

Transcript (unofficial) of July 2, 2018 Hearing on Leaf Blower Legislation 22-234

Mendelson: I'm calling this hearing to order. This is a public hearing of the Committee of the Whole. I'm Phil Mendelson, Chairman of the Council and Chair of the Committee of the Whole. This is a hearing on two bills: Bill 22-234, entitled the "Leaf Blower Regulation Amendment Act of 2017." And Bill 22-839, entitled, "Amplified Noise Amendment Act of 2018."

The stated purpose of Bill 22-234, that's the "Leaf Blower Regulation Amendment Act of 2017," is to amend the District of Columbia municipal regulations to prohibit the sale and use of gasoline-powered leaf blowers in the District of Columbia by January 1st, 2022.

The stated purpose of Bill 22-839, the "Amplified Noise Amendment Act of 2018," is to amend the District of Columbia municipal regulations to limit noise in the public space generated by electronic amplification. Bill 22-839 also would update the definition of a noise disturbance to reflect recently renamed residential zones. To put that another way, the zoning commission changed the zoning regulations a year or so ago, and this would update the definition to reflect the correct designations for residential zones.

Bill 22-234, the "Leaf Blower Regulation Amendment Act," was introduced by Councilmember Cheh on April 4th, 2017. And Bill 22-839, the "Amplified Noise Amendment Act of 2018," was introduced by Councilmembers Bonds, Evans, and Cheh on June 5th, 2018.

There are a lot of witnesses for this hearing, and the way we've broken up the witness list is we will hear testimony regarding Bill 22-234, the leaf blower bill, first. And then we will hear testimony regarding Bill 22-839. Because of the large number of witnesses, and there are a total of 67 between the two hearings, witnesses will be limited to three minutes. And I will do my best to hold folks to the clock. We did indicate in the hearing notice that lengthier testimony would be allowed by prior arrangement, and there are four individuals who made that arrangement. They will have six minutes each.

The record in this matter will be open for two weeks. That is, the record will close at 5PM on July 16th. What that means is that if anybody wishes to submit comments, who's here and is not testifying, or is not here and wishes to submit comments, or anybody who testifies and wants to supplement their testimony, has two weeks to do so. Not that the Council doesn't hear or receive statements following that, but we're required to file a record for the hearing, and that record will be filed based on what we receive before 5 PM on July 16th.

Clearly, both of these bills concern matters of noise. That is of big concern to a lot of folks. And that's why we're moving to have this hearing today and see how we can move forward with the legislation. With that, let me turn to my colleagues in the order of their arrival. Councilmember, Mary Cheh.

Cheh: Thank you very much, Mr. Chairman, and thank you, everyone, for coming to the hearing. I appreciate your holding this hearing. We meet today to discuss these two bills that very materially address the health and quality of our lives in the District. And we're here to talk about, in particular, noise. Jarring, relentless noise that interferes, frequently with our ability to work, to concentrate, to relax, to enjoy each other's company, and to simply, on occasion, to savor peace and quiet that should come to all of us, at times.

Now, it's true, I know, we live in an urban environment. And while we enjoy the extraordinary benefits of living in an urban environment -- our engagement, our culture, our diversity, all of the benefits that come from that -- we also have certain costs associated with that. Traffic congestion, a frenetic pace, pollution, light pollution, air pollution, noise pollution. But the fact is, we don't have to suffer the full unmitigated effects of these things, and so we should strike a balance. And that's what I think we're attempting to do with these bills.

Bill 22-234, the "Leaf Blower Regulation Amendment Act," I introduced, as the Chairman mentioned. It would require that after January 1, 2022, so there's a long lead-in time, any retailer who sells gasoline-powered leaf blowers must provide a conspicuous notice on the leaf blower that it may not be used in the District. And then the noise level limitations on leaf blowers, I hear from residents all of the time about the nuisance and the noise that is created. It prevents them from working and it prevents them enjoying the peace in their own homes.

Specific noise level limits are notoriously difficult to enforce under current law because they require a District official to measure the noise at the time that it's occurring using a decibel meter. However, gasoline-powered leaf blowers are significantly louder than their electric counterparts, and it's awfully hard to enforce the law as it's written today.

Now, as a distinct side effect, wholly apart from noise, but as a good side effect, we know that gasoline-powered leaf blowers pollute the air and emit greenhouse gases. In fact, one study found that a two-stroke, gas-powered leaf blower emitted 23 times the amount of carbon monoxide, and nearly 300 times the amount of non-methane hydrocarbons as a pickup truck.

On top of that, the cost of electric-powered leaf blowers has fallen in recent years, while at the same time technology has improved their effectiveness. So, we need to begin to phase out these noisy, polluting, gas-powered leaf blowers in the district in favor of a cleaner, quieter alternative.

And the second bill, the "Amplified Noise Amendment Act," aims to address the problem of street performers creating loud, amplified noise that disturbs businesses and residents nearby. We've heard many, many complaints from those who live and work, as well as in neighborhoods in the District, such as Woodley Park, that these high-volume performances are disturbing sleep, interrupting business meetings, and reducing business at local restaurants. And, unfortunately, the District's existing

policies restricting noise level in public spaces, namely the "Noise Control Act" and its accompanying regulations, are not well-tailored to address concerns about street performers' noise levels.

It does not prohibit street performers from playing instruments in public places, but sets a reasonable limit on the amount of noise they can make. And I believe, again, it strikes a fair balance between the rights, in this case, of street performers to play their music in public spaces, and the rights of those who live and work in the district to enjoy their properties. And so I look forward to seeing both bills move forward, and I look forward to the testimony of the people who have come today. Thank you, Mr. Chairman.

Mendelson: Thank you, Councilmember Cheh. Councilmember Evans?

Evans: Thank you, Mr. Chairman. Good afternoon to everyone. Welcome to the Council. And thank you, Chairman Mendelson, for hosting this hearing on a very important issue. My involvement with noise goes back all 27 years I've been here on the Council. And so we've grappled with this issue for years, as to what to do. When you go back to the 1980s, there was a noise law. It was challenged by the labor unions. They were successful in overturning it because the decibel level was too low. We came back with another noise law, which was also challenged and ruled unconstitutional.

I think at the end of the day, we ended up with a noise law in the neighborhoods, but not in the downtown area. And it kind of brings us to where we are today, where for the most part between I think 7 in the morning and 10 at night, there's no noise law in the downtown area. There are noise restrictions in the neighborhoods. And then always the discussion was between the reasonable person's standard and the noise meter. When we did have noise meter standards, a lot of times the decibel level was too high or too low. Or when we did have it, somebody didn't have the meter, there was only one meter, somebody didn't know how to use the meter, the meter wasn't available after 10 o'clock at night. I could go on and on with all of the practical implications of why we are where we are today.

The reasonable personal standard is always challenged because what is noisy to one may not be noisy to another. When the police come out and say it's too noisy and people turn it down, and then the police leave and they turn it back up again. And then the police come back again. And what's the enforcement? What's the punishment? So, I say all of this because it's easy to talk about this in the abstract, but when you're really dealing with it on a day-to-day basis, it's very hard to figure out how to control this.

I am very aware of, speaking in the downtown area, the changes that have occurred. Now, when I first came on the Council in '91, we didn't have anybody living downtown. And we had businesses that were largely fleeing the city. 27 years later, that has completely reversed itself. We have tens, at least ten thousand plus people living in

downtown that weren't there before, and a whole array of businesses. In many ways, the District of Columbia is the most thriving city in America today. And it's only growing. There's more people living downtown, more businesses are locating there. And so you have this conflict between noise and businesses and residents.

And so in other jobs that I've held, as a lawyer in law firm I remember being at the Washington Square building over Connecticut and L Street, and a gentleman would stand outside at 4 o'clock every day and play a trumpet. And he would play the Flintstones off-key. Seriously. Over and over and over again, making it almost impossible to inhabit the offices on the Connecticut Ave. side. He was within his rights to be there, playing the Flintstones off-key on his trumpet.

So, what do you do with that? And one idea was go down and give him 50 dollars to go across the street, and play the Flintstones over there. But he wasn't dumb, so the next morning he was back out there again. And so, I say this, and it is interesting, funny, and difficult in another way.

Gallery Place, what goes on over at Gallery Place now outside the Capital, what do they call that now? I'm just so used to the Verizon Center. Capital One Arena? I had the owner of the Monuments Sports call me and say, "There is a band playing outside my window." He's up on whatever the top floor is. And just blasting him out of his office, within the last three weeks. Is the band allowed to play there? Can they play as loud as they want to? Can they make it uninhabitable for somebody to be there? And then you have the preachers screaming and yelling up at the other corner, and then down in some of the neighborhoods. And I can go on and on, so I'm aware of all of this noise.

And then, again, going back to Gallery Place, we have a ton of people living right there in the condominiums, and so what's the deal there, and how is this all working? And so that's what we're struggling-- And then you have the labor union issue, where the labor unions feel it's their right, their First Amendment right to make noise. To stand outside of a hotel with bullhorn at 6 in the morning and scream as loud as they can to wake up everybody at the hotel so they won't stay there, so the hotel will then acquiesce with the demands that the labor unions are making. So does that make sense? Is that a First Amendment right? Can you be as loud as you want to be no matter where you are, and demonstrate, and things of that nature?

So, again, these are real-life problems that we're trying to deal with and accommodate a whole array of activities, and people, and businesses that are all occupying the same area, and trying to be fair to everyone. So, that's what we're grappling with, and it's not for a lack of an effort, or a lack of interest, because I've certainly been dealing with this for 27 years.

So, we have a bill before us today. And there are many concerns with the bill, because it does not address the guy with the horn. It doesn't address the guys on the drums. It doesn't address a lot of those problems which, again, my neighbors are very, very

concerned about. So, we have to figure out how far are we gonna go with this? What about the bullhorn? If a bullhorn is being used by a labor group outside of a building, is that okay? But a bullhorn being used by a bunch of preachers, that's not okay? So, how does that all work, and how do you monitor this? So, these are the issues we're dealing with, and I'm looking forward to certainly hearing from the public today, from all of you in the room, about the concerns you have.

But more importantly is, what do you think we ought to do about it, given everything I've just said? What do you think we ought to do about it, and how do we approach that and stay within the constitutional limits that we have to operate in. Other cities, they always say other cities do it faster, better, quicker, and they don't. Every city in the country is struggling with this thing, and so how do we come up with a law, and then enforce the law so that everyone can enjoy the environment in which they are in? So, that's my observations, Mr. Chairman. I'm looking forward to what everybody has to say.

Mendelson: Thank you, Mr. Evans.

We'll proceed now with the witnesses. I may call witnesses up four at a time. Nancy Sainburg. Catherine Plume. David Cottingham, who's with the Audubon Naturalist Society. And Zack Kline. And Miss Plume is with the DC Chapter of the Sierra Club. Please be mindful of the time. I don't know if there'll be a chime as a warning. There will be a chime when your time is up, but the yellow light will go on, and then the red. Miss Sainburg?

Sainburg: Thank you. Good afternoon, my name is Nancy Sainburg, and I'm the owner of the Enchanted Garden, a landscaping company located here in DC. We've been in business for over 30 years, and a majority of our business is in DC. We provide services to clients with properties as small as townhouses, and as large as several acres. Both commercial and residential properties.

You may hear some testimony today that it is not possible for landscape professionals to do our job without gas-powered blowers. But I can tell you from my own experience that that is completely untrue. We've been using only battery-operated blowers for the past two years, and have had no trouble keeping up with the work in a timely manner. We've had no complaints from clients that our services are taking more time, and have heard nothing but compliments on low noise levels from the battery blowers.

My epiphany regarding the switch from gas blowers to battery blowers occurred two years ago. I was out walking my dog, and I heard a leaf blower. When I got closer to the noise, I realized that it was my own landscape crew, who were finishing up an installation in my neighborhood. I had heard it from over two blocks away. That was it for me. The noise pollution was just too much.

I went out the next week and bought a battery-operated blower to see how well it worked. The initial reaction from my crew was, "Okay, we'll give this toy a try." But

pretty soon they were favoring the battery-powered blowers over the gas blowers. The following spring season, we switched to all battery-powered equipment. The crew asked if we could keep one gas blower for the fall leaf season, and I decided to see what would happen. Once the fall season came, no one even once mentioned using the gas blower. The people who worked with this equipment every day have said that they enjoy using it much more than the gas equipment. They're not subjected to high noise levels, and they don't have headaches at the end of the day, which was often a complaint. Thank you.

Mendelson: Thank you. Miss Plume?

Plume: Hi, I'm Catherine Plume, a lifelong environmentalist, a board member and conservation chair for the DC Chapter of the Sierra Club. And I'm the DC Recycler and a 20-year resident of Ward 6.

We support this legislation because we feel that it falls firmly in place with DC's sustainability goals for better air quality, better health for residents, and reduced waste. We support this bill because we feel that the negative impacts of these machines, especially on workers, should be our primary concern. The emissions from these very inefficient gas-powered machines contribute to climate change and health issues, and these are of great concern to the Sierra Club.

We urge the Council to accept this, or vote in favor of this legislation, especially due to the harmful and invasive noise. For the Sierra Club, this is as much an environmental justice issue as it is an environment issue. Many of the workers who are subjected to this noise are first-generation Americans. Landscaping is an entry-level job in this area, and many of the workers struggle with English. Even assuming they understand the dangers that they're exposing themselves to by performing their jobs using gas leaf blowers, most lack the employment security to be able to ask their employers to provide safer equipment. And the noise from these leaf blowers is a real nuisance, and it has negative health impacts for workers and for residents.

We are very pleased to learn that several landscaping companies, such as you just heard, have opted out of using these gas-powered leaf blowers. We're happy to hear that their businesses are thriving. The Club would also note that for many, many years people maintained their yards without leaf blowers. There are things called brooms and rakes, and they work very well, especially on many of the DC small yards. I'm amazed in my Ward 6 neighborhood to see people with their postage stamp yards using these leaf blowers. It's absolutely unnecessary.

We recognize that the battery-powered leaf blower technology is ever evolving, and we're happy to hear about this. We feel that having this ban merged in over time is a good idea. And we feel, as you just heard, that landscaping companies will not suffer in any way because of adopting this new technology. Thank you very much.

Mendelson: Thank you, Miss Plume. Mr. Cottingham?

Cottingham: Also, I'm here to testify on behalf of the Audubon Naturalist [Society] and its roughly 10,000 members throughout the Metropolitan DC area. And we wholeheartedly endorse this bill because we think not only is this bill good for the individuals and the people, but also for the wildlife.

So before I continue with my testimony, I'm going to play you something. [Sound recording of birds] That's the song of a wood thrush. And you can hear that wood thrush in Rock Creek Park, as I did last night as I was walking down. Of course, the wood thrush is the state bird, or the official bird, not really a state bird, I guess. Maybe one of these days. But it's the official bird of the District of Columbia. You can't hear it very many places because wood thrush, like many other species of wildlife, are really adversely affected by loud noises. They will avoid areas where there are roads. They will avoid areas where there are loud noises like leaf blowers. In my written testimony I provide some references and technical references on this. But birds rely on sound to, of course, to find mates, to find prey, to avoid predators.

There are many other species of wildlife that do the same with noise. There are studies that show that birds and frogs, and even antelope are -- we don't have any antelope here -- but the other species of wildlife will move to avoid loud noises. So we think that if we're driving out birds, and we're driving out other species of wildlife, that we are also suffering with that. So, I think that the Audubon Naturalist Society appreciates the opportunity to testify today, and we would just urge you to pass this. We would be happy to answer any questions. Thank you.

Mendelson: Thank you. Mr. Kline?

Kline: Good afternoon, Mr. Chairman, Committee of the Whole members. My name is Zack Kline, and I'm the owner of Air Lawn Care. I started Air Lawn Care in 2011 after becoming irritated at the excessive amount of smog and loud noise that my former employer's gasoline-powered equipment created. My company, which uses only battery-powered equipment, has been featured in trade publications, and I've won an entrepreneurial scholarship award.

I would not be here today if it were not viable to run a successful landscaping business using battery-powered equipment. The purchase and maintenance of battery-powered equipment, such as leaf blowers, allows me to be competitive in the rates that I charge my clients, and as a business. Battery-powered equipment, although maybe somewhat more expensive to purchase up front, comes with a much lower cost of ownership and maintenance compared with gasoline-powered equipment. We maintain a wide range of properties in the greater Washington, DC area, including low-end residential, high-end residential, and commercial properties—all requiring usual cleanup of debris from grass, shrubs, and leaves.

Many who oppose this bill will say that battery-powered leaf blowers are not always up to the job. However, I have found that the outdoor power equipment industry has

researched, developed, manufactured, distributed, and sold a new generation of battery-powered leaf blowers that are indeed up to the job. And they are continuing to improve in this R&D. In the internet age, online information about battery-powered equipment is abundant and easily found. Also, many organizations exist to educate municipalities, professionals, and homeowners about the use of battery-powered equipment.

Now, the most important advantage of using battery-powered equipment, especially leaf blowers, is the low noise and zero emissions that our employees, customers, and customer's neighbors experience. The people operating battery-powered leaf blowers, like my employees and myself, are not exposed to harmful air and noise emissions while working, and also require less protective gear to be safe. The results I've seen in my landscaping business show that properties can be maintained at a reasonable cost while using battery-powered equipment, such as leaf blowers.

I recommend the Committee of the Whole to unanimously pass the leaf blower bill, 22-234, so the District's property owners can live in a clean, safe, and healthy community where people want to live and work. Thank you.

Mendelson: Thank you, Mr. Kline. Thank you to each of you for your testimony. I have some questions. Members will have a five-minute round. Let me ask the two companies at both ends of the table. So, with the gas-powered leaf blowers, do your employees use ear plugs? Can you speak into the microphone?

Sainburg: With the gas-powered, yes, they wore ear plugs or a headset.

Mendelson: Mr. Kline?

Kline: We don't use gasoline-powered, so we don't have to. But with OSHA standards, you're supposed to.

Mendelson: Now, with the battery-powered, you don't use ear plugs, either of you?

Kline: No.

Mendelson: Now, I'm not familiar with either. So, is it really significantly quieter, the battery?

Sainburg: Really. It's like a vacuum cleaner. It's significant.

Mendelson: And Mr. Kline, you're nodding your head.

Kline: Yeah, the frequency you have when you compare the two, of a gasoline-powered versus a battery, gasoline sound travels a lot farther, which is why we obviously have this issue today, versus the battery-powered, where it's more so on site. And even then it's not really that loud.

Mendelson: Now what about the effectiveness? So, it's your testimony that the battery-powered is just as effective as the gasoline-powered?

Sainburg: Equally as effective. Yeah, I think people have this in their head that if it's noisier it's better and it's more powerful, but that's not really always the case.

Mendelson: Mr. Kline?

Kline: Agreed. I mean, a lot of the properties here in the District that we manage are very small, so there's no issue in terms of not having enough runtime, or not being able to get the job done.

Mendelson: Now, Mr. Kline, in your statement near the end you said that the battery-powered require less protective gear to be safe. Is that a reference to the ear plugs, or something else?

Kline: Correct, the ear plugs.

Mendelson: And you also said, Mr. Kline, battery-powered equipment may be somewhat more expensive to purchase up front, but it comes with a much lower cost of maintenance and ownership compared with gasoline-powered equipment. Can you explain?

Kline: Yeah, sure. So, with EPA regulations nowadays, a lot of engines on smaller equipment are becoming smaller for that reason. And if you combine that with the increase in ethanol fuel, a lot of these engines will gum up in their carburetors, so you're looking at a lot more maintenance costs down the road. As opposed with battery-powered, you're paying more for that up front, but then you have less costs in terms of charging with electricity, and less costs with maintaining the actual piece of equipment.

Mendelson: Miss Sainburg, do you want to add anything?

Sainburg: Yeah, the other thing about the gas-powered, there are some that say they have a lower decibel level. But in order to keep those things properly maintained, you would have to have a Ferrari mechanic or something to keep them up to that level all of the time. And no company can do that. They have to put them out of service in order to keep them at that optimum level all of the time, and that just doesn't happen.

Mendelson: That's with regard to how noisy--

Sainburg: To a gas-powered blower, there are several on the market that are saying that they are of low decibel level. But to have them, to work at that low decibel level, they would have to be tuned to a very high level of precision, regularly. Because, as Zack was saying, they gum up very quickly.

Mendelson: Okay. Councilmember Cheh, do you have questions?

Cheh: Yes, just a few. One is an observation. I think the witnesses who talked about the variety of folks and animals who are affected by this, and you know, we're not just talking about folks sitting in their lawn chair, we're talking about the workers. We're talking about wildlife. And we're talking about people who are trying to work. So, I just wanted to underline that point. But about the businesses, I did want to ask one further question, and the Chairman made reference to this, about the fact that maybe initially they're a little bit more expensive, but over time they're easier, or less costly, rather, to maintain. Is it the case, I thought I saw this somewhere that the costs of the battery-powered machines are in any event coming down?

Kline: Yeah, there's a lot more companies in the outdoor power equipment industry, especially in the handheld market. If you go to the-- Which I go to the industry conference every year down in Louisville, Kentucky, a lot more manufacturers are jumping on board. Which, simple economics, supply and demand. Prices are coming down. It's just a matter of education and letting people know that these do exist, because as Nancy [Sainburg] mentioned a moment ago, a lot of contractors are hesitant because they don't feel like it has the power, the ability to do the job. But as we both proved, you can do the job and still be in business.

Cheh: Right, and I wanted to follow up on that, as well. As I was coming in here, I was asked a question by somebody in the media, and they said, "Well, you know what, it may be that they can do the job, but it may take longer to do the job." And so while then noise might be reduced, it goes on for a longer period of time. Is there anything to that?

Kline: You can go into Home Depot and actually buy a battery-powered leaf blower made by Echo. It puts out about 550 CFM, at about 100--

Cheh: Don't go technical on me.

Kline: Sorry. Basically, that's the volume at which you can push the air, and it's actually the most powerful leaf blower in the Home Depot aisle. The only difference is that it's battery-powered versus the gasoline options.

Cheh: Okay, and is that your experience as well?

Sainburg: Yeah, they work great. They don't seem to slow us down at all.

Cheh: Okay. So it's not going to extend the period of time during which the machines will be operating?

Sainburg: Not at all. No, I don't think so.

Cheh: Okay. Okay, thank you, Mr. Chairman.

Mendelson: Thank you, Councilmember Cheh. Councilmember Evans?

Evans: I have no questions, but thank you all for coming down.

Mendelson: Thank you to each of you for your testimony.

Bob Mann, who's with the National Association of Landscape Professionals. Grif Johnson. Chris Pollock, who's an acoustics expert. And Jamie Banks, who's Executive Director of Quiet Communities. Are you Bob Mann? You're Bob Mann? Great, why don't you start? And you all had pre-arranged six minutes each.

Mann: Chairman Mendelson, members of the Council. Thank you very much for the opportunity to speak this afternoon. My name is Bob Mann. I'm the Director of State and Local Government Relations of the National Association of Landscape Professionals located in Fairfax, Virginia. I represent over 900 NALP members in the District and the surrounding counties in Virginia and Maryland that maintain landscapes in Washington.

NALP opposes this regulation. I want to acknowledge the concerns of those who have come here today. As you might be aware, leaf blower ban proposals are not unique to the District, leading NALP to take tangible steps to ensure that all companies are aware of best practices, as leaf blowers are a necessary and vital portion of our industry's toolbox.

Together with our colleagues at Outdoor Power Equipment Institute, we have developed and are implementing a backpack blower safety and responsible operation pledge, as well as tips for both backpack blower safe and courteous operation. I've provided you with a copy of that with my testimony today. As we work towards enrolling all of our members in this program, we train operators to follow best practices at all times, resulting in an effective balance of community stewardship and protection of our environment.

As a practical matter, gasoline-powered leaf blowers are indispensable tools that are necessary in keeping the District beautiful. Millions of people come from all over the world to visit Washington and enjoy the over 7,500 acres of parks, and marvel at the beautiful landscapes. Trees, lawns, and gardens are naturally messy spaces that require constant tending, especially in the early spring and in the fall, when tree leaves drop.

There simply is no viable alternative to gasoline-powered blowers. While excellent for homeowner use, electric-powered blowers on the market today do not have sufficient power or duration to replace gasoline engines for professional use. Leaf blowers are labor multipliers. An employee with a blower can accomplish what two or more employees can with manual tools. In an economy where unemployment rate is in the single digits, landscape contractors are finding it impossible to find sufficient quantities

of employees, excuse me, to meet demand. There simply aren't enough employees to wield leaf rakes to replace the work performed by leaf blowers.

Mind you, the language in this bill does not differentiate between small, portable blowers and large-scale blowers. You're attempting to prohibit all gasoline-powered blowers. Most of the noise and emission problems concerning leaf blowers stem from antiquated and ill-maintained equipment. More stringent regulation on small, two-stroke engines, both from the EPA and the California Air Resources Board, have yielded much-improved noise and emissions performance. As older equipment is phased out in lieu of new, better-performing equipment models, the environmental impact of these tools will abate.

We feel that these advances, along with our campaign to increase awareness on the part of our members, will help allay your concerns, so that we can have both a quiet and beautifully-maintained Washington. We respectfully request that the Council reject this measure. Thank you very much for your time and attention.

Mendelson: Thank you Mr. Mann. Mr. Johnson?

Johnson: Good afternoon, Mr. Chairman and members of this Committee. I'm Grif Johnson, I'm one of the founders of Quiet, Clean DC. We're a group of concerned DC residents who are worried about a significant problem in our city, and indeed, all around the country. That problem is the invasive, harmful noise generated by the gas-powered leaf blower. I also wanted to thank you, Mr. Chairman, for convening this hearing, and I want to thank Councilmember Cheh for introducing the bill that's under consideration today. And Councilmembers Bonds, Grosso, McDuffie, and Allen for co-sponsoring the bill. We also want to thank those additional Councilmembers who have assured us of their support for the legislation.

The bill in question will amend the District of Columbia Noise Control Act of 1977. That act stated that chief among its purposes are, and I quote, "To preserve, protect, and promote ... the peace and comfort of inhabitants in the city." Subsequent to the 1977 act, the Council in 1992 adopted a regulation that addresses leaf blowers, specifically. That regulation limits both their hours of operation and their noise output to no more than 70 decibels at a distance of 50 feet.

But the regulation doesn't work. As you'll hear today from witnesses who support this bill, your constituents across the District are up in arms over the deprivation of their peace and comfort from excessively noisy gas-powered leaf blowers. More than a quarter of the advisory neighborhood commissions in DC, representing 7 of our city's 8 wards, have adopted resolutions endorsing this bill. Over 2,300 individuals have signed an online petition urging the Council to move forward on this bill. We hear it from every corner of the city: "Stop. The. Noise."

Why doesn't the current regulation work? Because it requires for its effective enforcement that an appropriate agent for the DC government must verify the

operation of a leaf blower above the 70 decibel limit, and beyond the 50-foot distance. That means the enforcing agent must come to the scene of the violation while it's underway, and armed with a sound meter and a distance-measuring tool, for which he would need to have been specially trained, then confirm the violation. It simply is impractical for all of that to happen before the operator of the violating equipment will have ceased such operation, or will have moved on to another property, where he'll engage in a new violation.

And there's another reason why the current regulation is ineffective. That's because the regulation relies solely on sound measurements in decibels. That approach overlooks the most offensive element of noise produced uniquely by leaf blowers that are powered by gas. As you'll hear in a few minutes, research that my colleagues on this panel, Mr. Pollock and Dr. Banks, will present to you this afternoon, establishes that what differentiates the gas blowers noise is a very strong, low-frequency component that a battery-powered blower, having an identical decibel rating as the gas blower, doesn't generate at the same strength level. That powerful, low-frequency element is the source of the greatest offense to the human ear. These complaints all relate to noise from gas-powered leaf blowers.

The blowers generate not only high levels of the most disturbing low-frequency sound components, but also enormous decibel outputs, well above the limits for safe human exposure. The Centers for Disease Control and Prevention last year published a finding that two hours of exposure to a leaf blower operating at 85 decibels will cause hearing loss. And hearing loss is permanent. Once your hearing is gone, you can't get it back. The defenders of these thunderous gas blowers actually brag about them. Consider an article recently published in OPEReviews.com, an online publication for the landscaping industry. The article gets right to the point. Here are the first two sentences. "What does it feel like to have Hurricane Irma strapped to your shoulders? Donning any of the leading backpack blowers will give you a close representation,"

The article notes that seven models of the most popular gas blowers deliver sound at the operator's ear of between 101 and 104 decibels. Decibels are measured logarithmically, so that a difference of as little as three decibels represents a doubling of the sound's energy. We're talking about noise that's several orders of magnitude above the CDC limit of 85 decibels, and that's at the ear of the operator.

Proponents of the gas blower claim that a so-called quieter gas blower is now available. In a few moments, you'll hear Mr. Pollock play for you an audio clip of this supposedly quiet gas blower, which includes that low-frequency component that's so uniquely powerful with gas blowers, and not with the battery blower. You can decide for yourself in just a minute whether the so-called gas, so-called "quiet gas blower", is indeed quiet.

In reality, very few landscaping contractors are using this much-ballyhooed quiet gas blower. In an Op-Ed published in January in TotalLandscapeCare.com, which is another online publication for landscapers, one of the leading advocates for gas

blowers pleads with landscape contractors to start using the supposedly quiet gas blower, or else cities like ours will adopt laws to phase out gas blowers altogether. And we hope you will.

So, returning to our current regulation on gas blowers, it's unworkable as I said because it can't be effectively enforced. But a law that simply bans all gas blowers won't be difficult to enforce because a gas blower can be easily identified visually, without the need for taking measurements of decibels and distances. And a ban on gas blowers will free all of us from having to endure that powerful and aggressive low-frequency noise element that the gas blower emits. That's why we support this bill. It will work. Thank you, Mr. Chairman.

Mendelson: Thank you, Mr. Johnson. Mr. Pollock?

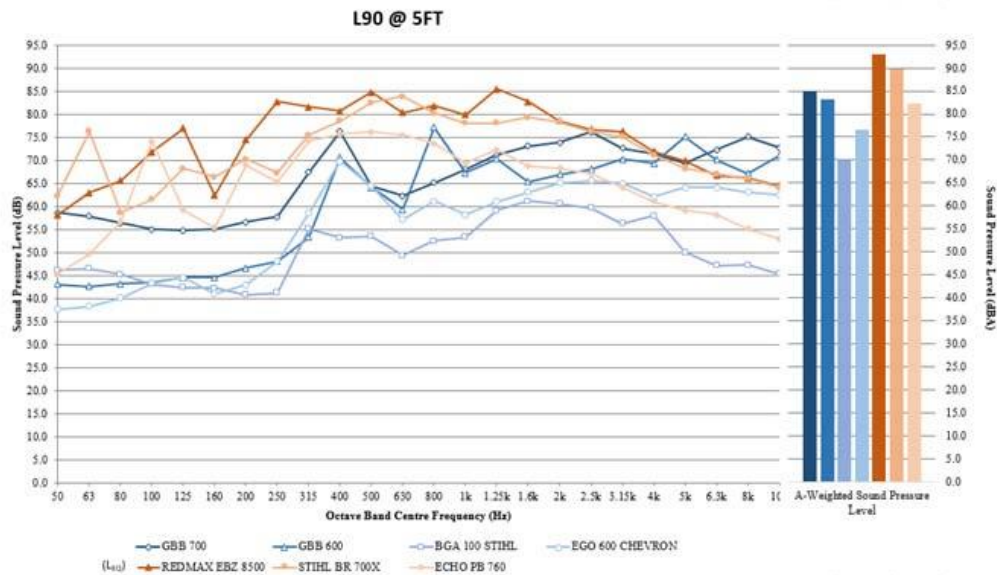
Pollock: Thank you, Mr. Chairman and Councilmembers. I'm Chris Pollock, an acoustic consultant with Arup, with 20 years of experience measuring noise and designing buildings and spaces for suitable acoustics and noise conditions. I have a degree in mechanical engineering, and I'm a licensed professional engineer in the Commonwealth of Virginia, and I've been published in articles in the field of acoustics, and interviewed by various media outlets regarding acoustics and noise.

Arup was asked to perform acoustical measurements, to provide technical, acoustical input and support for the testing and review of a group of leaf blowers. The questions we were asked to help answer were, "What is the difference in characteristics of the sound produced by commonly used commercial gas leaf blowers compared with commercial-grade battery blowers?" Secondly, "What are the implications for communities in which those machines operate?" We are not investigating the noise level at the operator's ears relative to exposure, but rather the impact on people in the community surrounding the leaf blowers as they are being used.

We designed a set of tests that, in our experience, would allow us to capture side-by-side noise levels for various leaf blower types. It was arranged that seven commercial blowers would be used. Blowers were selected for comparable flow rates and decibel ratings. The leaf blowers selected, and their corresponding labels on the graphs are outlined below as part of the testimony. The battery powered blowers are labeled in blue. The Greenworks GBB 700, GBB 600, the Chevron EGO 600, and the Stihl BGA 100. The gas blowers are labeled in orange. The RedMax EBZ8500, the Stihl BR700X, and the ECHO PB-760.

The full details of the testing sequence, equipment, and protocols will be outlined in my written report to follow. Some of the summary results are outlined below. The horizontal axis on the charts that you're looking at shows frequency, with the left side of the chart being a very low-frequency rumble sound, and the right side being a very high-frequency hissing sound. The vertical axis shows increasing sound pressure level and loudness as you go up the chart. The interesting points to note from our testing are where there are significant differences.

Figure 1: Sound Pressure Levels measured at 5 feet

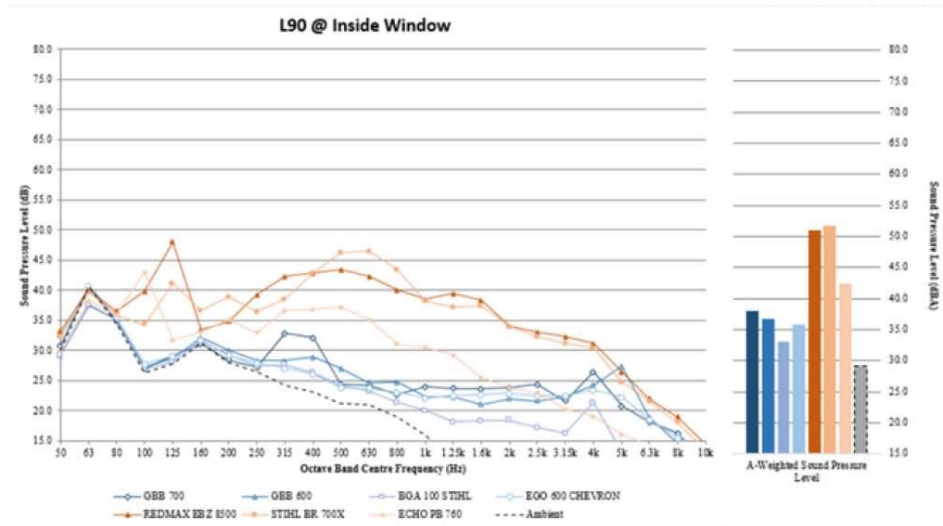


From the data above, we observe that clearly the group of gas leaf blowers all exhibit a much higher level of sound energy in the low-frequency bands. In a number of cases, this engine noise is at a peak of a 100 to 125 Hertz. This energy is quite distinctly different for the gas blowers than the battery-powered leaf blowers. This is highlighted by the two blowers, the ECHO PB-760 and the Greenworks GBB 700, both of which are measured at 66.5 decibels at 50 feet, but with dramatically different acoustic qualities and audibility at 50 feet and greater differences.

Secondly, the audibility over distances. Based on our experience measuring sound, I witnessed that the three gas-powered leaf blowers at an 800-foot distance were audible, two being clearly audible, the RedMax EBZ8500 and the Stihl BR700X. And the third, the ECHO PB-760, being noticeable. While the battery-powered blowers at that same distance were not distinguishable above the very quiet community sound levels at that distance.

Audibility within houses. One of the challenges with low-frequency noise is it requires heavy construction and materials to stop sound transmitting from the outside of the building to the inside. With leaf blowers, the low-frequency component of the gas leaf blowers is what is most readily transmitted, and this is clearly seen in the testing results at a 100 to 125 Hertz. The sound levels of gas leaf blowers are measured inside the house are significantly above those of the battery-powered leaf blowers, even when both of the leaf blowers are rated at the same decibel level at 50 feet.

Figure 7: Sound Pressure Level measured inside a residence with leaf blowers 50 feet from the window



Finally, how they sound. We will demonstrate for you now some of the sounds of the leaf blowers captured during our testing so you can experience the sound levels in a community with gas and battery-powered leaf blowers. These samples are calibrated to represent the measured sound levels accurately so that your experience is as close as possible to the real, measured conditions. The first sample is a comparison of a gas leaf blower at the same decibel rating based on the manufacturer's testing standards, and our testing. [Audio file played] The important comparison is that while the overall loudness may be the same, the acoustical qualities of each are totally different. Relative to impact on a community or a specific individual, it may help to set the scene and imagine yourself in your own yard doing your own thing, reading a book, relaxing on the deck or porch, or sitting talking to your neighbor.

This sample is the same two leaf blowers measured at 400 feet. [Audio file played] Our final demonstration is three leaf blowers as measured inside an adjacent house. The ECHO PB-760, the GBB 700, and the RedMax 8500 all measured at 50 feet from a typical insulating glass window. [Audio file played]

In summary, our measurements indicate that the gas leaf blowers have a significantly greater low-frequency component. This low-frequency sound creates a different acoustic quality of the sound of gas leaf blowers versus battery leaf blowers. Because the low-frequency sound travels further, it is audible over greater distances, transmits most easily through the windows and glass doors of homes, and is more audible inside the home. The measured gas leaf blowers have a greater noise impact on the community than the measured battery-powered blowers. Thank you.

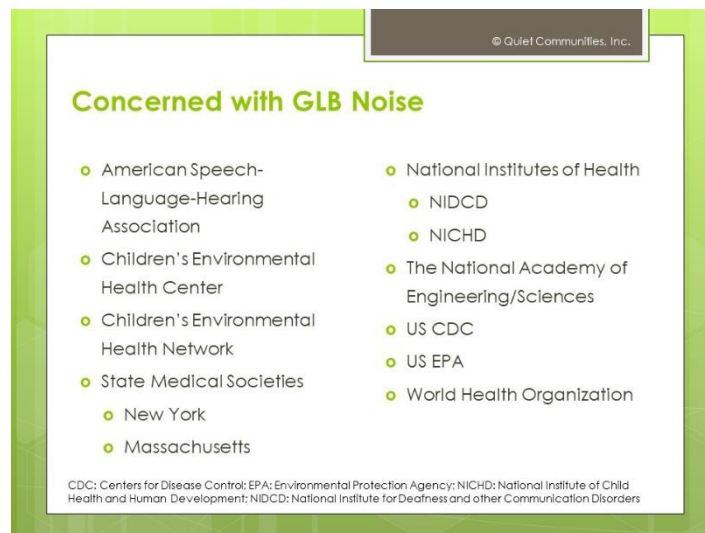
Mendelson: Thank you, Mr. Pollock. Miss Banks?

Banks: Thank you, Chairman Mendelson and members of the Council. My name is Jamie Banks. I'm the Executive Director of Quiet Communities. We're an independent, nonprofit organization. Our mission is to help transition landscape maintenance to low-noise, zero emissions practices, with positive solutions to protect the health of workers, children, the public, and the environment.

I was trained as a healthcare scientist. I worked for many years in health economics outcomes and policy before turning to environment. I hold master's degrees from MIT and Dartmouth Medical School, and a PhD from the University of Kent in the UK. I have been asked to testify about the impact of leaf blower noise on communities and on the health and wellbeing of community residents.

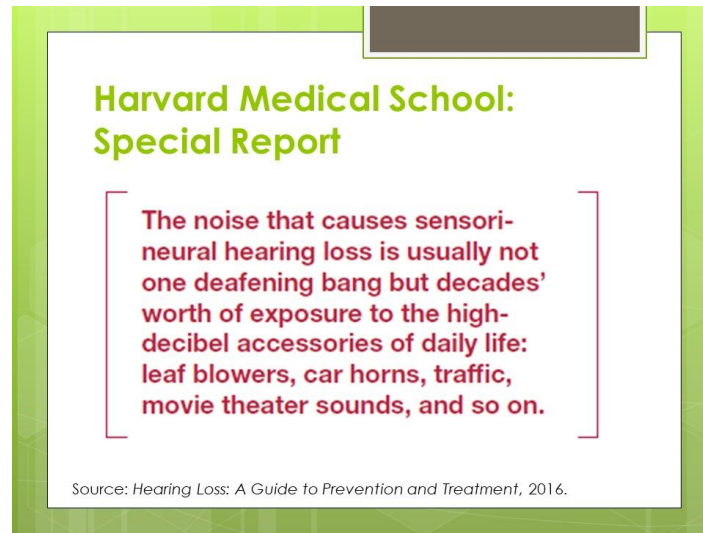
Today gas-powered leaf blowers are ubiquitous throughout the country. They are widely used in the commercial landscaping industry, today worth about 66 billion dollars in annual revenues. While all gas blowers emit all manner of unhealthy pollutants, today we're focusing on the noise they emit. Noise emitted from gas blowers is part of the cumulative environmental noise in which we all live.

Today large numbers of people are involuntarily exposed to levels that are harmful to both hearing health and general health. Increasing concerns about environmental noise levels have earned them the label, "the new secondhand smoke".

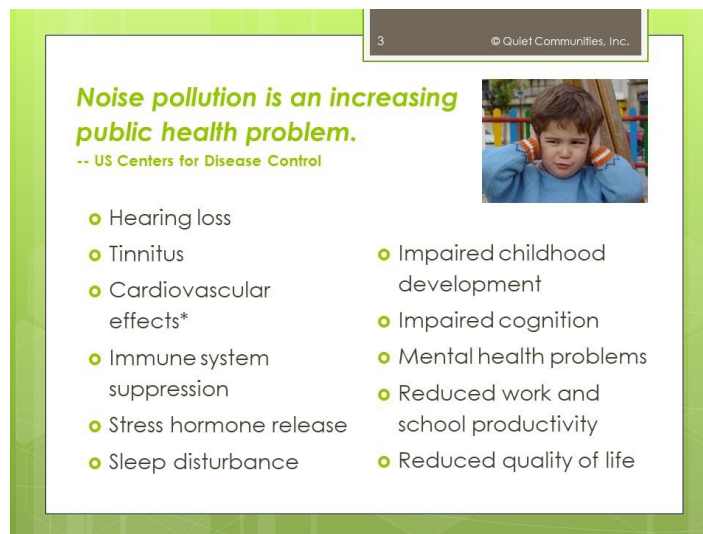


Many health organizations, as you'll see from the slide are concerned with the noise produced specifically by this piece of equipment, the gas blower, and its potential health effects.

Here's an example from a special report that Harvard Medical School wrote.



And I think you can read the quote. It says, "The noise that causes sensorineural hearing loss is usually not one deafening bang, but decades worth of exposure to the high-decibel accessories of daily life that includes leaf blowers and other sources."



Extensive evidence from the medical and scientific communities has shown that high levels of noise have adverse health effects ranging from heart disease and hypertension, to sleep disturbance, to psychological, cognitive, and learning issues, as well as plain old annoyance.

Low-frequency noise is particularly concerning. In its community noise guidelines, the World Health Organization states, "If the noise includes a large proportion of low-frequency components, values even lower than the guideline values will be needed

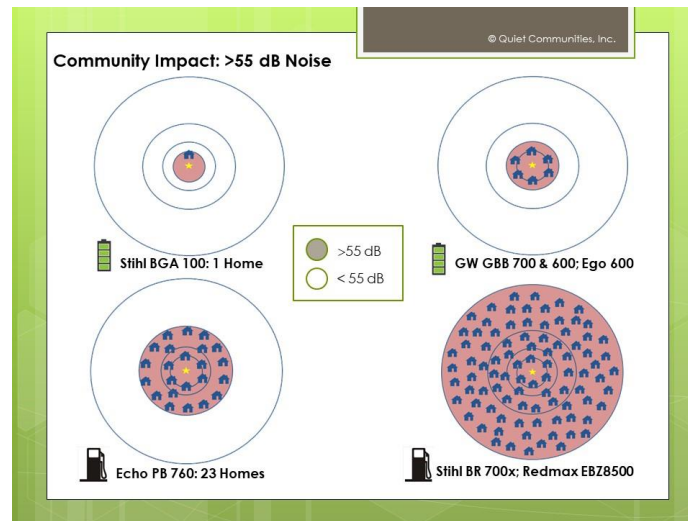
because low-frequency components in noise may increase the adverse effects considerably.”

The effects of excessive noise are particularly acute for children, seniors, people with hearing disorders and neurological conditions like autism, and sensory deficit orders. These people can actually experience pain from this type of noise. And those who are arguably among the most exposed, the more than one million workers in the landscape maintenance industry, over half of whom are Hispanic and Latino. For those operators, noise at the ear is much louder than noise reaching anyone else.



Grif alluded to these seven popular models of gas leaf blower models. They're shown here on the slide. More than 100 decibels at the operator's ear. Up to 83 decibels at 50 feet. Two are among the three gas blowers that were tested in the acoustics study. These levels are orders of magnitude above occupational and public health standards. That means ten times a hundred times a thousand times.

To examine the community impact of gas and battery blower noise, we applied the sound levels that were recorded in the acoustics study over a distance, and applied them to a hypothetical urban neighborhood with 1/8th acre zoning. For each of the seven blowers tested, we calculated the number of homes affected by unhealthy levels of outdoor daytime noise, defined as 55 decibels by the World Health Organization and Environmental Protection Agency.



As you can see on the slide, for the battery blowers, the two at the top, unhealthy noise will affect between one home and six homes depending on their decibel rating. For the quietest gas blower, up to 23 homes are affected. For the other two gas blowers, up to 91 homes are affected. This is because you're squaring that radius of the circle and getting a much wider area of effect.

In everyday terms, this means that unhealthy noise from a single gas blower can intrude into an area encompassing more than 90 homes, and presumably any outdoor playgrounds, parks, and schools in the neighborhood. This situation would be exacerbated if more than one blower is used on a property, or when several properties in the neighborhood are being maintained.

The distress caused by gas blower noise has prompted 170 communities across the country to enact legislation to ban or restrict their use. Many others are making similar efforts. Beyond the community level, the state of Massachusetts recently put out the nation's first technical specifications for commercial-grade battery-powered equipment to encourage state agencies, public schools, and municipalities to transition.

[Editor's Note: Miss Banks' statement submitted to the Committee at the time of the hearing from which she was reading when her time ran out, concluded as follows:

"Big-campus universities including Harvard, Yale, Florida State, NC State, Cal State, and University of Texas, Austin are transitioning from gas to battery-powered equipment. In 2016, South Pasadena, CA became the first city in the nation to maintain all municipal lands and some routine work on its golf courses, year round with battery-powered equipment. The town of Southampton, NY is doing the same. More than 140 companies, some of which you'll hear from today, are now operating with battery-powered equipment and manual tools at competitive prices. The National Association of Landscape Professionals named battery-powered equipment among its top trends for 2018, stating that "Many lawn mowers, leaf blowers, and similar equipment feature low or no emissions, are battery-powered, and are quieter." Finally

the Outdoor Power Equipment Institute has formed a committee and is developing standards for battery electric equipment.]

Mendelson: Thank you, Miss Banks.

Banks: You're welcome. Thank you.

Mendelson: Thank you to each of you for your testimony. So, I guess I have a couple of questions. One is that I've always thought that the damage from noise is the higher the decibel. But what I'm hearing is that there's another factor as well, and maybe I should look at-- Mr. Pollock? Can you answer that?

Pollock: Human hearing is sensitive to different frequencies. The lowest frequency being about 20 Hertz is what we hear. The highest frequency is about 20,000 Hertz. Low frequency, especially impact or drone-type sounds are often more damaging than high frequency, but overall the loudness is what damages your hearing, the raw sound pressure.

Mendelson: The loudness? That's the decibels, whether it's 85 or 100, or whatever the number. But the low frequency is damaging as well?

Pollock: [Speaking to Miss Banks] Do you want to answer that?

Banks: Sure.

Banks: The low-frequency component of sound is what's responsible for carrying it over distance and allowing the sound to penetrate through windows, so that people in their homes are affected, and other sorts of buildings are affected. There's different types of health effects also associated with low-frequency noise that tend to be non-hearing, adverse effects.

Mendelson: Now, looking at noise regulations, typically if they use any objective measure or standard, it's in decibels. Is there any jurisdiction that differentiates in terms of regulation between high frequency and low frequency? Do any of you know?

Pollock: I believe there are a number of states around the country that do, yeah. They stipulate not only a highest sound level, but also a spectrum of sound that can't be exceeded in each octave band, or 1/3rd octave band.

Mendelson: Is that in an occupational setting, or in a community setting, such as a noise ordinance?

Pollock: That's in a noise ordinance, community setting.

Mendelson: Would you be able to send us some examples? I mean, how would you enforce that, though?

Pollock: With sound measurement equipment. It may require someone to be live to measure sound levels with a moderately advanced piece of equipment.

Mendelson: Because I think that's one of the challenges. I mean, the bill that you're testifying about is the leaf blower bill, but we have a second one dealing with noise ordinance and more generally, an amplified noise such as from musicians, street musicians. And I've heard over and over from the government that it's almost impossible to enforce a decibel level. I don't see how it would be any easier if it was based on the frequency, the noise frequency, sound frequency.

Pollock: No, it would be the same equipment and the same trained person making that measurement, whether it's overall decibel level or a frequency-based level, it would be the same measurement that you would use.

Mendelson: Mr. Johnson, you look like you wanted to say something.

Johnson: Thank you, Mr. Chairman. Yes, I was just going to say that I think that where you're going is the problem that we currently have, which is an ordinance, or rather a regulation that tries to limit the damage by a measurement that is really impractical of being measured because of the—what Mr. Pollock who has just answered your question. It requires an on-site, trained individual with the proper equipment, at the time the violation is occurring, to measure whether or not that violation is occurring, both on the decibel level, and on the distance from what's called the centroid, the point where the noise is generating. And that just hasn't been proven practical.

Why we recommend this bill is because it's much simpler to enforce. You simply observe that the operator is operating a gas-powered leaf blower, and you take steps to advise that person that he is no longer in compliance with the law after December 31, 2021.

Mendelson: So, Mr. Pollock, Mr. Johnson is saying it is difficult to enforce. Do you disagree?

Pollock: I'm testifying as to the measurement process.

Mendelson: Yes.

Pollock: So, the measurement process would require someone to be live and to measure. How that's enforced would be something that would follow the measurement to prove whether you're above or below the level.

Mendelson: My time is almost up, so let me turn to Mr. Mann. Your testimony seems to be more about the value of leaf blowers than gas, although you do say gas. There was testimony earlier that battery-powered leaf blowers are just as effective.

Mann: Excuse me. I disagree, and that's from my personal observation. They're good up to a certain point. After a certain point, they under-perform the gasoline blowers. Now, mind you, the language in your bill doesn't define gasoline motors as being something you wear on your back, something you push, something that you use on a large scale. You're simply banning gasoline-powered blowers altogether. I wouldn't be - I really don't believe that that's the way to go. It is just a blanket ban on blowers, and then not differentiating between what's good, what's bad.

What I would like to see is that a lot of what we see as far as what drives complaints are people that are, or landscapers that are well meaning, but come into a neighborhood, two, three, four backpacks, and just try to blast out a house all at once, all blowing at the same time, all blowing towards the truck, you know, the debris, the leaves, and so forth. I believe that's what's driving the complaints.

And I think if you were to add in a behavioral aspect to this, train people to be more courteous of their neighbors, train people to keep up their equipment better, train people not to keep their equipment as long, buy equipment that is more modern, and the engineering has taken into account the data that has been demonstrated here. Manufacturers are very sensitive to these types of things. They hear the complaints, as well. And it's not as though they can't react to that and make equipment that is less noisy and emits less. I mean, not only the EPA that's come up with regulations, but other states that have come out with regulations, so there's a regulatory push towards getting things cleaner.

And I would much rather see that that is the common ground that we can find between, you know, on our end an amount of work that needs to get done in a certain amount of time, with a certain amount of resources, and your concern that we're making too much noise. I think we can meet in the middle by listening to one another and finding some common ground.

Mendelson: Thank you. Councilmember Cheh?

Cheh: Thank you, Mr. Chairman. Mr. Mann, I have a couple of questions off of your testimony. The first one, Mr. Chairman, you brought it up, your statement that there's simply no viable alternative to gasoline-powered blowers. And he made the point, which is evident here, that there are witnesses who testified to the contrary. But moving on to some other points, you also have a paragraph to talk about leaf blowers as "labor multipliers", and you're talking about leaf blowers undifferentiated. You're talking about leaf blowers, but you compare them to manual tools.

We're not talking about telling people that they have to use rakes. And so the question is whether your point about labor multipliers really doesn't respond to what we're doing here, namely a differentiation between gas blowers and battery blowers. Is that correct?

Mann: I think it's important to point out that what I'm hearing both from you and from others testifying is that most of the complaints are being driven by residential neighborhoods. People, you know, landscapers working on small properties, and trying to work and exist within those confines. However, the District has a lot of different space, a lot of different landscape spaces, all the way from what I've just mentioned to large spaces like the National Mall and then that type of thing, where there is just an abundance of tree litter that needs to be cleaned up.

Cheh: No, but excuse me, I'm sorry, because I have a limited amount of time. That's not responsive to the question about whether leaf blowers are labor multipliers, differentiating between gas powered and battery powered.

Mann: My answer to that would be the battery-powered blowers, as they exist on the marketplace today, have an excellent space within the residential use, because they're small. You know, small areas, small amounts of debris.

Cheh: No, I'm sorry.

Mann: I must not be understanding your question.

Cheh: You make the point in your paragraph that leaf blowers are labor multipliers, and then you compare it with what amount of work you can do by using manual tools like rakes. We're not talking about that as the comparison here. I want to make that point. I've tried enough, I'll move on. The other thing that you talk about is you say there's been a lot of improvement with the gas blower, the gas-powered leaf blowers have been much improved. But that's a relative statement. That doesn't mean they're equivalent yet, right?

Mann: No, I'm not going to suggest that at all. No.

Cheh: Okay. Does your improvements point capture both improvements in the differences in frequency, the decibel levels, but also the frequency of the noise.

Mann: No, I can't speak to that, I'm afraid.

Cheh: Okay. All right, thank you. I have no further questions.

Mendelson: Thank you, Councilmember Cheh. Thank you to each of you for your testimony.
Gregg Easterbrook. Susan Orlins. Haskell Small. And Lucia Buchanan Pierce. Mr. Easterbrook?

Easterbrook: Thank you, Councilmembers Mendelson and Cheh. My name is Gregg Easterbrook. I'm a contributing editor of the Atlantic Monthly and a fellow of the American Academy of Arts and Sciences. My Atlantic Monthly colleague, James Fellows, a former White House official, is submitting for the record a detailed statement

that I will present here in a fast-forward version. I've written extensively about the interaction of new technology and quality of life, including in my current book. The conclusion reached is relevant to what the Council is considering today. It is as follows. In every case -- not in many cases -- in every case when clean, new technology replaces obsolete technology, quality of life improves, costs are lower than expected, and people say, "Why didn't we do this sooner?"

Replacing out-of-date, two-stroke gasoline leaf blowers -- that is a mouthful to say, that's what they are -- with advanced battery-powered models will be the same. Initially, people will complain about excessive government intervention. Once the reform is in place, they will say, "Why didn't we do this sooner?"

A guiding example is the interaction between Americans and technology, as concerns the automobiles. For 50 years, cars have gotten safer, cleaner, and more reliable, while adding countless features. At every turn, industry predicted incredible expense, technical impossibility, or consumer revolt. None of these things happened. Today any new car emits about one percent of the smog of cars of a generation ago. It has more horsepower and higher mileage. Risk of death per mile traveled today is about one-quarter of what it was a generation ago. Meanwhile, the inflation-adjusted cost of cars has been about the same.

Yard equipment obviously is not as important as cars, but moving from obsolete leaf blowers to new models will follow the same sequence. Safer and cleaner, while benefits exceed the costs. Now, if the sound of leaf blowers were essential for society, that would be that, but if the sound of antiquated engines can be eliminated, everyone will say, "Why didn't we do it sooner?" By acting now, the District can take a leadership position. Thank you.

Mendelson: Thank you, Mr. Easterbrook. Miss Orlins?

Orlins: Thank you, Chairman Mendelson and Councilmembers for this opportunity to testify. My name is Susan Orlins, and I'm a longtime DC resident. I first joined Quiet Clean DC because of the stress-inducing noise from gas-powered leaf blowers. I became more engaged with the group once we learned the devastating health effects these machines have on the workers who operate them. Our group was convinced we had a compelling case for phasing out these outdated machines, and phasing in the quieter, battery-powered leaf blowers, the sounds of which are much less damaging to operators. And they do not penetrate inside homes, hospitals, schools, retirement homes, et cetera, which the gas-powered ones do.

And, yes, we also researched and discovered that, indeed, battery-powered machines are effective, and are being used by a growing number of landscape companies in DC, as well as nationally and globally. There are countries that don't allow them at all in the whole country. I think Singapore is one. In fact, several municipalities have already taken the lead, ranging from the city of San Pasadena on the West Coast to the town of South Hampton on the East Coast. Los Angeles and other cities are also

transitioning. These cities maintained hundreds of acres of land with battery-powered equipment. And, by the way, the Smithsonian uses battery-powered leaf blowers. All we needed was a hearing before the DC Committee of the Whole to share with you what our nearly three years and countless hours of scrutiny demonstrated. So, we posted a petition on change.org that asked Chairman Mendelson to bring this bill to a hearing. We were told not to expect more than a few hundred signatures, but in short order we had a thousand. Today our petition has over 2,000. 2,319 supporters, a vast number of whom are DC residents. Let's have our nation's capital take the lead on this important legislation. Thank you.

Mendelson: Thank you, Miss Orlins. Mr. Small?

Small: Good afternoon. Thank you, Chairman Mendelson and Councilmembers, for the opportunity today to speak in support of this bill. My name is Haskell Small. I am a fourth-generation Washingtonian, and I reside at 3220 44th Street, Northwest in Washington, DC.

As a composer and pianist who works at home, I find the horrendous noise of gas-powered leaf blowers to be not only an intrusion to my right to peace and quiet, but also an invasion of my space, making it sometimes impossible to work. And in attempting to calm my nerves with a pleasant walk, I am often bracketed by the pervasive, wailing scream of these blowers operated by sometimes squadrons of lawn maintenance workers.

There are, of course, many other hazards produced by gas-powered blowers, but the noise alone is reason enough to ban these machines. Besides being an intolerable disturbance to the peace, this noise is an assault on our ears, causing irreversible hearing loss, and an assault on our nervous systems, causing stress, sleeplessness, and hypertension. Not only for residents, but especially for the workers who typically operate these machines eight hours a day.

There is another, underappreciated hazard to workers using gas blowers. While pursuing their ludicrous practice of blowing leaves and debris into the street, they are risking their lives. I recently observed a worker outside my house who danced in front of an approaching SUV, oblivious to the oncoming traffic because of the blaring sound of his gas blower. I Googled a little and came up with a dozen incidents resulting in injuries and deaths to workers in this situation. Note that this is not an issue with battery-pack blowers, as their higher-pitched, less growly sound doesn't mask the sound of approaching traffic.

These outrageously loud machines have no place in a civilized community. By passage of this bill encouraging the replacement of gas blowers with battery-powered blowers, you will be offering a gift to everyone. Homeowners will have the right to pristinely manicured lawns. Their neighbors' rights for peace and quiet will be respected. Maintenance companies will have an effective tool that they can employ

profitably and responsibly. And their workers will have the right to live productive, healthy lives. Thank you, Chairman Mendelson. I'll take your questions, please.

Mendelson: Thank you, Mr. Small. Miss Pierce?

Pierce: My name is Lucia Buchanan Pierce, and I am a longstanding resident of Ward 3. I'm here to introduce a video on behalf of my friend, Deborah Fallows, a founding member of QCDC. Mrs. Fallows regrets that she could not be here because of an unbreakable prior commitment. In Mrs. Fallows' words, "The video will show you Gene Jackson, who I've known and respected for several years. He is an award-winning, lifelong groundskeeper at the University of Redlands, in Redlands, California. Mr. Jackson will describe the effects of his hearing loss resulting from decades of operating gas-powered leaf blowers. Recently, Mr. Jackson was able to switch to battery-powered blowers, which he will be demonstrating in this video."

Announcer: Eugene Jackson is a lead landscaper and grounds worker at the University of Redlands in California where he has won numerous awards for civic leadership and employee excellence. In keeping with the university's longstanding workplace policies, Jackson and his crews have always worn headsets and other protective equipment while on the job. Even so, according to medical screenings sponsored by the university, his years of exposure to leaf blower noise have cost Jackson 65 percent of his high-frequency hearing ability.

Eugene Jackson talks with Shelly Stockton, director of Alumni and Community Relations for the University of Redlands, about the surprisingly personal effects of this kind of hearing loss.

Jackson: Well, that sound, kind of a sad thing. And I was discussing with one of my family members regarding my hearing, and here at the university, our kids can come to college for free. And I was telling my family member that I'm losing my hearing even more each day, but I need to stay here and continue to be a professional gardener so my son can get a four-year education, college education. He's very bright, he's a straight-A student.

But he overheard this, and he didn't want to go to college because he felt I was losing my hearing, and he didn't want that to happen. He'd rather see me work somewhere else than for me to hurt more, with the hearing. So it has affected me and my family. But I am determined to see him through the four years, or maybe eight that he needs to go through, through this process. So, it's a very emotional thing when you lose your hearing, and the environment is so bad with the pollution, so it's really affected us a great deal in my home.

Announcer: In addition to the safety policies, medical screenings, and family scholarship benefits that workers like Eugene Jackson have appreciated at the university, Redlands is one of a growing number of progressive institutions that are

determined to protect the environment and their communities by investing in quieter, safer, much cleaner, electric-powered equipment.

Mendelson: Thank you, Miss Pierce. I have one question. And that is each of you are testifying in support of this legislation. The legislation proposes a phase in. Maybe I shouldn't say a phase in, a delayed applicability of January 1st, 2022. Do any of you know why that date? Mr. Small?

Small: That was the date that one of our team members suggested would be a reasonable time to allow the maintenance companies using gas blowers to not have to buy new equipment right away, and so forth. I've seen, recently, there was a place where -- I don't remember exactly where a bill was passed with only 180 days allowed for the phase in. I'm not proposing that, necessarily, but as I've joked to my crew, I want to see this happen before I die.

Mendelson: But that's a four-year delay. Do any of you know what the life cycle is for a leaf blower?

Small: Sure. Did you want to--

Orlins: I don't know exactly--I think, certainly, within this amount of time. I think the cycle is maybe around three years, maybe four. But somebody else might know better.

Small: I've heard that the machines start deteriorating, something to do with ethanol and mixture of fuel and oil, that they start deteriorating within two to three years, and so these machines are going to die anyway.

Mendelson: Thank you. Councilmember Cheh, do you have any questions?

Cheh: Thank you, Mr. Chairman. I just have one, and it's for Miss Orlins. I just wanted to underline the point which I think you made, but I want to refer to it again. That is to say that this interest in doing away with these gas-powered leaf blowers is not limited to one or two wards, that it's something that you have garnered support for across the district. Could you elaborate on that a little bit?

Orlins: Right. Grif Johnson, who spoke earlier, he visited quite a few ANCs, and I believe nearly all of them endorsed it and passed resolutions. I'm not sure if it's 12 or 14, I think we had 12 actual resolutions and two more that were in the process of completing that. And then that amounts to 40-some neighborhoods. Or, anyhow, quite a few neighborhoods throughout the city. And it's seven of the eight wards supported this, yes.

Cheh: Thank you very much. Thank you, Mr. Chairman.

Mendelson: Thank you, Councilmember. Thank you to each of you for your testimony.

Hugh Allen, representing the Ward 3 Democratic Committee. Anne Cauman. Joey Spatafora. And Ann Mladinov. Mr. Allen, when you're ready. And good afternoon.

Allen: Thank you. Good afternoon. My name is Hugh Allen, and I'm here testifying on behalf of the Ward 3 Democratic Committee, which supports this legislation, and specifically I am also providing testimony of Debbie Shore, the president of the Ward 3 Democratic Committee. The Ward 3 Democrats is composed of over 90 Ward 3 Democratic activists, with representatives elected from each of the 18 precincts in the ward. We wish to thank Chairman Mendelson and the other members of this Committee of the Whole for the opportunity to provide this testimony. And specifically, we wish to thank Councilmember Mary Cheh, who's sponsoring this bill, and also her co-sponsors, Councilmembers Allen, Grosso, McDuffie, and Bonds.

Based on the factual information that we were provided on June the 4th, the Ward 3 Democrats passed unanimously a resolution which is attached to this testimony that I'm giving, and I encourage you to take an opportunity to read it. It's short and to the point. We support the leaf blower regulation. And this leaf blower bill will provide the use, and in most instances, prohibit the sale of gas-powered leaf blowers in the District of Columbia, as of January 1, 2022. And it will be a boon to the health of residents in the District as well as to any person previously operating gas-powered leaf blowers in the District who switches to another type, probably battery powered.

Now, what we've observed in considering this resolution is that gas-powered leaf blowers are extremely noisy. The noise from gas-powered leaf blowers is not only potentially painful, but possibly dangerous to the ears of people nearby. We just saw the example in the film. Also in this testimony, we would call to your attention an article in the Environmental Health Perspectives about environmental noise pollution and the United States developing an effective public health response. I'm going to stop here. Thank you for this opportunity. I'll be glad to answer any questions.

Mendelson: Thank you, Mr. Allen. Miss Cauman--

Cauman: My name's Anne Cauman. I'm a longtime resident of the District. I live in Ward 3 at 4405 38th Street Northwest. I have no technical knowledge. I'm not a member of Quiet Clean DC, but I'm a very irate homeowner. I'm an avid gardener, and the noise from these leaf blowers drives me absolutely crazy, and I want to see that noise stopped.

A few years ago it wasn't so bad because they were mostly used in the fall, and by the time they were used, I wasn't doing so much gardening. Then, either my neighbors all hired lawn companies, or more lawn companies began using them year round, and it began driving me absolutely crazy. I use a lawn service, but I don't have them routinely use leaf blowers. And in the fall, my husband and I rake our leaves, usually. There's been one or two instances where one of us was very ill, and then we had the leaves

blown. But normally we rake them. And the longer that I was outside gardening, and the leaf blower noise was almost constant, my hearing began deteriorating. And while I didn't have any proof, I attribute it to the noise I was constantly subjected to in my yard.

Eventually, I went out and bought an ear protector, which I think I have here to show you. First I got a 20 decibel ear protector, but that didn't do the job, so I went out and got a 30 decibel ear protector, which was more uncomfortable but blocked more noise. I shouldn't have to do that. I should have peace and quiet in my yard.

When I heard that Councilmember Cheh had sponsored this bill, I was totally thrilled. And I just want to see these things banned. I think it's a health issue, not a money issue. And to the extent it's a money issue, those of us with health problems are going to have to pay. And the big lawn companies aren't going to be the people paying the bills. Thank you.

Mendelson: Thank you, Miss Cauman. Mr. Spatafora?

Spatafora: Yes. Thank you, Chairman Mendelson and Councilmembers, for the opportunity to speak about stress and the lower quality of life from gas leaf blowers. My name is Joey Spatafora, and I have three problems with gas-powered leaf blowers. They are in my bed, in my home office, and on my sidewalks. From my fourth-floor Connecticut Ave. apartment, I experience almost daily exposure to gas-powered leaf blowers, often throughout the day. I work from home as an engineer, and also spend time in loud computer server rooms. I've also played in a rock band, so I'm not stranger to loud noise. I have no problem with the sounds and traffic noise of Connecticut Ave.

However, gas-powered leaf blower sound is different. It disrupts my work, concentration, and walks. Often, a gas-powered leaf blower disrupts my business conference calls, making it difficult to concentrate or even hear my coworkers on the phone. It's not unusual for my work day to begin with the sound of gas-powered leaf blowers before 8:30 in the morning. Operators circle the building across the street year round. Sometimes they even jar me awake.

I've tried several solutions on my own. Number one, expensive noise-canceling headphones, but they almost amplify the leaf blowers because they blocked out most other sounds instead. Two, weather stripping to seal windows frames. This didn't work, because the sound penetrates windows, and I'm told walls as well. Three, I've contacted several noise-reduction companies to try to seal my windows. But this is neither feasible, nor affordable in a rental apartment.

So, I resorted to auditory masking instead. I turn on the dishwasher, even if I have no dirty dishes. And I play loud rock music on YouTube. This tends to overcome the noise, but then it creates more noise. Keep in mind, I haven't even left my apartment yet.

Now, let's go outside. On my daily walks around the block, I see gas leaf blowers on both sides of the street. I see leaf blowers on the sidewalk as pedestrians, dogs, and parents pushing strollers try to walk past them. And I see multiple teams of leaf blowers blow, creating the particular screaming drones of these machines from several directions at once. I hear them because the sound travels so far. Sometimes as many as three operators at once are blowing on the same property.

We live in a dense, walkable city that is incompatible with these loud and hazardous machines that operate within earshot of our living rooms, kitchens, and bedrooms, even on the fourth floor above one of our busiest streets. I urge you to phase out gas-powered leaf blowers in favor of safer, more considerate, battery-powered alternatives. Thank you, again, for this opportunity.

Mendelson: Thank you, Mr. Spatafora. Miss Mladinov?

Mladinov: Thank you, Mr. Chairman, for holding this hearing and taking comments on the leaf blower issue. I really appreciate all of the information that we've already gotten from the experts on this issue, just today. It's really important to get that out on the record.

I'm an ANC commissioner in 3B Glover Park, Cathedral Heights. I'm testifying today as an individual, not a representative of my ANC. We have a lot of small yards in ANC3B, but we also have some large apartments with lawns, and gardens, and sidewalks, and driveways that they want to keep clear. So, we've heard about noisy leaf blowers for several years, and have had discussions about it, and have done some reading about it since the bill was introduced by Councilmember Cheh in 2016.

But we were uncertain how to take care of the problem. I think you know the saying, "If this were easy, it would be done already." All of us care about the environment and carbon emissions, energy use. And none of us like the noise. But with most issues that are complicated, as with this one, we rely on the Council to pull together the research, hear from a range of parties involved, do your deliberations, and come up with a solution that works. We really do trust our Councilmember, Mary Cheh, to do the right thing on energy and environment issues.

When we took up this issue, we had several questions. All of us supported having a hearing, but I and other commissioners and constituents had some doubts about the enforcement mechanisms in the bill. They wanted to know more about the advancing technologies, and whether there might be some electric leaf blowers that were actually getting as loud as some of the gas leaf blowers, and equally powerful. They wanted to know about the timing, both the effective date of the bill, and also just the prolonged use of leaf blowers, which seems to be one of the big aggravating factors. How many hours of the day and days of the week. We have to listen to it, almost regardless of what type of blower.

I hope that the bill will get at the major problems that we have heard. Will it get the key actors to change what they're doing? We don't want the companies and the individuals to try to get around the bill, to hide what they're doing, or figure they can get away from enforcement because there won't be any chance for DCRA to get out to the District in time to snag them. Will there actually be significant reductions in the most irritating noise? People want an improvement now, and I think the Council, like the ANC, is interested not just in taking actions so we can tell people we're doing something, but actually doing something that's going to make a substantive difference for people. Thank you very much for hearing our testimony.

Mendelson: Thank you. Thank you, each of you, for your testimony.

Miss Mladinov, I'm looking at your written statement, which seems to be, I want to say ambivalent about this legislation. Is that a fair characterization? It says, "I'm concerned that the legislation as written does not identify the problem carefully enough"?

Mladinov: I would say it's a little bit more negative than ambivalent, because I have grave doubts myself about, especially, the enforcement. But I think also the targeting. It is an across-the-board ban on gas blowers. If you can get people to retire their blowers and get people not to use the blowers that they buy in the District within the District, I think it would be very hard to check on those things. I don't know who would be doing the enforcement. So, I really have doubts about the legislation, although I appreciate the purpose of it and really hope that we can achieve the purposes of the bill.

Mendelson: But you raise other concerns. "Identify the problem carefully enough. Effectively target the most noisy and offensive leaf blowers." You had an A,B,C,D, but C was enforcement mechanisms, which you just spoke to, and the fourth is "Provide relief to residents." Okay, so I am reading this correctly, that you're critical of the legislation.

Mladinov: I think it could be made much better, and that's why I voted against our resolution to support the bill.

Mendelson: But how would it be made better?

Mladinov: I'm a person who wants to work with other people. I think that there are ways of providing incentives through information, through consultation and coordination with landscaping companies, with vendors. I have a variety of suggestions on the third page to try to get people to want to get rid of noisy leaf blowers, instead of giving them an incentive to try to get around the legislation. Show them what the harms are, show them what the better options are. Maybe even get homeowner and tenant associations to give incentives to not hire contractors who are using noisy leaf blowers for prolonged periods. Discourage them for having so much leaf blowing going on, day after day. Some of our constituents suggested only once a week. It's so aggravating. So, we would love to see more coordination with more of the interested parties so they'll want to work together to solve this problem.

Mendelson: Thank you. Councilmember Cheh?

Cheh: Yes, thank you, Mr. Chairman. And staying with that point, Commissioner, one of the reasons why we opted for this approach is exactly one of the issues that you raised, namely enforcement. It would be rather easy to determine whether a person or a company was using gas blowers as opposed to electric ones. And that's a huge improvement over the current noise enforcement. And then second, the gas blowers as a class are noisier, and their noise extends farther.

So, I suppose, you know, in deciding how to do something, you can prescribe it. Or, alternatively, you could try to cajole people. But, in fact, even something that you just mentioned, maybe get everybody to agree to do it once a week. The enforcement and administrability of this alternative approach, I think would be even more difficult than what we have now. So, in thinking about this, so I don't want you think it was done thoughtlessly or too quickly, to look like we were doing something.

The real answer is to move away from the gas blowers, and move to this other technology. It's better, it's quieter, it's healthier. And it really is the way to enforce the rules. So I just want you to know that it's not something that we came at kind of willy nilly. And the enforcement issue actually cuts against what we have now, or some of these alternatives that you're raising. I have no actual questions, Mr. Chairman. Thank you all for testifying.

Mendelson: Thank you, Councilmember Cheh. Thank you to each of you for your testimony.

Lucian Pugliaresi. I'm sure I mispronounced that. Daniel Mustico, who's Vice President of Government & Market Affairs, Outdoor Power Equipment Institute, Inc., Chuck Elkins, who is Vice-Chair of ANC3D.

Mr. Pugliaresi?

Pugliaresi: Okay. Mr. Chairman, members of the Committee, thank you so much for this opportunity. First of all, I'm not going to go through my testimony as written. I'll submit it, but I want to affiliate myself with all of the previous testimony on the annoyance and the sort of health effects of the leaf blowers.

One of the things that I think we should seriously think about is what we can do in the interim to lower the noise level, generally. Washington, DC is a beautiful city. And we have great neighborhoods, and unfortunately we can't get out in those neighborhoods and enjoy them because the noise is just relentless. One of the things that I'd like to do is have our ANC Commissioners to try to educate the community. You know, some of my neighbors, there are lawn companies blowing their leaves up and down the street for a half hour. Okay, we can live with those leaves. We don't need to have such pristine conditions that we have to have the blowers running 24/7 throughout the neighborhood.

So, one of the things that I think I would hope the Council would take up, and maybe the ANC Commissioners, that look at incentives in the interim in which we can just cut down the frequency, perhaps accelerate voluntarily or through incentive structure, more use of battery-powered blowers. And sort of recognize this, that this is a kind of important quality-of-life issue for all of us living in the city. And with that, I'll conclude my remarks.

Mendelson: Thank you. Mr. Mustico?

Mustico: Good afternoon, Chairman Mendelson, Councilmember Cheh, members of the Council. My name is Daniel Mustico. I serve as Vice President of Government & Market Affairs for the Outdoor Power Equipment Institute, the trade association representing manufacturers of leaf blowers. My testimony today is in opposition to the proposed legislation, as it is the wrong approach to addressing the identified concerns. Instead, we should recognize and rely on the continuous innovation of these products, and improved education about their safe and courteous use.

These market-based solutions alleviate the need for this legislation. First, leaf blowers do more than just blow leaves. They are used by landscapers and homeowners to clean yards, parking lots, and sports stadiums. Remove snow, clean gutters, and clear flammable degree. Communities want safe and clean spaces and landscapes, and often leaf blowers are the best solution.

On product innovation, manufacturers have invested millions of dollars in the last 15 years, resulting in blowers that are as much as 75% quieter, and gas-powered engines that have reduced air emissions as much as 90%. Continuous improvements to both electric and gas-powered leaf blowers are effectively addressing the underlying concerns of this legislation. On safe and courteous use education, OPEI has developed new videos for use by landscapers and retailers in explaining manufacturer-recommended use guidelines. This series is included in a toolkit provided in our written submittal to the Council, and is also publicly available at OPEI.org/leafblowers. As an example, I'd like to play the following video which focuses on noise concerns.

Video: That's why we're committed to taking steps to reduce our impact on the community. How do we do this? Well, to start, we're constantly looking for ways to improve our technologies. And in the last decade alone, we've decreased the noise level of leaf blowers by 75%. And with the help of further technological innovations, landscapers now have access to leaf blowers, both gas and electric, that only reach 64 decibels.

But we know that using the latest equipment is not enough. That's why we are committed to holding ourselves to the highest standard when it comes to safe and courteous use. What does that mean? It means:

- being sensitive to the time of day, and planning ours accordingly,
- making sure other landscapers and bystanders are at least 50 feet away while blowing, and

- turning off our leaf blowers when approached,
- using reduced-noise leaf blowers in sensitive areas, and
- not using more than one leaf blower at a time.

Why are we committed to bringing about positive change? Because the communities we're responsible for are our communities. Let's make something to be proud of.

Mustico: In conclusion, we ask for the Council's consideration of these market-based solutions in place of the subject legislation. This bill will only have adverse impacts on the city's businesses and residents who use, sell, and rely on these important products. Thank you for the time to express our concerns.

Mendelson: Thank you, Mr. Mustico. Commissioner Elkins?

Elkins: Mr. Chairman, I'm Chuck Elkins, Vice-Chair of ANC3D. In my former life at EPA, I served as Director of both the Noise Control Program on the Federal level, and the Federal Air Pollution Control Program.

I want to assure you, as you have already heard, that this is not just a Ward 3 problem. We have 12 advisory commissions' [supporting resolutions from] across the city, and in seven wards, 46 neighborhoods. And, as you know, ANCs do not suffer fools easily. They don't put their names on resolutions unless they understand them and approve them. So this is not just a few residents in Ward 3 who are concerned about this.

I'd like to spend the rest of my time addressing some of the concerns we've heard here, this afternoon. One we just heard is that this should be a market-based approach. I think it has been market based. This gentleman's industry has produced battery-powered blowers, and they are quieter, and now we have the scientific evidence that you heard earlier this afternoon that in fact this bill is directly targeted at the technology that needs to be banned, because all of these gas blowers are noisier than the battery ones in ways that the measurements from the industry do not show. So, this bill turns out to be very focused in the right way on technology. Changing behavior is good, but it's not the solution where we can have a technology solution.

I'd like, finally, to address the points made by Mr. Mann this afternoon on behalf of the lawn maintenance industry. I think none of us are against the industry. He asked for a middle ground, and I think that's exactly what this bill does. It's a middle ground because it's targeted only at gas-powered blowers, so the industry will still have excellent blowers to use. It's based on the scientific basis I just described. So,

- It's a middle ground for the lawn maintenance companies. They can continue to do business, as you heard from a couple of operators. And there are 140 others across the country. They can do this business and make money.
- Secondly, it's great for the workers because of the hearing loss, and
- It's great for the neighbors.

And I want to suggest to the lawn maintenance industry that they adopt a new motto. It would be, "It's better to be seen rather than heard." Wouldn't it be great to look forward in this city, in the future, to when people will walk out of their houses and say, "Oh, the lawn maintenance people have been here! It's beautiful. But, you know, I didn't hear them!"

That is the future that I hope the lawn maintenance industry can move to. It's a direction that the industry is producing equipment so that they can do that. And I think now is the time for DC to join the other 120 communities across this country to bring in the 21st-century technology. Thank you, Mr. Chairman.

Mendelson: Thank you, Commissioner. Mr. Pugliaresi? We don't have a copy of your statement.

Pugliaresi: Oh, okay, I'll submit it.

Mendelson: Okay, and I couldn't tell from your oral remarks, are you in support of this legislation?

Pugliaresi: I'm absolutely in support of this.

Mendelson: Okay.

Pugliaresi: And, you know, let me just say, I once served as a rather torturous role as president of the Wesley Heights Spring Valley Citizen Association. I'm well aware of how difficult all of these issues we face in our community -- zoning, and tree removal -- but this is an issue in which we need to do something now. I don't want to wait until 2022 to enjoy my neighborhood. And I understand we might not be able to have legislation. But I really do think we can reach out to the community, find ways to encourage people. We don't need to run those blowers three times a week in the spring and the summer. I mean, this is what happens in our neighborhoods. We really cannot enjoy this wonderful city. And I think we should try to get our ANC Commissioners to help with the communities to see what we can do voluntarily in the interim until we get this legislation passed.

Mendelson: Thank you. So you'll provide a copy of your statement?

Pugliaresi: Yes.

Mendelson: Commissioner Elkins, you're testifying on behalf of ANC3D?

Elkins: I am, but I'm also a member of Quiet Clean DC.

Mendelson: Now, I see in the packet attached to your statement resolutions from different ANCs.

Elkins: That's correct. They were gathered by an effort over the last year by this organization, particularly Grif Johnson. And I've submitted all of them. And you'll notice that they are from across seven different wards.

Mendelson: Yes. Now, your commission's ANC was--

Elkins: 3D.

Mendelson: Was adopted in 2015?

Elkins: That's right. We were the ones who went first, and brought this attention forcefully to Councilmember Cheh's attention. She was already aware of it. We just reinforced it and urged her to write a bill.

Mendelson: And your testimony is that your commission is still standing by that.

Elkins: Absolutely.

Mendelson: Why leaf blowers and not all gasoline-powered lawn equipment?

Elkins: Well, leaf blowers are the most noisy of all of this equipment. Secondly, the batteries can be moved to some of these other pieces of lawn equipment, so we think this is a good place to start. It's the worst case, and we think that, as my colleague here to my right says, we should let the marketplace work its way as well. So, we would start with leaf blowers, but certainly some of this other equipment I think will go in the same direction. And, in fact, is going. There are a number of battery-operated lawnmowers and other equipment at this time, as well.

Mendelson: Thank you. Mr. Mustico, in your statement you referred to a toolkit provided to the Council. I'm not aware of what you're talking about.

Mustico: There's a link in the letter that I provided which will direct you to the URL on our website that has a description of this toolkit. There's a total of four videos there, one of which I played, focused on noise. The others talk about emissions, dust, and then there's a more comprehensive long-play video there as well. So, that's the toolkit I referred to, and it's posted publicly online.

Mendelson: Okay. Thank you. So OPEI represents the manufacturers of outdoor power equipment, including leaf blowers, correct?

Mustico: Correct.

Mendelson: And so you could answer some questions for me, such as, what is the lifespan of a leaf blower?

Mustico: I think they vary from product to product, from manufacturer to manufacturer. I certainly can't testify to an average life cycle on a product.

Mendelson: Does your website have that information?

Mustico: No, I don't believe it does.

Mendelson: And is it correct that battery-operated leaf blowers are quieter, always quieter than gasoline-powered leaf blowers?

Mustico: I can't speak to that as a universal rule. I think product to product is different. I certainly think there are offerings, as has been talked about today, companies are innovating with battery-powered blowers certainly for their advantage in lower noise. But from manufacturer to manufacturer, I can't testify as to which products are quieter or not.

Mendelson: And your website doesn't have that?

Mustico: No, we don't provide reviews of member-company products or specific information about their products.

Mendelson: I have one more question, Councilmember Cheh, and I say that because I'm a little over my time. Your statement concludes, "This bill will only have adverse impacts on the city's businesses and residents, who use, sell, and rely on these important products." Why do you say that? Because there's an alternative to the gas-powered leaf blowers. The bill becomes effective in January 1st, 2022, so presumably that would be ample time for commercial operators to replace the leaf blowers, which maybe will have expired or used up their life.

Mustico: That may be the case. In some cases, I think my more general point that the market is the best determinant of this is just saying that the people who rely on these different types of pieces of equipment to perform certain tasks, whether they're homeowners or commercial entities that rely on landscape crews or any other crews to do work for them, they're going to want to use the products that are in the market that perform in the best way to do the job they need done.

And I just feel that in the long term, our position is that it's best that the market dictate what products are best for those jobs, and they have availability to them. That was my only point. And I think it puts restraints on the many businesses in the District that rely on these products, and certainly homeowners and business owners that employ people to use them, if they don't have the full range of options of equipment that are available in the market to do jobs.

Mendelson: Thank you. I'm over my time. Mr. Elkins, can it be brief?

Elkin: I would just respond to that. The marketplace makes a lot of sense, except when there are externalities, and there are two major externalities here that are not controlled by the person who's buying the equipment, namely the lawn maintenance people. The hearing protection of their workers and the residents who are affected in the neighborhood. And so waiting for the marketplace to take care of the workers and take care of the neighbors is a false dependence on the marketplace. There is a role for regulation, and in this case it's a technology regulation that makes sense.

Mendelson: Councilmember Cheh?

Cheh: Thank you very much, Mr. Chairman. Commissioner Elkins, you took my point, which I was going to make as well. You know, markets are sometimes imperfect, depending upon who you are thinking about. And there are different groups that we're thinking about here, as well. And I would just note, Mr. Mustico, that your statement about-- And it reflects something in the statement of someone else earlier, we're conflating, collapsing leaf blowers of both kinds when you say that leaf blowers do more than just blow leaves, they do all of this good stuff.

We're not talking about leaf blowers in totality, we're talking about certain kinds of leaf blowers, and so, I think what we need is we need the technology to be put in place that protects all of the entities and people that are affected by how the leaf blower operates--which includes workers, which includes the residents, and includes, of course, people that want their lawns cleaned. If we have an alternative, which we do, that can address the problems of the gas-powered leaf blowers, we ought to take it, and that's what the bill is attempting to do. Thank you, Mr. Chairman.

Mendelson: Thank you Councilmember. Thank you, each of you, for your testimony. Mr. Mustico, if you want to supplement your statement given the questions, you remember that the record is open for a couple of weeks.

Mustico: Mr. Chairman, I believe we've submitted a letter with some more extensive information already. But I'll confirm that, but I believe we have. But if not, we'll make sure to do that.

Mendelson: Okay, yeah, please. Assume that we don't have it, because I don't remember seeing it, and Miss Powell to my left doesn't.

Mustico: I'll check, and we will do that.

Mendelson: Okay. The record's open for two weeks. It closes at 5 PM on July 16th.

Mustico: Thank you, sir.

Mendelson: Thank you. That would be helpful. Thank you, each of you.

Is Melinda Bolling here? Ah, there she is. And you are testifying on behalf of the government? When you're ready, and good afternoon.

Bolling: Good afternoon, Chairman Mendelson, Councilmembers, and staff. My name is Melinda Bolling, and it's my honor to serve as the Director of the Department of Consumer and Regulatory Affairs for the District of Columbia. And today I'm joined at the table with DCRA's new Legislative Officer, Mr. Robert Finn. I'm here to represent the Executive's testimony on 22-234, the "Leaf Blower Regulation Amendment Act of 2017."

While noise complaints are an issue that DCRA takes seriously, as drafted, the "Leaf Blower Regulation Amendment Act of 2017" poses several implementation challenges. We believe there are significant barriers to successful enforcement, and that the proposal may create unintended consequences based on the enforcement mechanisms in the bill as drafted.

Regulating the use of gas-powered leaf blowers poses a real challenge due to the brief length of time that leaf blowers are generally used. DCRA inspectors would not be able to consistently arrive quickly enough to inspect a noise complaint about a leaf blower while the leaf blower is still in use. Under the enforcement regime proposed by this bill, a resident may hear the noise of a leaf blower and call 311, DCRA, or the Metropolitan Police Department, MPD, to complain. To address this complaint, DCRA would need to send an inspector right away to the location of the complaint. As you're aware, traveling across the District can take anywhere from 15 to 60 minutes. Given the average yard sizes in the District of Columbia, and the tool's efficiency to complete the task, the inspector would likely not arrive at the property in time to witness any violation.

Newton, Massachusetts, with a population of just over 89,000, implemented a much less restrictive leaf blower ordinance in 2017. In the period from April to October, the Newton Police Department responded to 320 leaf blower complaints. According to local media, the leaf blower ordinance was not being violated 75% of the times police responded to the 320 leaf blower complaints. Newton Police Lieutenant, Bruce Apotheker explained to reporters that the department did not want to sacrifice public safety, and didn't think that this was the best use of public resources.

While the Council's bill envisioned DCRA, not MPD, as the enforcement authority, Newton's experience points to potential for the bill to drive an increase in call volume to MPD and 311. This would place a strain on the District's resources, all due to a law that DCRA would not even be able to effectively enforce. Finally, it is important to point out that Newton media reported frustrated landscaping companies viewed the city's leaf blower ordinance as a deterrent to working in the city. The landscaping and yard maintenance industry is a thriving sector in the District, with few barriers to entry. Frequent interactions with the DCRA inspectors could pose a perceived threat to many of the workers in the industry.

In addition, under the bill, District residents would have to purchase new, expensive equipment to properly maintain their yards. DCRA urges Council to take into account the potential impacts on the landscaping industry and homeowners that could arise as a result of this bill. For all of these reasons, the Executive believes the legislation requires significant reworking to be successfully implemented and enforced. Thank you for providing me with the opportunity to testify today. I am happy to answer any questions you may have.

Mendelson: Thank you, Miss Bolling. Do you want to identify who's with you at the table?

Bolling: I did in the beginning, but I'll do it again. This is DCRA's new Legislative Officer, Robert Finn.

Mendelson: Thank you. All right, so I do have several questions. First of all, your testimony concludes by saying the legislation requires significant reworking, but you don't make any suggestions as to how. And given the objections that you raise, it sounds to me like you're basically saying you're opposed to the bill.

Bolling: Well, in its current form we do think there are major problems. I've had an opportunity to communicate electronically with Commissioner Elkins, and he had some different approaches, but I haven't had the time for my team to sit down with him to flesh it out to give it to the Council in a meaningful way. But I do think he had some good suggestions on ways to rework this.

Mendelson: Well, the bill's been around for a year and half, I think. Nope, a year and two months, so this is really the best time to come forward with some ideas. What alternative could possibly exist that wouldn't involve somebody from the District government having to go to the site in response to a call, to then ascertain whether there's a violation?

Bolling: Well, that's typically what we do with most of our enforcement. But as in the electronic communication that Commissioner Elkins compared it to the way that DCRA handles our trash hauler complaints that are time driven; he focused on affidavits by the complainant. That perhaps that could be used in lieu of actual witnessing by DCRA inspectors. But I haven't fleshed out with him because there's a little difference, because typically with trash hauler companies, you have clearly identified trucks with the names on the side. And we haven't seen, in all cases, that all of the landscape companies are clearly identified. And so we're not sure if you would go after the homeowner with the 500 dollar fine, or would you go after a non-clear, who the landscape entity is, because they're not always big companies. So there was a little reworking that we wanted to do, some more conversation, but we haven't gotten to that yet.

Mendelson: I'm not quite getting this, because an affidavit, I guess with the trash-hauling company that would be a company that's working after hours or before hours?

Bolling: Typically, yes, sir. It's before hours.

Mendelson: So, I would complain to you in writing that ABC Haulers was out at 6:30 in the morning, and it was truck #34, and it's ABC Haulers, and the license plate number, such and such. And if I didn't give you all of that information, then you wouldn't be able to do anything. But with the leaf blower, it would be-- Because we're talking about gas powered, we're not talking about all leaf blowers. It would be my allegation it's a gas-powered leaf blower. And maybe I would know the landscaping company, I wouldn't know the operator. Maybe they've got three leaf blowers, and one of them's gas? Maybe none of them are gas and I'm just a cranky neighbor. So, I don't even know how that would begin to work.

Bolling: Well, you've raised some very good points, Chairman Mendelson, about the enforcement challenge we would have, and litigation before an administrative forum. So, yes, we agree with you.

Mendelson: Okay, so then what do we-- It's the position of the Executive, then, that we just live with the leaf blowers?

Bolling: Well, the position is we're happy to have these things pointed out by the Commissioner that he thought were workable, and that we're happy to continue to work with Council and the Commissioner, or any other Commissioners, that have ideas that we can work through to see if it could happen.

Mendelson: Well, there are a lot of people who think that this is a problem that should have been solved a few years ago. The bill's been pending for a year and half. I can't begin to see what solution there would be that wouldn't run up against either the problems I just identified, or the problems you identified. Calls to 311, that would be-- I don't know if you said burdening the 311 system, but I'll use that word. And inspectors have to take time to come out. Or, an affidavit that would be completely unreliable, because how can you put in an affidavit that was proof that it was gas, unless I guess put gasoline on the paper. So I don't--

Bolling: I'm not disagreeing with you, Mr. Chairman, today.

Mendelson: Okay, so if you don't have a solution, that says to me that the Executive's position is to do nothing.

Bolling: Well, in the current form, we think we need to rework in with Council, working together.

Mendelson: But you can't tell me how?

Bolling: Well, again, perhaps there could be some way. But as I sit here, no, we do not have a solution to rework it in its current form.

Mendelson: In your statement, at the bottom of page 2, "Given the average yard sizes in the District of Columbia, and the tool's efficiency to complete the task, the inspector would likely not arrive." What does that mean, the tool's efficiency to complete the task?

Bolling: That it doesn't take very long to blow leaves, as opposed to rake them.

Mendelson: Ah. Okay. And then you refer to Newton, Massachusetts. It implemented a much less restrictive leaf blower ordinance. Can you tell me more about that ordinance?

Bolling: Well, I don't have the actual words of the ordinance, but they actually were going to, versus an administrative regulatory agency like DCRA, their calls were going to 311, and they were a much smaller jurisdiction. And they had 320 complaints in a short amount of time, but the vast majority of them weren't a violation of their ordinance. But I don't have the actual statute to show you.

Mendelson: Yeah, I get that you pointed out 320 leaf blower complaints, and not a good use of police. But I'm struck by, or focused on the "Implemented a much less restrictive blower ordinance." And I'm dying to know what that is.

Cheh: Mr. Chairman, can I tell you?

Mendelson: Yes, Councilmember Cheh?

Cheh: It banned the use of gas-powered leaf blowers from Memorial Day to Labor Day, and then for the rest of the year, used a decibel level thereafter, which as you know, is very difficult to enforce.

Mendelson: Okay. So, that's much less restrictive. Maybe not. Councilmember Cheh, do you have questions?

Cheh: Yes, I do, but you know, Chairman, if you would indulge me, Commissioner Elkins has asked to respond to some of the points made by Director Bolling, and so would it be possible to call him back to the table?

Mendelson: Uh.

Cheh: Oh, he's anticipating that you're going to say yes.

Mendelson: We'll see.

Cheh: Well, we're seeing now. So, Commissioner Elkins, as part of my time, although I have my own questions, did you want to respond to something that you've just heard?

Elkins: Yes, if I could. I think we have the experience of a number of communities that we should draw on to form the enforcement and compliance effort in DC. We've tried to make a study of that in the last three years. We're not experts, but we think we've learned something from that. Number one, and I think this is true across all environmental regulations, voluntary compliance is the secret. And behind that is education. So, we're talking about a three-year period here, three-and-a-half year period in which education needs to take place.

Number two is drawing on the experience of the trash hauler program, that there could be a 311 notice of a possible violation in which there could be a photograph of the leaf blower. These gasoline leaf blowers are quite distinguishable from battery-operated ones, so I think that would be relatively easy.

Secondly, it's true that some of these lawn maintenance companies do not have signs on their trucks, but they do have license plate. And I think a little help from the DMA I think would help to figure out who these people are.

And so the first step should be not to try to catch them in real time, but to provide this information to the department. The department can then, when they're out in the field or otherwise, put a door hanger on the door of the residents where this potential violation took place, and can send a letter to the company saying, "It's been reported that you violated this, do you know about the law, and here's what the law requires, et cetera." And hopefully voluntary compliance.

There will be a few operators who won't comply. In those cases, it may well be necessary to call an inspector out, and to verify this. But we would hope that that would be a small percentage of cases. So, just to shorten it, we think that there are good examples out there, and we would be very happy -- and I've already offered this to Director Bolling -- we'd be glad to sit down with her and go through this. We have met with some of her staff, but clearly we can do more.

Cheh: Thank you, Commissioner. And I'd like to follow up in my remaining time. First of all, about this Newton analogy. I think it's inapt, both because the bulk of the enforcement other than Memorial Day to Labor Day, especially with leaves and that sort of thing, required a decibel level reading. And that itself is complicating. But it's not apt, and I reject, essentially, your testimony that confesses impotence in this area, which is essentially what it does. The fact of the matter is, in terms of environmental regulations, as the Commissioner was pointing out, there are many where we have a multiple-level strategy.

But standing behind that strategy is an enforcement and a penalty. And we rely, then, both on voluntary compliance. People tend to comply with the law once they know it. We rely on education so that people do know what the law is. And then we rely on deterrence because people don't like to run afoul of the law.

So, this confession of impotence, of being unable to enforce this legislation is I think unfounded. And I think that if the Executive, if the Mayor opposes this bill, it's for want of sufficient investigation of the basis for the bill, and the basis of enforcement for the bill. And I would suggest that you all need to do your homework. Thank you, Mr. Chairman.

Mendelson: Thank you, Councilmember Cheh. Did you want to say something, Director Bolling?

Bolling: Oh, no. Thank you, sir. Good to see, sir.

Mendelson: All right. We're going to see you on the second bill?

Bolling: You will see me tomorrow for a long time.

Mendelson: Okay. Thank you, Director Bolling.

--- End of Hearing on Bill 22-234 ---