TESTIMONY OF DOMINIC GUERRINI

Philadelphia City Council, April 11, 2014

I am Dominic Guerrini and I'm an attorney in the law firm of Kline & Specter in Philadelphia. We represent Laura O'Brien and the Estate of Albert Suh. Mr. Suh and Ms. O'Brien were tenants residing in Center City on January 12, 2014, when their fire escape balcony collapsed below them as they stood on it. As a result of the collapse, Mr. Suh was killed and Ms. O'Brien sustained serious injuries. Albert's death and Laura's injuries could have been avoided. I applaud City Council's quick response to addressing this issue and today I hope that we are moving closer to ensuring that a similar tragedy doesn't happen again.

As I believe you are aware, at the time of the accident and as of today, property owners in Philadelphia are not required to have their fire escape stairs and balconies inspected by a qualified professional. Today, property owners' obligation to tenants or individuals using their property is nothing more than the duty to take reasonable care that we all owe to each other. The Philadelphia Property Maintenance Code, Building Code, Existing Building Code, and Fire Code do not require inspection by a qualified professional or certification by the property owner that the common structures of the property (like the fire escape stairs and balconies) have been inspected and determined safe by a qualified professional.

The City of Philadelphia adopted the 2009 Edition of the International Fire Code in June 2010. The Philadelphia Fire Code establishes the requisite materials and strength for fire escape stairs and balconies and requires that the fire escape be maintained in good working order, but does not require inspection by a qualified professional. The newest edition of the International Fire Code, the 2012 Edition, requires that fire escape stairs and balconies be inspected by a qualified professional every five (5) years. IFC Section 1104.16.5.1 states, "Fire escape stairs and balconies shall be examined for structural adequacy and safety in accordance with Section 1104.16.5 by a registered design professional or others acceptable to the fire code official every five years, or as required by the fire code official. An inspection report shall be submitted to the fire code official after such examination." (emphasis added).

As of today, numerous states have adopted the 2012 Edition of the International Fire Code.[1] Massachusetts adopted a broad inspection requirement that requires inspection of structures beyond fire escape stairs and balconies. Section 1001.3.3 of the Massachusetts State Building Code states, "All exterior bridges, steel or wooden stairways, fire escapes and egress balconies shall be examined and/or tested, and certified for structural adequacy and safety every five years, by a Massachusetts registered professional engineer, or others qualified and acceptable to the building official; said engineer or others shall then submit an affidavit to the building official." (emphasis added). Further, the city of Boston provides a form affidavit that

[1] States that have adopted the 2012 IFC: California, Georgia, Kentucky, South Carolina, Utah, Washington, and Wyoming.

engineers complete to affirm that the fire escape and balcony comply with the statutory requirements.

Given that the Commonwealth and the City already adopted previous editions of the International Fire Code, adoption of the most current edition of the International Fire Code is a logical step in ensuring public safety. With the great number of older buildings in the City with older fire escape systems, routine inspections are a necessity. The updated IFC imposes a reasonable burden on property owners. Requiring an inspection and confirmation that the fire escape stairs and balconies are safe by a qualified professional protects the citizens of our Commonwealth and City and also protects the building owner.

From my review of The Philadelphia Code, the most appropriate place to add the requirement of an inspection by a certified professional every five years is in Section F-1011.1 of The Philadelphia Fire Code. *See* Title 4-The Philadelphia Building Construction and Occupancy Code; Subcode F-The Philadelphia Fire Code; Chapter 10-Means of Egress; Section F-1011.1. The new provision would be Section F-1011.1.4 and read as follows:

> **F-1011.1.4 Testing and Certification.** Fire escape stairs and balconies shall be examined for structural adequacy and safety in accordance with Section F-1101.1 by a registered professional engineer or others acceptable to the fire commissioner or the fire commissioner's designee every five years, or as required by the fire commissioner or the fire commissioner's designee. An inspection report shall be submitted to the fire commissioner or the fire commissioner's designee after such examination.

The reality is that both residential and commercial properties throughout the City have fire escapes. Accordingly, people working in a building with an eroded fire escape are just as much at risk as people living in an apartment building with an eroded fire escape. Given that this provision is within The Philadelphia Fire Code, the inspection requirement would apply to any owner of an existing building that has a fire escape. Although this may sound broad on its face, consider that Massachusetts requires inspection of all "exterior bridges, steel or wooden stairways, fire escapes and egress balconies and their structural anchorage." 780 CMR Chapter 34, Section 102.2.2.4.

I recognize that an inspection requirement may pose a small financial burden on property owners. However, the cost is small and the benefit cannot be overstated. Given that fire escape structures would only need to be inspected every five years, the cost of one inspection would be spread over a five year period. Further, the inspection requirement protects the public on multiple levels. First, a fire escape that is properly inspected is less likely to fail and cause serious harm to the public. Second, in the event that someone is hurt as a result of a fire escape

that fails, the inspection requirement would result in cost spreading of potential liability. Any small cost is incomparable to the benefit to the public.

I appreciate the opportunity to speak to you about this important public safety issue. I am ready and willing to work with City Council to ensure that something positive comes out of the tragedy that prompted this hearing.

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DOMINIC GUERRINI