying he had other obligations. I have a company that I run
7 and I've been out of that company all day. I think it as very
8 unprofessional for him to get up and leave like that. I think
9 we're here to talk about a subject that's very important to
10 everybody.

11 As far as a lemon law is concerned I believe each
12 township should have a structural engineer in that department,
13 in the building department. I also feel that they should have
14 a CO inspector, which they do. I feel that the structural
15 engineer should work with the builder's engineer and when
16 houses are starting to be built the township's structural
17 engineer should go out and inspect these homes periodically.
18 The CO inspector goes out and inspects the homes periodically,
19 but he doesn't have s structural engineer degree. So
20 therefore, if you want to put something in your lemon law bill
21 I suggest that each township hires s structural engineer to
22 make sure that that house is built and built right in three or
23 four different phases. The CO gentleman is basically there to
24 check on code violations, okay. I think that's one of the
25 biggest problems. And when a problem does arise with the

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1 township structural engineer he should go to the builder and
2 confront the other structural engineer and see if they can
3 work out the problem. At that time the CO man should stop all
4 building until that problem is resolved. So much for that.

5 The other thing I would like to address, I live at
6 one -- I'm sorry -- 12 Sicklerville -- I live at 12 Kenwood
7 Drive in Sicklerville. My address shows 514 Stockton Drive.
8 The mold in my house and the water penetration in my home is
9 unbelievable. There are 21 leaks in my home, including the
10 basement, first floor, and the second floor. The house is
11 completely contaminated with mold. We have the five most
12 toxic deadly molds in the world in my home. The township has
13 come out, the tax assessor, the inspectors have come out, the
14 county tax assessor has looked at everything, and they were
15 gracious enough to declare that my house was uninhabitable. I
16 cannot live in that house and I can't pay taxes on it. As of
17 today I'm \$250,000 in debt because I've had other expenses. I
18 had to pay on two mortgages and in order to maintain
19 everything I had to borrow against the houses. Both houses
20 have reached their maximum cash out value.

21 When I told K. Hovnanian about this they came out
22 and they said, quote -- you know, I told them I said I think
23 we have a problem with the stucco or something in the basement
24 because the basement is leaking. So they sent a guy out.
25 They sent a stucco man out. He said, Jim, you know what, I'm

1 not even going to touch this problem he said, because
2 evidently the water is behind the stucco and it's coming down
3 into the basement. This has been going on for three years.
4 All their builders -- the builders -- all their people --
5 their people came out. They could not find the problem. So I
6 said to the stucco man, yeah right, you just want to make a
7 fast buck. I think I'll have K. Hovnanian come out. I called
8 K. Hovnanian, I said this guy is telling me I have water in
9 back of the stucco and there's mold growing in back of the
10 stucco. Yeah right, Jim. They send their mold people out.
11 So they send the mold people out and I get a report back from
12 the builder. The builder's mold inspector says that I have
13 four or five most toxic molds and that I should be out of the
14 house. Their mold inspectors. I go, yeah, that's fine, maybe
15 he wants to make a buck. So I go out and I start researching
16 everything to get all this thing done and I find out not only
17 do I have mold throughout the house, but it spread throughout
18 the vents, the air conditioning units, everything. The whole
19 house is completely infected.

20 My mother has had five seizures in that house, 85
21 years -- she's 89 years old. Never had a problem. We moved
22 out of the house, guess what? She hasn't had one seizure. My
23 wife has pleurisy. And I think someone else testified earlier
24 today that his wife has pleurisy. We didn't know what that
25 was. We thought that was -- that's a disease that we never

1 even thought existed. She has spots on her lung and numerous
2 other problems, and this is caused by mold.

3 Now I'm out of the house. I've lost everything, and
4 that senator gets up and walks away from me. I've lost my
5 home. I'm on the verge of losing my family. We're arguing
6 back and forth. I've lost my clothing, my furniture, my cars,
7 everything in the house, everything I've ever worked for in my
8 entire life. My pension has been exhausted. I had to take
9 money out of all my savings account. And this has been going
10 on for three-and-a-half years. You want me to tell you about
11 a lemon law? You need a lemon law. And you need somebody
12 that has a structural engineer, people that are qualified,
13 not I'll let the CO man, my brother-in-law -- I'll give it to
14 him. I'm elected, I'm going to give it to him. I want to
15 give this guy -- this guy has been -- he gave me \$300 for my
16 campaign, I'm going to give -- I'm going to make him in charge
17 of the fire department. That's not how things are done. You
18 give the job to the person that's most qualified, not who did
19 you the most favors or who gave you the most money. And I'm
20 sorry, but I know that's how things are done now. If only we
21 could change that we would eliminate 99 percent of the
22 problems in this country. That's it. I'm done.

23 SENATOR MADDEN: Are you -- do you live in a
24 development, sir, in a housing development in Williamstown?

25 MR. JACOWSKI: Now?

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1 SENATOR MADDEN: No, the home --

2 SENATOR RICE: No, Stockton -- the Stockton Drive.

3 MR. JACOWSKI: Yeah, I --

4 SENATOR MADDEN: Well the home in which the problem

5 is which I think is Stockton. Where is that located?

6 MR. JACOWSKI: That's located in Stockton Drive in

7 Williamstown.

8 SENATOR MADDEN: I mean, is it -- okay, is it --

9 MR. JACOWSKI: I'm out of the house. I'm out of --

10 I'm in another location. I was told to get out.

11 SENATOR MADDEN: Is the home in a development?

12 MR. JACOWSKI: Yes.

13 SENATOR MADDEN: Which development is that?

14 MR. JACOWSKI: Stockton Run.

15 UNIDENTIFIED SPEAKER: Can I just say something?

16 SENATOR MADDEN: Oh, Stockton --

17 UNIDENTIFIED SPEAKER: (Indiscernible) the names.

18 SENATOR MADDEN: I'm sorry. It's called Stockton

19 Run?

20 MR. JACOWSKI: First it was called Stockton Run --

21 SENATOR MADDEN: Okay.

22 MR. JACOWSKI: -- and then they changed the name to

23 Chestnut Glen.

24 SENATOR MADDEN: Chestnut Glen. Okay. I'm just

25 conceptually trying to get an idea of where it's at.

1 MR. JACOWSKI: Yeah.

2 SENATOR MADDEN: Okay. Thank you.

3 MR. JACOWSKI: So it's --

4 SENATOR MADDEN: I understand. I know where you're
5 at.

6 MR. JACOWSKI: -- it was built by the same builder.
7 This builder -- and I know you don't want to hear this because
8 you're basically here for a lemon law type of thing -- but
9 this builder has had other problems, Holiday City, Four
10 seasons, Society Hill, Chestnut Green, Stockton Run,
11 everyplace that I
12 -- and I hear there's a problem in Millville. This builder is
13 the main concern of why everybody is here and why everybody is
14 so upset, and that's one of the reasons why I kind of got a
15 little upset when he left. We all have responsibilities, but
16 I allotted it -- I allowed time for this meeting and he should
17 have allowed time for this meeting.

18 SENATOR MADDEN: And it's not that the senators --
19 that we're not interested in knowing the details of the
20 problems that you've been having.

21 MR. JACOWSKI: I understand that.

22 SENATOR MADDEN: It's just -- what I was trying to
23 do, at least from my point, was I could see the time and we
24 could see where it was going and it was informative, but we
25 wanted to try to make sure we didn't cut ourselves short on

1 making sure that we got stuff for the bill. It was -- what
2 you testified to really helped us a lot. It helped me a lot.
3 I mean, you put a couple excellent points out there. And
4 maybe the township structural engineer requirement is -- I
5 mean, obviously we're going to discuss it. I don't know if
6 you know it, but Senator Rice and I were both writing a lot of
7 notes when you testified. And in order to -- the whole deal
8 about somebody's brother-in-law and stuff, I mean, I agree
9 with you wholeheartedly. What we need to do, maybe we could
10 put some certifications in place so that at least the
11 competency level is there. And I think that's the biggest
12 thing that what we're trying to ensure, right. And -- but you
13 did a great job. I appreciate -- you know, I know --

14 MR. JACOWSKI: I have to say, I was impressed with
15 your presentation and I have been very much impressed with Mr.
16 Rice's presentation, even though we got in a shouting match.
17 Some of the things he brought out were very, very good ideas.
18 That's all I got to say.

19 SENATOR MADDEN: Thank you, Mr. Jacowski.

20 SENATOR RICE: Mr. Chairman.

21 SENATOR MADDEN: Sorry. Senator Rice?

22 SENATOR RICE: I'm a little concerned -- I'm always
23 concerned, but -- and first of all, let me just say sometimes
24 it's good to get it out, sometimes it's good to get emotional.
25 That's why I stand toe to toe with people because I do

1 understand and I want to bring him back down so --

2 MR. JACOWSKI: No, problem, Semper Fi. Like I said,
3 Semper Fi.

4 SENATOR MADDEN: But here's my -- I'm really
5 concerned about the fact that all the authorities "allegedly"
6 indicated that you can't live there.

7 MR. JACOWSKI: Yes.

8 SENATOR RICE: Now I understand there are a lot of
9 problems in the developments, but there are developments with
10 a lot of problems that need to be fixed and we got to figure
11 out how to get that done, but people can live there. You
12 actually cannot live there for health reasons and others. And
13 my question is the state has not responded to that scenario at
14 all in any respect in terms of the fact -- the health
15 department and other people -- because it seems to me that
16 that situation demands something more than you just being in
17 court. You know, I mean, I don't know if you're litigating it
18 or what, but that's usually what winds up happening when you
19 came -- you know, to have that kind of a loss or -- I don't
20 know -- I just need to get some people on the phone with you.
21 I need to find out where to go with this particular case
22 because it's becoming subjective right now. Has the state
23 been in touch at all with those reports coming from the local
24 government and county?

25 MR. JACOWSKI: I have not contacted anyone to that

1 respect. I know that my attorney -- we are in litigation and
2 we were told by their attorneys -- we went there to negotiate
3 to try to get this thing resolved and his response -- the
4 attorney's response was well, you know what, you sued us so we
5 can take as long as we want. We don't have to do anything at
6 this point. And he said, you know, you guys are always
7 complaining. I said, you guys. This is what the lawyer said
8 to us -- K. Hovnanian's lawyer -- well we can take as long as
9 we want. And you know what, it's been three-and-a-half years.
10 We've been out of the house now for about a year-and-a-half.
11 And we're just totally exhausted.

12 SENATOR RICE: Final question, do you happen to know
13 the name of Hovnanian's attorney?

14 MR. JACOWSKI: Lee Eckel.

15 SENATOR RICE: Okay. I'm going to be away for a
16 week starting Saturday. When I get back I'm going to reach
17 out for you with some state people. I want to find out what's
18 going on on the state side, if anything. I want to find out,
19 if anything, what they can do because I'm really concerned
20 about the not being able to reside in that house in three-and-
21 a-half years and I'm concerned that the county said you can't
22 be there more or less, the municipality said you can't be
23 there. And it seems to me at that point that should have been
24 a whole different kind of action taken without a lot of forced
25 litigation. But let me look into it because I may be wrong,

1 okay. I'll be in touch with you.

2 MR. JACOWKSI: Thank you.

3 SENATOR RICE: All right.

4 MR. JACOWKSI: Thank you, very much.

5 SENATOR MADDEN: Thank you, Mr. Jacowksi. Our final
6 three individuals to testify, Maria Colkitt. Maria, could you
7 step up. Susanne Baldino and Gary Baldino. Does there happen
8 to be anyone in the audience whose name was not called who did
9 sign up to testify?

10 (No verbal response)

11 SENATOR MADDEN: Okay. Where's Gary?

12 MS. BALDINO: Gary will be back in a minute.

13 SENATOR MADDEN: Okay, we'll take Gary third. Is it
14 necessary to have him present when you testify?

15 MS. BALDINO: No.

16 SENATOR MADDEN: Okay. Maria, let's start off with
17 yourself. And for the record, if you could state your name
18 and spell your last name.

19 MS. COLKITT: My name is Maria Colkitt,
20 C-o-l-k-i-t-t. I live in Holiday City. And to begin with I'm
21 a little taken back right now with everybody else's problems.
22 I thought I had quite a bit, but I see there's others that
23 have more and my heart goes out to them. Anyway, as far s I'm
24 concerned the joy of moving to New Jersey has left and has
25 turned out to be a major disappointment. We bought a home in

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1 a community called Holiday City in Williamstown, New Jersey in
2 Monroe Township. Doing that was a mistake of a lifetime.
3 Within the first year we experienced major problems in the
4 construction of our home. We tried diligently to have that
5 corrected. The builder offered a great deal of promises, like
6 we'll come today to make this repair and never showed up.
7 Well we couldn't make it today so we're coming next week.
8 This went on, needless to say, an indefinite period of time.
9 We're there eight years and he never responded for our
10 benefit.

11 We had to do a number of repairs by private
12 contractors, which, of course, we paid for, in order to make
13 our home livable. We had squeaking floors, numerous other
14 incidental things, but I'm just pointing out the major because
15 it's late and I don't want to hold people up. We had duct
16 work that had to be replaced because the builder had inferior
17 -- well I shouldn't say inferior -- poor quality -- the worst
18 grade of duct work put in that he could have. This was
19 brought to our attention by the installer. We went back to
20 him when I found out I had a major breathing problem and had
21 several tests done. I had to go to get our -- we had to get
22 our home inspected by an air quality person. That cost us
23 money. I'm on this breathing tank around the clock. At home
24 I use a machine that's a lot different. We have made so many
25 complaints to so many different people, that includes

1 congressmen, assemblymen, even you, Mr. Madden. You know the
2 story well. We have been to you several times. But whether
3 their hands were tied or whether they just not have the
4 facility or the capabilities of helping us, we had to take
5 matters in our own hands and it cost us quite a bit of money
6 to do the necessary items in our home.

7 Getting back to the heating system, we had to have
8 all the duct work replaced because the heating system duct
9 work was done with fiberglass that was only supposed to last
10 five years, and sure enough that's about all it did. After
11 that time it started to disintegrate. We had to have that
12 removed and replaced by metal duct work which helped the
13 situation, but of course being as they found fiberglass in my
14 lungs it was too late to do anything medically as far as I'm
15 concerned, so I just cope with that everyday. We had to have
16 our crawl space dug out and a french drain put in because
17 there was constant water problems and we had to have a pump
18 put in at the time. So that we had to pay for ourselves
19 because when that was brought to the builder's attention they
20 didn't see a problem. We went through home warranty. We took
21 all the proper steps to get this thing taken care of at the
22 beginning, but nobody wanted to hear us. All their workers
23 came in -- their workers being the builder's -- oh, we don't
24 see any water down there, yet friends of ours went down, Mr.
25 Semeca (phonetic), the

1 co-owner of the property went down, we saw water. I don't
2 know how come our vision was different from theirs, but it was
3 there.

4 All of this is documented by photographs. We had to
5 call -- to find most of this out -- I have to backtrack, I'm
6 sorry. We had to call in our own engineer because their
7 engineer said we didn't have any problems. We had a three
8 page report from our engineer who we paid \$500 to do. He went
9 down and he pointed out quite a bit. And one of the things
10 was that we were missing two piers, so therefore that
11 explained why our floors every time you walked across them
12 were creaking. Nobody else heard this, but us -- nobody being
13 the builder's people. They sent builders in who said that
14 they jacked up our floors with shims, yet they didn't go down
15 the crawl space with any material, no hammers, no nails,
16 nothing. I want to know how they did this. Of course, we're
17 of age where we can't go up and down in this crawl space to
18 check it out, so we took their word for it and we thought we
19 were dealing with reputable people, and we find out later
20 they're nothing but -- and I hate to stoop to this level --
21 bullshit artists. That's it. They were that. They were good
22 at that. Anyway, after doing the crawl space, replacing the
23 duct work -- well I'm going to repeat myself and i don't want
24 to do that.

25 SENATOR MADDEN: Maria, you had mentioned that you

1 had tried the home warranty --

2 MS. COLKITT: Yes.

3 SENATOR MADDEN: -- and I mean, like many of the
4 residents in Holiday City that went through this I know it was
5 basically just a waste of your time for the most part, but
6 could you --

7 MS. COLKITT: They threw our claim out the door
8 because they said we had no claim, everything was fine. Then
9 -- I don't know if this --

10 SENATOR MADDEN: They being the builder?

11 MS. COLKITT: The home warranty people.

12 SENATOR MADDEN: So the insurance company, I guess
13 they're saying you don't have any.

14 MS. COLKITT: Yes, they said that everything we
15 asked them --

16 SENATOR MADDEN: And how did they determine that?
17 How did they determine that you do not have a claim? On what
18 basis did they say that?

19 MS. COLKITT: I'm trying to remember if they were
20 one of the people that sent someone down. We had so many
21 people walking --

22 SENATOR MADDEN: Just under your microphone there's
23 a little -- just if you could press the button. There you go.

24 MS. COLKITT: Oh. We had so many people walking in
25 and out of our home at this point I really forgot how they

1 found out --

2 SENATOR MADDEN: Okay.

3 MS. COLKITT: -- but we do have letters that state
4 all of the items that we asked them to back us with.

5 SENATOR MADDEN: Okay.

6 MS. COLKITT: They weren't valid. So they couldn't
7 do anything for us. They kept telling us go back to the
8 builder, and of course that was a lost cause because when we
9 went back to the builder we got oh, well this is fine.
10 There's nothing wrong. It passes code. I don't know where
11 they were getting their codes from because township's codes
12 were different.

13 SENATOR MADDEN: Thank you, Maria.

14 MS. COLKITT: But anyway, why I'm here is I need to
15 bring this to your attention so that somebody, somewhere,
16 somehow -- and I'm hoping it's you people that are sitting in
17 front of us today -- has the power, if that's what it takes,
18 to do something about this, not just for me because I heard a
19 lot of horrendous stories here today so you know I'm not
20 alone. Something needs to be done. We need to get these laws
21 passed and put these people in the places where they belong,
22 not leading other people astray the way they have been and
23 causing these hardships. This is supposed to be our golden
24 years. I mean, we gave up all the gold we had by buying this
25 house and it hasn't proved anything because we're not really

1 happy here. We're existing. I mean, we had to do a lot of
2 things that we should not have even addressed because that's
3 one of the reasons we bought a brand new home. We didn't want
4 to go into an older home and have to start fixing, fixing,
5 fixing. Those days are gone. Our lives are half gone. So I
6 mean, we want to get on with, you know, a good life if we --
7 if that ever comes, and we're hoping that you will help us.

8 SENATOR MADDEN: We understand. And I mean, that's
9 really why we're here. This -- we are taking this show on the
10 road, so to speak, because many people cannot get to Trenton,
11 and we happen to have a two hour Committee meeting in the
12 State House with limited times and seats. So the reality of
13 it is in Senator Rice's area and my area, Central Jersey,
14 there's other -- there's builder's names who have been
15 mentioned today that build throughout the state. The SCI
16 reports there's been an awful lot going on. Some of it is in
17 litigation or has been litigated and for people that came to
18 us governmentally there's so much you can do and when things
19 are in litigation it's a different branch of government, a
20 separation of powers. We can't get involved in that
21 component, but from a Legislative sense this is what we are
22 doing. We have taken a -- basically have embraced a
23 leadership. This is the committee to address it. What this
24 means to us is we -- it means we need to write bills. As
25 Senator Rice said in the very beginning when he first spoke on

1 his preamble, we also need to be able to get 21 votes in the
2 Senate and 41 votes in the other House of the Assembly. And
3 that just being said, it's a tricky item. You would think
4 that everybody would look, we would write a great bill and we
5 would get 40 votes on it. That's really our goal. What you -
6 - what I would ask yourself -- and I think that a lot of
7 people have been doing -- there's a movement to press a lot of
8 the representatives in all 40 districts so that when this
9 comes up I actually think we're going to be very successful.
10 And whatever the final resolution is we have some things we
11 have to deal with regarding the state itself actually, the
12 other branch being the Executive Branch because they're going
13 to be the ones that are in power to enforce whatever
14 Legislation we write, that kind of thing. But thank you for
15 our testimony and you did a great job.

16 MS. COLKITT: Thank you.

17 SENATOR MADDEN: May I ask you, your medical
18 assistance there for breathing, is that as a -- did that
19 happen after you moved in your home?

20 MS. COLKITT: Yes.

21 SENATOR MADDEN: I'm not asking you to testify that
22 it's related to it, but I was just -- Okay, thank you.
23 Senator Rice, do you have any questions?

24 SENATOR RICE: I'm just going to just make a comment
25 and then I'll listen to the other two speakers just so they

1 don't have to wait. I'm concerned about a couple of things.
2 By the way, I do come from the 28th District and 1,300 of
3 Society Hill Hovnanian units was built in the City of Newark.
4 For those who don't go to Newark don't listen to the radio.
5 You're going to hear about gangs. But if you haven't been in
6 Newark since the old days every corner you turn there are new
7 houses going up, the Waterfront is going up, but one of the
8 spark plugs for people to look at in Newark was a 1,300 unit
9 project that was built in phases. And we've been complaining
10 too, fire walls not proper, but people didn't know this until
11 they -- until something happened. We still don't know how
12 many more problems we have because we haven't gotten behind
13 walls for people -- problems yet. And so I am sensitive, but
14 my concern is that what we're doing here is going to set the
15 stage, as many of you have suggested, to make sure other
16 people don't have these problems going into the future.
17 That's fine. But I'm real concerned now in terms of the
18 hearings we've been having about the immediate need. I've got
19 to figure out -- and I'm not sure if I can -- I have to try to
20 talk with my colleagues. You know it's nice to say you're in
21 litigation, but litigation could take forever and could be
22 costly and you may have to go that route. But it seems to me
23 if you have this type of a -- problem -- and maybe I'm
24 thinking too much like a cop, that's the problem with senator
25 Madden and I -- you know, it seems to me that you reach an

1 element of criminality here -- and the question is is that,
2 you know, at least you're -- of it, why it's not something
3 else. The SCI don't bring charges. The SCI is to investigate
4 and to make recommendations.

5 Now I'm a little concerned about where the authority
6 is in all of this -- and I don't remember the articles on it,
7 I have to go back and research it -- because if, in fact, some
8 of these entities were not looked at from the other side then
9 as an individual senator I may have to go back and request an
10 investigation into some of these companies. If there is an
11 investigation going on then that's fine, there's nothing we
12 can do. But I'm really concerned because it seems to me
13 someone should be antiing up some resources to try to abate
14 this stuff or send in people to fix this stuff correctly
15 because when you have that many units -- I'm listing all the
16 different Manalapan -- you know, Holiday City, you know,
17 Sicklerville, you know, which is now in Stockton and then
18 Stockton changed to something else, and you got the Newark --
19 and I'm starting to be concerned when you only have, in most
20 cases it appears to be two, three, maybe four developers. It
21 seems in cities like Newark when we build our house in -- we
22 call an -- a vacant lot because that's all we have -- because
23 the laws changed and allow us to do that now -- when we have a
24 problem we can get the developer to fix it because it's a
25 house, there may be three units in it, but it's a house. But

1 when you start to build whole communities -- and to be quite
2 frank about it, Senator, at one time I got angry because I
3 said, you know, they're picking on my district in Newark
4 again. You know, they come here and just build any kind of
5 crap they want to build and sell it and get away, and then I
6 picked the paper up and started reading the same developer
7 building million dollar homes with the same problems, then I
8 felt bad for New Jersey. I felt relieved they weren't just
9 picking on us for a change, but it just goes to show that
10 that's a bad sign right there, whether the house costs less, a
11 little, or costs a whole lot the developers seem to have the
12 same problem, and that's a bad sign. But -- I didn't mean to
13 deviate, but I think we're going to have to have some
14 discussion on that.

15 MS. COLKITT: No, that's fine. I have one other
16 thing to point out. I always felt since we ran into this
17 offended personally and along with everybody else, but my main
18 feeling is we gave this builder good hard earned cash. Nobody
19 gave it to us; we worked for it. And it was not counterfeit
20 money, but we certainly got a counterfeit home. That's it.

21 SENATOR MADDEN: Thank you, Maria. If you could
22 pass the mic to your left to Susanne. Again, Susanne, if you
23 could state your full name and spell your last name for the
24 record before you testify.

25 MS. BALDINO: My name is Susanne Baldino, it's

1 B-a-l-d-i-n-o, from Holiday City. I just want to know, are we
2 cut for time I mean, can we -- is there going to be time for
3 all of us to say what we wanted to say?

4 SENATOR MADDEN: We are doing fine.

5 MS. BALDINO: Okay, thank you. I just -- all right.
6 I just wanted to make a correction. First of all, what
7 Senator Asselta had said, he mentioned -- and I had this
8 already written down -- he mentioned that the -- about the
9 master plans in the different townships. And I wanted to --
10 and I was sorry that he left, too, because I wanted to ask him
11 about this is that in Holiday City the township did not want
12 the builder to build in our township. And what the developer
13 or contractor -- I don't know why there's this discrepancy, I
14 can't understand the difference -- to me the name of the
15 builder is the builder and the contractor. He goes all the
16 way down the line. It's his name on the top. But they went
17 and went to a judge and had the judge overturn the ruling of
18 the township. So there's no protection. And one of my
19 questions here were sites, that the biggest problem -- the
20 starting of the problem is the site that's chosen, and I don't
21 see how there isn't -- you know, if you want to put it in your
22 bill that where they should start really being -- looking at
23 it closely is the site chosen. There has to be oversight.

24 And I don't like the DCA -- I'll try not to jump,
25 but I don't want the DCA to have anything to do with the

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1 homebuilding because they have not cooperated and in many
2 cases they have caused the problems by not addressing these
3 wonderful people that have health problems. These people have
4 health problems and the DCA has known about it and has done
5 nothing. And I'm going to bring this point across again.
6 There was a woman who now passed away who was a resident of
7 Holiday City in a wheelchair dying of cancer and we had to
8 make so many phone calls and even the Health Department
9 doesn't help you -- that she had to go to the bathroom in
10 plastic bags because they would not fix the bathrooms in those
11 homes. And two women had to do this, but the one woman is
12 still living, but the other woman was dying in a wheelchair
13 and we couldn't get anyone to force the builder to at least
14 fix the toilets in a brand new home. And I still can't get
15 over that because that's what set us off angry, my husband and
16 I, and Mr. Obert, and then Frank and his wife, we got so upset
17 that a dying woman can't even go to the bathroom in a brand
18 new house and it set us off and it got us the energy we needed
19 to continue to this day to fight not only the builder, but to
20 fight the DCA. So in your bill please put something strong
21 down that the DCA must not loosen the laws, that after even a
22 home is built they loosen the laws on the codes, that they fix
23 our house substandard to the code that was originally for the
24 home. Our homes have not been in code. You know all the
25 homes that have been fixed. We've been at the SCI hearings

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1 and we've had a lot to do to -- input there.

2 And I want to note also -- and I have stated this in
3 Mr. Madden's office -- not the exact words, but -- if we're
4 paying the highest property taxes in the country for our home
5 and we're living in homes that are out of code, they have
6 serious defects, and they have health defects that people are
7 now in very serious conditions, where are our state officials
8 to help us with these defects? Why do we have to go to a
9 lawyer? We moved from New Jersey because of the -- from
10 Pennsylvania to New Jersey because my husband and I talked
11 about it and we said gee, New Jersey has wonderful laws, let's
12 go there. They have a ten year warranty. We'll be protected.
13 We won't have to worry about corruption in New Jersey. And we
14 moved there and we bought this home and then we ran into these
15 wonderful people that have had these problems along with us.
16 I'm not going to go into the defects of our home. I'm more
17 concerned with the -- with -- we were one with a fraudulent
18 CO. I'm more concerned with the builder being held
19 accountable. You're making strong laws which are wonderful.
20 They should be -- the people that they hire should know how to
21 put a nail into a wall. We know more of how to build a home -
22 - and I'm only -- I don't build homes, but I know more of what
23 in the world the people that they send into the home to build.
24 A representative from Holiday City says to us in my own home,
25 which I had to keep from throwing him out -- he said when we

1 were trying to go over the things that were wrong with our
2 home that they denied everything, what do you want for
3 \$120,000. They are his exact words. And I had to keep myself
4 from throwing that man out of my home.

5 Now the enforcement -- there were laws on the books
6 when we bought out home. The DCA has the responsibility to
7 help the citizens, to help the consumer. We went to them
8 honestly and we had to fight every step of the way. We went
9 to -- Maria mentioned, we went to Mr. Andrews' office. He
10 told us that he would get -- we asked that -- we wanted
11 reputable people to come, not their contractors, we wanted
12 regular outside contractors to come. We wanted Susan Bass
13 Levin to be involved. He said he would take care of it. What
14 we got from -- I don't know if it was directly from her, I
15 don't remember
16 -- but we have all the paperwork, I could get the name -- we
17 were asked to give our problems again, write our problems
18 again, and send them to the DCA. Three hundred and twelve
19 people responded from Holiday City alone. We in good faith
20 sent all this information, took all the time to go through
21 this again, all the emotional upheaval to go through this
22 again, we mail them out. We have to this day -- and you,
23 Senator Madden, have heard this before -- we have to this day
24 to find out where these 312 people that responded, where is
25 their complaint. Where did the DCA not even -- not only did

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1 they not even help us, we don't even know what they did with
2 the paperwork when they wanted a followup on this.

3 So I keep on making the same point. I'm concerned
4 with like the Health Department. I'm concerned with the DCA.
5 I'm concerned with the township, with the sites. I'm
6 concerned with the ability of the builders to overrule
7 anything, the DCA to lessen the codes. I'm looking for an
8 enforcement on the laws -- someone already mentioned it today
9 -- enforcement on the laws that are on the books besides the
10 good laws that I've read of what you have intended to put into
11 place. I mean, they all sound good, but what happens after
12 the laws are made to protect, you know, the homeowner. And I
13 think that's really as much as I think I could say at this
14 point.

15 SENATOR RICE: Through the Chair, do you have copies
16 by chance of the "300" complaints or people who signed
17 complaints?

18 MS. BALDINO: We have names of people, but I don't
19 know if we have that. Yes, we do have that.

20 SENATOR RICE: Would you get those copies -- make
21 copies and get copies to myself and to Senator Madden? If you
22 don't have a copy machine go to Senator Madden's office, he'll
23 be happy to make copies for you. It's your money. He's
24 closer.

25 MS. BALDINO: Okay.

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1 SENATOR MADDEN: If I may, for the benefit of
2 senator Rice, also, Susanne, if we could just -- I'm doing
3 this off the top of my head because I know we've met I think
4 at least twice in my office and a couple times out at the site
5 there in Holiday City. Roughly my recollection in dealing
6 with DCA -- and I've had them physically -- one fella his name
7 was mentioned a couple times, Connelley -- but I've had him
8 and his team in my district office, the one on Johnson Road in
9 Washington Township, at least physically they were down twice
10 there. I know we were in the DCA Building, also. But the
11 long and short of it is there was an issue when I first got
12 involved -- I think I was getting involved probably on about
13 List Number 3 or something because when I said hey look, you
14 know, I'm starting from ground zero, it's my first year in the
15 Senate so I got to have base, you know, and we went and made
16 copies. And I think the number two hundred and something
17 sticks in my mind, like 240 or something, does that sound
18 right?

19 MS. BALDINO: Yes, that was the original --

20 SENATOR MADDEN: Yeah, and then --

21 MS. BALDINO: That was the original meeting with
22 Mayor Duffy that started this.

23 SENATOR MADDEN: So then we -- what happened then,
24 Senator, basically DCA was given this list. I held them
25 accountable to it. They went through each one saying -- I

1 think the problem was -- I remember some of the people -- some
2 of the residents what they had done is they had signed a piece
3 of paper that the builder had in possession saying that all
4 the repairs had been completed and they had not been
5 completed. It was just much like how the one Sonia had
6 testified, hey, I got this thing in the mail, I'm confused, do
7 I sign it, don't I,
8 and I think that happened. We're talking about an age
9 restricted development. So there were some issues like that
10 and those people are very hard to help. And then there was
11 discrepancies about some of the repairs had -- let's just say
12 you had ten things on your list and they show up and they go
13 to fix three or four, they do that or they could fix all ten,
14 but when they leave they left you two things where they put a
15 -- like a ladder through a wall and now you're left like hey,
16 what about these, and they say well that wasn't on your
17 original list, and just kept putting the people through this
18 catch 322 circle. That all being said, and then at one point
19 I -- once you went into litigation it just became that whole
20 issue about separation of powers, we're in the Legislative
21 Branch, we can only -- now it really restricted somewhat what
22 we could do as Legislators. And I think -- I don't want to
23 speak for them and use the term scared them away -- but I
24 think that really shut down a lot of the actions from DCA --
25 and I'm not taking this like it's the absolute. But from my

1 Legislative recollection on this issue knowing that the SCI
2 hearings were coming up and that you did testify, though I
3 wasn't there, we were well aware that you testified and what
4 you had testified to. There was a debate about whether we
5 should or should not appear, but I think for myself at that
6 particular point it was just -- it worked out best because we
7 knew we were monitoring the results and going to be doing
8 something. And that's really where we are today.

9 Senator, if you get a list of 300 plus people who
10 mayor may not have some of the repairs I think as you delve
11 into it you'll find out that because of the bureaucracy in
12 which we live and the issues between the builder that list
13 somehow, not rightfully so, but somehow, will be cut down to
14 some number as we keep on going. But I'd be more than glad to
15 assist in making those copies, taking the file that I have,
16 which is quite thick, back in the office and assisting Senator
17 Rice in trying to advance this, you know, going back and
18 fighting the fight again, if possible. But I think the
19 litigation might be a problem for us.

20 MS. BALDINO: Can I just ask --

21 SENATOR MADDEN: Yes, ma'am.

22 MS. BALDINO: Can I just ask a question? Can you
23 find out from the DCA if they can supply you with the names?
24 We took the time.

25 SENATOR RICE: Well I'll do it. Let --

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1 MS. BALDINO: Can the DCA supply you with the names?
2 Maybe they'll find the files.

3 SENATOR RICE: Not cutting you off. See the reason
4 I want them because I want to find from DCA why did you not
5 respond back to these people. See I'm a very funny type of
6 guy in terms of my position on things. My attitude is like
7 respond back to me, just tell me no. Tell me to go to hell,
8 but at least say something to me. But the gentleman back
9 there said I didn't write him. Now I'm going to check because
10 I remember doing a letter to the letter -- and that's about
11 two months ago and I sent a copy also to DCA, but now I got to
12 find out from my staff how come he didn't get a communication
13 -- a cc. But the point is tell me something. I mean, that's
14 the problem I have with like DEP. You know, the lady was
15 talking about you can't walk on grounds. Well you know what,
16 I don't know if I can walk or not. I'll wait for your answer.
17 Tell me no so I can deal with my options. Tell me yes so I
18 can deal with my options. You know, you're in litigation
19 anyway, but the point is is that at least respond and say
20 you're in litigation now so we can't go any further because of
21 litigation. And that's the only reason I wanted names and
22 stuff. I want someone to respond back to me as Chair of this
23 Committee out of respect -- for the members on this Committee.
24 And they should have responded to the Senator the same way, in
25 writing, and say I'm getting back to -- here's our situation,

1 we're not going any further for this reason, but here's where
2 we are.

3 You know, and I also want to go back because I was
4 looking at this document, Senator, the SCI document, and I was
5 wondering how come -- and there may be an investigation going
6 on criminally, but I'm not sure because it looks like the
7 Attorney General kicked the information down to the SCI to do
8 an investigation internally, but in the SCI report they talk
9 about fraud. So now I got to find out whether or not they're
10 going to talk about fraud, did they get a report back to the
11 Attorney General and say go in there and look at some of these
12 entities and see what that's about. I mean, so se A goes to
13 B, but we don't -- I got to put the connections together. And
14 I hate to go back to playing cop again, but I get very suspect
15 about some of the things that's happening and how to resolve
16 them.

17 Our job today is to deal with this Legislation. I
18 can't say that I can help with your immediate problem, but I'm
19 committed to going back, asking some questions and trying to
20 force some answers to this Committee about those questions.
21 There may not be grounds on our side for a criminal
22 investigation, even though it sounds like it is. The Attorney
23 General because a lot of these dollars may be federal dollars
24 -- I'm not even sure -- the U.S. Attorney General may decide
25 that he's not going to go further with it, so it all may wind

1 up being a legal process, but because this is not new, the
2 number of years involved here, I want somebody to give me some
3 answers. Let Christie say well, yeah, we put it over there,
4 we don't intend to investigate it. Why not? Well I don't
5 have to tell you. Fine. Okay. It's the Attorney General. I
6 don't have to -- fine, but at least tell me something because
7 I'm getting a little concerned that I'm trying to change the
8 laws to help people moving into the future and then meanwhile
9 I've got people suffering right now that's waiting for relief
10 and can't seem to get relief. You understand where I'm coming
11 from? You know, it's like me trying to prevent death and I
12 got people dying everyday. You know, it's my job to take care
13 of the immediate as well as the future, and I don't want to be
14 one way about this if I can help from my perspective.

15 MS. BALDINO: And that's why we thought the DCA
16 could have been more helpful to us way back where we don't
17 have to get -- people can't afford lawyers so we want the --
18 something in that law and for people to get copies of those
19 laws so we know what our rights are.

20 SENATOR MADDEN: Okay. Thank you, Susanne. And now
21 we'll hear from Gary Baldino. And at your request, Gary, you
22 are going last just like you wanted. Okay.

23 MR. BALDINO: Well good afternoon and I appreciate
24 you coming out to see us. However, you know, what else could
25 I say. I mean, most of the people said everything today.

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1 I'm going to try to give a summary of what I think the
2 Legislature should do in reference to these laws that they're
3 proposing. I just want to know one thing. These laws that
4 you are proposing are just proposals, am I correct in assuming
5 that?

6 SENATOR RICE: For now.

7 SENATOR MADDEN: Yes, they are bills that are
8 introduced and --

9 SENATOR RICE: For now, yes.

10 MR. BALDINO: Okay. So what I think here must
11 happen -- you know, there's what they call the language of the
12 law and, you know, like shall and may and could and should.
13 You know, when these laws are passed we have to have more of a
14 fight in them like must and will. You know, this is what I'm
15 talking about when you do ask for penalties and imprisonment
16 and so forth. But let me just get off of that for a minute
17 and carry on what my wife said about the DCA. I have in my
18 hands here -- and I think I brought that up to your attention,
19 Mr. Madden -- or Senator Madden, rather -- in reference to
20 when they first came to inspect our homes, what they did for
21 (indiscernible) they had this little form made out and they
22 went to each home and they had an individual by the name of
23 John Tanewski (phonetic) who is just a carpenter. He came
24 over said I'm going to inspect for water and mold. So I said
25 well, you know, by what authority. He says well, you know, I

1 get this letter here -- and I'll pass it onto you, Mr. --
2 Senator Rice, so you could see this -- his name is on this
3 letter. Now after he did this and we went to Trenton and we
4 met with Connolly and I saw Mr. Walford (phonetic) and he had
5 wrote a letter and in this letter that's written on the 29th
6 of June, 2001, he says -- I quote, he says, "An analysis of
7 all code related issues, including water problems, will be
8 performed by a licensed engineer or architect and plans for
9 the remediation will be certified by a licensed engineer or
10 architect." Now here goes the DCA again. I'm just going to
11 give you some facts. I'm not going to tear them down, but I'm
12 going to give you facts. The letter sates you can't do that.
13 This letter states with Deutsch's name -- the Bureau of
14 Homeowner Protection, the Chief, Mr. Peter Deutsch -- he sends
15 Tanewski over to look. Now I mean, if that's not a conflict
16 of laws within their own organization. That's one of the
17 reasons why my wife brought up the DCA, because we didn't feel
18 they had enough punch in them, you know. They seem to be
19 lackadaisical, like you know, oh, he committed an error, but
20 that's okay. We're not perfect. That's what they told us,
21 we're not perfect. But look at all these complaints you've
22 been getting throughout the entire state. Now gee, you have
23 to really peer into this and see well, is that particular
24 organization really doing their job or are they just handing
25 it off -- like you said, hand the football of to somebody,

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1 carry it down, like, you know, it's not my responsibility.
2 Well whose responsibility is it? So I'd like you to -- if --
3 could you take -- excuse me -- could you take this letter and
4 have Mr. -- you know -- make a copy (indiscernible). That's
5 just a fact. That's documented, okay.

6 Also, in reference to the laws, I read these laws to
7 the best of my ability. And there are some -- you know, there
8 are some things in the laws that are very good and -- you've
9 made some great advances. In fact, if we weren't here we
10 wouldn't be in this position now speaking here about these
11 laws. But there are a few things like, first of all, if you
12 go to 1824, Statute -- Senate Law 1824, Page 3 of 5, Section
13 F, it says, "New homebuyers shall have the option of whether
14 to include an alternate dispute resolution clause in a
15 contract with the builder. A new home contract shall not
16 require a new home buyer to give up their right to pursue
17 redress through a warranty or through litigation with regard
18 to the contract or defects of any type." Now I would assume
19 this is going to mean that we have a right to sue the builder
20 after all other issues have failed. Am I correct in assuming
21 that or is that what I'm trying to read?

22 MR. ROTHBERG: My understanding is right now --

23 MR. BALDINO: I can't hear you.

24 MR. ROTHBERG: There's a point in the new home
25 warranty process where you have to choose between suing and

1 going through the warranty process, right?

2 MR. BALDINO: Right.

3 MR. ROTHBERG: So I think what this is saying is in
4 a contract itself you can't require an individual to give up
5 his right to sue if he goes through a warranty.

6 SENATOR RICE: Right.

7 MR. BALDINO: Is that what -- is that what that's
8 trying to say in the language of the law? Well I know what
9 would help us here, I think, is -- that's good in itself, but
10 I think what you should do is you should put that no statute
11 of limitations would apply. This is -- could you make a note
12 of that, that that could be in there because it doesn't say --
13 because don't forget, a lot of these lawsuits has to do with
14 statute of limitations and if you miss out you just don't get
15 a chance to sue. So I think this is very important this
16 section should state without any statute of limitations and
17 individual homeowner because of the defects of the home has
18 the right to sue a builder and/or a developer, whatever,
19 without no statute of limitations that would apply here. This
20 would make it easier for me to understand it. You know, if
21 the warranty doesn't work or arbitration doesn't work I always
22 have that lawyer and I have the legal system to help me, okay.
23 I mean, does that kind of plain. Senator Rice, the --

24 SENATOR RICE: I'm on board.

25 MR. BALDINO: Okay. All right, so that's one of the

1 issues. So I'd like to have that no statute of limitations
2 please be in that law. That's needed. That has to be, okay,
3 because of the situation we now face. All right. Also, as I
4 go through -- I think I handed you some papers, I believe, one
5 that was from Robert J. Smith way back in, I believe -- what
6 was the date -- 6/14/2004 -- there's a copy on each respective
7 desk there. Okay. Yeah. Okay now I'm --

8 MR. ROTHBERG: I have one copy of that.

9 MR. BALDINO: Do you have copy?

10 MR. ROTHBERG : I have one copy of that.

11 MR. BALDINO: Yeah, well I think I gave it to
12 Allison to give to everybody. I gave enough copies to
13 everyone You sure you don't have it hiding somewhere on
14 there?

15 MR. ROTHBERG: I have three copies of a letter to
16 Governor Corzine, I have three --

17 MR. BALDINO: All right, it will -- well look --

18 MR. ROTHBERG: Oh, hold on. I'm sorry. Here we go.

19 MR. BALDINO: It's Robert J. Smith, yeah. Okay. Well if
20 you look into this -- these are ones I proposed in 2004 2004
21 when Robert Smith was an Assemblyman at that time. He took
22 the ball and tried to carry it for us. Now what I'm trying to
23 get through here, too, is that the section involving when
24 these particular builders, you know, if they don't build right
25 they're just told to shut down and they move, they go to

1 registration and pay \$200 and they could build again. Well I
2 think-- you know, in the law I think what you've got to do
3 there is eliminate that \$200 registration. I'll tell you why,
4 because if we find that a builder has this much defects in
5 building he shouldn't be allowed to build any more in this
6 state. I mean, what's the \$200 got to do with it? That's
7 like a drop in the bucket to them. I mean, what we have to do
8 is -- that has to be eliminated. That cannot be any more. In
9 other words, what I'm trying to get across is that you give
10 the builder too much leeway, okay. We don't have any leeway.
11 All we have is us, homeowners, who try to deal with agencies,
12 and that's difficult in itself. However, that -- I believe it
13 says -- I think it's Item Number 6 -- the law in which now in
14 place that allows anyone to apply for a building permit and/or
15 license must be eliminated without question. The mere \$200
16 fee to register must no longer apply. So I think you better
17 consider that. Now also in relation to that, when you go down
18 to 7 -- go to 7 -- in relation to the 6 proposal homebuilders
19 would have to be board certified and licensed to construct
20 houses in New Jersey. Plumbers and electricians are certified
21 and licensed, therefore construction of the foundation of the
22 frame of a home also would require certifications and
23 licensing for this builder. Now, of course, that's not
24 included. I mean, I know there
25 's plumbers and electricians that are board certified in the

1 state, but for a person that erects your home with a
2 foundation -- of course, you want to make sure the house
3 doesn't fall apart, you know, when you get in it. So what I'm
4 trying to say is that you should license and certify the
5 builders who erect the foundation up through the frame of the
6 home. That should be included in your bill. That's very,
7 very important. Because we don't know if the -- we don't know
8 if this builder is a good builder. How do we know? I mean,
9 now we know that our builder wasn't so good because of what
10 happened to us, but now we realize that this is very
11 important. I feel that -- you know, a plumber is certified.
12 I think some people mentioned that. An electrician is
13 certified. But gee, the person who puts up your home to live
14 in with a roof on top, he isn't certified and licensed. Now
15 that's crucial, so I think you should consider that in your
16 bill. So, okay. Now let me -- I'm still not finished. I got
17 quite a bit. Let's see. Oh yeah --

18 SENATOR RICE: I have a question for you.

19 MR. BALDINO: Oh, right,. Okay.

20 SENATOR RICE: I'm not sure -- I'm one of those
21 honest guys when it comes to articulating, okay -- I'm not
22 sure how that's going to fly with the votes per se in Trenton,
23 and I'm talking about now the certification of "foundation"
24 because that can mean a lot of things for a lot of masons, a
25 lot of other kind of things. But it seems to me if that

1 doesn't fly the one area that may fly is to require them --
2 and that's why I stepped out, I wanted to hear more from the
3 lawyer and the gentleman leaving about the structural
4 engineer. See sometimes you may certify me and I may look
5 like I'm doing a good job pouring concrete, digging a hole,
6 putting the foundation in, but it's the structural engineer
7 that really certifies that stuff -- but my point is we hear
8 your comment. You need someone more that just -- you said a
9 pickup truck just pouring concrete and laying some two-by-
10 fours and framing and not knowing what you have, whether the
11 concrete mix is mixed correctly or not, the right temperature,
12 the right amount of water, and stuff like that. Okay.

13 MR. BALDINO: Well okay. Well all right, then we
14 (indiscernible) can we go to -- let me see Bill -- this is the
15 enhances protections for new homebuyers, 1825, Page 6 of 8,
16 down I think -- all the way down at the bottom it says, in the
17 event -- it says right below C.46:3B-6, it says, "In the event
18 that a serious construction defect is found to exist a
19 commissioner shall provide the owner with an option to repair
20 all defects with a licensed contractor of the owner's choice.
21 If a reasonable number of repairs attempts fail to cure a
22 serious construction defect that commissioner shall purchase
23 the home from the owner at the amount not less than the
24 purchase price that was paid by the owner adjusted to reflect
25 increases or decreases in market value" -- which is important

1 -- "plus all relevant expenses including, but not limited to
2 costs related to purchase, resolution of the issue, legal
3 representation, inspections, expert analysis. The
4 commissioner shall hereafter institute legal action against
5 the builder for recovery of the amounts paid to the owner plus
6 any additional costs. Amounts recovered pursuant thereto
7 shall be deposited into an appropriate warranty fund." Now
8 what I gather here is that you're trying to say -- which is
9 new Legislation -- underlying means new Legislation, correct?
10 Am I right?

11 SENATOR MADDEN: It's amended verbiage from the
12 original bill.

13 MR. BALDINO: Yeah, I mean this is new Legislation,
14 correct?

15 SENATOR MADDEN: Yes, this is what's going to
16 happen.

17 MR. BALDINO: That's what it says. Okay. Now, what
18 I'm trying to say here -- I think Mr. Trimble, the attorney,
19 mentioned about the price of the home. So if we have serious
20 defects, according to what I'm reading here -- that hopefully
21 gets Senate to bill -- so we could say to the commissioner
22 that we have a faulty home here that cannot be repaired you're
23 saying that the state is going to buy back the home at the
24 prices of today's real estate market plus all costs and then I
25 think what they do is go after the builder to put back in

1 their fund, am I -- something -- is that right? I mean, is
2 this what this is reading?

3 SENATOR MADDEN: Yes, but that's also a paragraph
4 that's in a debate right now with the state as to how, but the
5 bottom line -- if I may, the bottom line is is that we want to
6 have an avenue in place that allows the homeowner to get out
7 from under their home without financial loss. If the market
8 went up, as we heard people testify -- in a year's time, I
9 mean look what a house went up in value. There's legal fees
10 and some ancillary costs. We want them to be able to be made
11 whole. The avenue of whether or not the state would purchase
12 it and then go after the builder or if we're going to put it
13 on the builder and cut them down, this is one -- I'm trying to
14 give you -- look, this is what we're trying to get to. This
15 is the first draft on the language, but how it's actually
16 going to play out to get us here is still under debate right
17 now.

18 MR. BALDINO: Okay.

19 SENATOR MADDEN: And again, Gary, not that -- for us
20 it's about getting 21 votes in the Senate and it's about
21 having the -- obviously you want to have the support of the
22 commissioner or commissioners involved because we're also
23 going to need the governor to sign the bill in the language in
24 which we present it to him in.

25 MR. BALDINO: Okay, well -- well that's all fine and

1 good, but I think that, you know -- I appreciate your effort
2 and I think that, you know, you could make a name for
3 yourselves if you try hard enough. I mean, do you realize if
4 New Jersey passes these laws you ma have the entire country
5 following suit, so it's incumbent upon yourself to fight for
6 these laws. And, you know, if you're going to have a fight in
7 the chambers I'll be there to help you. But the point is --

8 SENATOR MADDEN: Well, Gary, if you look at the two
9 names at the top of the bill, the primary sponsors of the
10 bill, they are the two senators that own the bill.

11 MR. BALDINO: Right. Okay, good Well that's fine.

12 SENATOR MADDEN: Okay. This bill doesn't get a --
13 this doesn't get an and, a but, or an or added to it without
14 our endorsement.

15 MR. BALDINO: Okay. Well that's good. Now let me
16 go on to something else. Also, if you look at the other page
17 I gave you I made some more suggestions. Now this is
18 important. It's that written type on your -- that I just
19 wrote last night and I figure there's a couple of points I
20 think that would help us as homeowners. We feel that this new
21 Legislation is going to be for new homebuyers, am I correct?
22 It's going to be for new -- when the new Legislation passes
23 it's only going to be for new homebuyers, correct?

24 SENATOR RICE: Right. It's new construction, right.
25 That's what we're dealing with.

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1 SENATOR MADDEN: New construction.

2 MR. BALDINO: Okay. Well here's what I said. Look
3 at Page Number 2, go to Item Number 4. So let me read this.
4 We strongly embrace the idea that homeowners who experience
5 major deficiencies in their home be grandfathered in the new
6 Legislation. Remember, they are the homeowners who diligently
7 pursued the officials by the State of New Jersey to
8 investigate the hardships they encountered where their homes
9 were constructed. So let's face it, we're the ones here that
10 went through all this trouble to get where we are today. I
11 hope that, you know, maybe you could finagle that in where we
12 could be grandfathered in as homeowners. I mean, that seems
13 fair and equitable to me I think. We've been through all this
14 trouble to get where we are.

15 SENATOR RICE: Well the problem with state
16 government, once again, to be honest, it's not always fair and
17 equitable. We need 21 plus votes. But what I will give you a
18 commitment to is that we'll go back and review it as a
19 committee and discuss it and see if, in fact, there's
20 something that we can do without creating additional problems
21 not just for you, but statewide, et cetera. Keep in mind when
22 we fix one problem often times we create another problem, and
23 that is not how fiduciary nor our leadership responsibility.
24 And one thing about leaders, it's nice to go around and kiss
25 the senior citizens and the babies That's not leadership.

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1 Anybody can get elected doing that. It's during these
2 challenges and times of controversy as Dr. King said, when
3 people may throw you out for making decisions, it's when you
4 lead. But you've got to be smart in leadership, too, as to
5 how do you get to your victory, and sometimes your victory
6 means tradeoffs, getting everybody behind you, special
7 interest, the governor, assembly persons, senators,
8 republicans, democrats, and then somebody is still not going
9 to be happy. But we give consideration to all these
10 recommendations and we'll relay them down based on what we
11 have, okay.

12 MR. BALDINO: And I just want to infer one thing,
13 that as the bill progresses down the line I think that the
14 people here today, the people that did testify today, and all
15 the other homeowners in the State of New Jersey, I think they
16 should have a particular part in the final passage. In other
17 words, we'd like to scrutinize when it finally goes to passage
18 to make sure that, you know, we weren't completely eliminated
19 from the language of the law as I explained today. So we'd
20 like to keep that open line of communication. I think I've
21 got that written so you could look at all my recommendations.
22 But I think the open line of communication between the people
23 who are here today and between their Legislature is very
24 important because of, as you said, you got to get so many
25 votes. So maybe if we are there to help you pass these bills

1 our inference in these laws will help other Legislatures
2 understand our condition and maybe most of the Legislation
3 that you are proposing and I'm suggesting will be a part of
4 this law. So I think active participation by not only this
5 hearing, but directly through the end of this bill as it goes
6 to final passage. We want to be a part of this so we want
7 open lines of communication between all representatives and/or
8 homeowners, and I think that's only appropriate because we do
9 pay the taxes that support 50 percent of the State of New
10 Jersey's income. That's a fact.

11 SENATOR RICE: Through the Chair, let me just say
12 this to you as Chairman of the overall Committee. First of
13 all, you have strong leadership with Senator Madden, and I've
14 said that to you before. He's one of our new and uprising
15 stars from my perspective. And I can say that because I've
16 been there 20 years, whether people like it or not, and I may
17 not be there after the next one, but the good Lord has blessed
18 me and the people thought I was doing something right. That's
19 the kind of person he is. He asks the right questions. He
20 likes to communicate. Even on this bill he is communicating,
21 he said well hold up now. I got some people -- and these
22 issues keeps coming up. So he doesn't just assume things; he
23 asks questions. And I think I could speak for him even though
24 he can speak for himself here. I can assure you that he's
25 going to let you know, if we didn't, when this bill comes up

1 for an actual vote. I probably will do one more road show on
2 the bill and then we're going to hold the vote in Trenton,
3 okay, where we have the full Committee on a session day. And
4 you know, any amendments or tradeoffs that may have to be
5 compromised going into that meeting we would make sure and I'm
6 going to ask staff to make a note particularly to have someone
7 on point, because I don't know everybody there, that can at
8 least receive that along with Senator Madden to get it out to
9 you, okay.

10 MR. BALDINO: Okay. Now just -- I'm just going to
11 be short. I think we brought up just one item about the law
12 end of it, the prosecution end of these laws and what happened
13 to us. I don't know -- it just slipped my mind. Who is the
14 Inspector General of the State of New Jersey?

15 SENATOR RICE: I beg your pardon?

16 MR. BALDINO: Who is the Inspector General of the
17 State of New Jersey? What's her name? I know there's a name.

18 SENATOR RICE: I forget his name. What's his name?
19 Inspector -- I don't know. We have a lot of new people.

20 MR. BALDINO: There's an -- she's a woman. She's an
21 Inspector General. She's a new office. She's the --

22 SENATOR RICE: Oh you're talking -- oh, no -- oh, I
23 know, you're talking about --

24 MR. BALDINO: No, no, I'm talking about -- I think
25 you mentioned, Senator Rice, about the legal aspects that we

1 could pursue and you were saying you're going to look into
2 that matter.

3 SENATOR RICE: Yeah, you're talking --

4 MR. BALDINO: But I did write to the --

5 SENATOR RICE: You're talking about Ms. Cooper.
6 You're talking about Ms. Cooper --

7 MR. BALDINO: Yeah, that's it.

8 SENATOR RICE: Mary Jane Cooper?

9 MR. BALDINO: Exactly. You got it.

10 SENATOR RICE: Okay.

11 MR. BALDINO: So I did write her twice about the
12 situation we face and I gave her quite a bit of information.
13 She wrote me back and said we don't have enough time because
14 we're worried about those -- the 80 billion dollars -- and she
15 said she didn't have enough time. So I just want to let you
16 know she said she was going to get back to me. It's been two
17 years since I had a response from the Inspector General.

18 SENATOR RICE: Okay. I'm going to ask staff to make
19 a note that I got to talk to the Inspector General, too, okay.

20 MR. BALDINO: Two years. I mean, I've got -- you
21 want to see the -- I'll send you the -- in fact, anything you
22 want I've got.

23 SENATOR MADDEN: Mr. --

24 MR. BALDINO: Yes.

25 SENATOR MADDEN: Yeah, if I can get a -- can I get a

1 copy of the letter you sent to her?

2 MR. BALDINO: Sure, whatever you need. Yes, I will
3 give you --

4 SENATOR MADDEN: -- so -- I mean just in fairness to
5 Senator Rice when he gets on the phone --

6 MR. BALDINO: -- I will give -- in fact, do you have
7 an address I could mail senator Rice or should I --

8 SENATOR MADDEN: Actually if you have a copy of the
9 response that would be great.

10 MR. BALDINO: Oh, I have -- I got responses to
11 everything.

12 SENATOR MADDEN: Okay.

13 MR. BALDINO: Anything you want I got.

14 SENATOR MADDEN: And that's --

15 MR. BALDINO: -- so if you need it -- and paperwork,
16 I've got it.

17 SENATOR MADDEN: Because they may have a memory
18 loss.

19 MR. BALDINO: Yeah. Well the point is you're saying
20 about the aspect, and this is what I wrote. So we did use
21 that avenue, but the avenue was closed and we did try to
22 write, I believe, the Attorney General then, Peter -- oh, what
23 -- I forget --

24 UNIDENTIFIED SPEAKER: Peter Harvey.

25 MR. BALDINO: -- Peter Harvey. See no evil Harvey.

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1 Anyway, we wrote him and I never got a response from his
2 office either. So you see that we are running into, you know,
3 a block here. Now somebody has to get that block and start to
4 move it, you know, in the direction that's going to help us.
5 So I hope that, you know, you're going to get up there and
6 you're going to fight for us because I'm going to watch every
7 move that's made, and I'm going to see if you're really going
8 to fight for us.

9 SENATOR RICE: I don't mind people watching me.
10 Like I said, I'm going to end on this note, I'm a Vietnam
11 Veteran.

12 MR. BALDINO: So am I.

13 SENATOR RICE: I've seen -- I think I've seen some
14 of my better days. If the good Lord doesn't bless me tomorrow
15 and I'm not here that's fine. I'm going to do what I think is
16 right on behalf of New Jersey. I'm going to do the best I
17 can. I don't mind being watched. Even if I make a mistake
18 and people criticize me or fight me for doing the wrong thing,
19 I don't have a problem being watched. I'm more concerned
20 about understanding your concerns so we can go back to Trenton
21 with them. And so, yes, watch us. I promise you nothing but
22 good will at this point. I promise you one vote at this point
23 and that's all I can give you. I'm not going to speak for the
24 senate President, I'm not going to speak for the governor, I'm
25 not going to speak for 39 other members of my house or the

1 others over there. I can assure you we're going to go back
2 and argue the case. And as long as I got Senator Madden at my
3 side, and we'll argue this case, I can assure you it's coming
4 out of Committee. In fact, the votes for Committee was right
5 here because Senator Asselta says it's important what we're
6 trying to do, unless we mess it up, and then it's our job. So
7 you're in good hands getting to third base.

8 MR. BALDINO: Yeah, but we want to go home.

9 SENATOR RICE: Well we ma get home, okay.

10 MR. BALDINO: We want to make a home run. We don't
11 want third base; that's not good enough. We don't score that
12 way.

13 SENATOR RICE: That's my point. We're getting to
14 third base, and that's the Legislature, that's getting it from
15 the committee, to one house, to the other house.

16 MR. BALDINO: Right.

17 SENATOR RICE: Then I'm kind of reasonably
18 comfortable with the relationships that I have and senator
19 Madden and others with the governor that he do understand this
20 and that's why he's putting a lot of checks and balances in
21 place just like the Inspector General, even though she didn't
22 get back. You know, everybody is overloaded because they're
23 new. But I think that if he's committed to having an
24 Inspector General, a public advocate, and all these other folk
25 if we can get a bill of accountability to him he should be

1 willing to support it, whatever form it's in, okay.

2 MR. BALDINO: Now just one -- I'm going to end it
3 right now. Just on a -- I just want to read something I think
4 that will culminate all we just said today, all these people
5 that did some hard testimony, very good testimony. Let me
6 read this. I have read the proposed Legislation made by the
7 Senate Bills 1824, 1825, and 1826 to the best of my ability
8 and concluded that the bills have made exemplary advances in
9 protecting New Jersey homebuyers in the State of New Jersey.
10 However, there are questionable aspects as to the language of
11 these bills, and I hope that the homeowners of New Jersey have
12 a chance to scrutinize the final passage of the Legislation on
13 new home construction. We, my wife and I, and numerous
14 residents of Holiday City have worked diligently in getting
15 where we are today. The residents of Holiday City at Monroe
16 have arduously pursued remediation of our complaints. These
17 complaints range from: (1)faulty home construction; (2)lack
18 of proper house inspections by township construction code
19 officials; (3)shoddy workmanship from the builder; (4)lack of
20 proper redress on our complaints; (5)unscrupulous arbitration
21 procedures in matters of home deficiencies; (6)lack of concern
22 by municipal, county, state officials as to our grievances;
23 lastly, a complete breakdown of the trust in the state agency
24 who oversees construction here in New Jersey. Since our
25 Holiday City residents initial meeting with township, county,

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1 state officials State Legislatures in the year 2001 to meeting
2 with Department of Community Affairs in Trenton, to meeting
3 with Robert Andrews, Federal Congressman, to meeting with
4 Adele Hovnanian, builder, Holiday City at Monroe, together
5 with local, county, state, and federal officials in Monroe
6 Township Municipal Building, to three SCI hearings in Trenton,
7 New Jersey, and finally here at Rowan College, exemplifies the
8 time and effort spent in rectifying our plight. We believe
9 that the end will result in landmark Legislation and hoping
10 that the future homebuyers in the State of New Jersey will see
11 the tide change by having the best interests of homeowners
12 realized through fair and equitable laws to be enacted. It is
13 the hope of all future residents in the State of New Jersey
14 that the proposed Legislation return the trust and integrity
15 of all state agencies administering to new homebuilding and
16 promote respect and admiration of its citizens. Please do not
17 let us down. That's all.

18 SENATOR MADDEN: Thank you, Maria, Susanne, and
19 Gary. Ladies and gentlemen, thank you for staying with us.
20 We know it was a -- it's been just about a five hour meeting.
21 Thank you for staying. I will tell you this, my Legislative
22 Aide Allison Philips is in the rear of the room. If you want
23 to be on a contact list to be aware of how these bills move
24 Allison will take your name and contact information. Much
25 like, Gary, my office -- I mean, Allison and Debbie were on

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1 the phone calling you specifically, representatives from
2 Chestnut Green, sawyers Creek, the people that we had in our
3 database, so to speak, to get you here or at least make you
4 aware of it. This is -- we're writing it, but it's your bill
5 and you are seriously affected by it, so what we will do is we
6 do like we do on many other bills, whether it's a smoking ban
7 or what have you, you will be abreast as to what goes on with
8 the bill. The bills are on our Legislative website. If by
9 some reason there was an amendment introduced on the floor
10 somehow and it was amended they are posted and under review,
11 also. But, Allison, could you stand and raise your hand. I
12 know a lot of people do know you, but -- I know we have your
13 contact, Gary -- information, but ladies and gentlemen, if
14 there is somebody here that wants further information after
15 today's meeting or something comes to light that you think I
16 should be aware of if you could just call my office at
17 Washington Township at
18 232-6700 we'll be able to take that information from you.
19 Yes, sir?

20 MR. BALDINO: I just want to say one thing before we
21 leave.

22 SENATOR MADDEN: Yes, sir? Mr. --

23 UNIDENTIFIED SPEAKER: Three hundred and twelve was
24 the right amount -- that's the amount of people that filed
25 complaints with mayor Duffy, that's what she told Rob Andrews.

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1 She also said she was getting complaints daily, do that number
2 should increase from 312 maybe to 500.

3 SENATOR MADDEN: Thank you, sir.

4 UNIDENTIFIED SPEAKER: You're welcome.

5 SENATOR MADDEN: Okay, ladies and gentlemen, the
6 meting is adjourned.

7 * * * * *

8 C E R T I F I C A T I O N

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