JOINT INSURANCE/REAL ESTATE  1:00 P.M.
PLANNING/DEVELOPMENT COMMITTEE
PUBLIC HEARING

CHAIRPERSON: Senator Matt Lesser,
Representative Sean
Scanlon, Senator Steve
Cassano, Representative
Cristin McCarthy Vahey

SENATORS: Kushner, Lesser, Miner,
Hartley, Anwar, Bizzaro,
Cassano, Cohen, Somers

REPRESENTATIVES: Dathan, Pavalock-D'Amato,
Delnicki, Hughes, Nolan,
O'Neill, Riley, Rosario,
Vail, Baker, Rojas,
D'Agostino, Conley,
Stafstrom, Arnone, Gucker,
Michel, Zawistowski,
Kokoruda, Dubitsky,
Haines, Delnicki

REP. SCANLON (98TH): Be getting started if everyone
can try to take their seats. If there becomes not
enough room in here, if we fill up, there is an
additional room next door that folks can go in that
they will be playing the audio and you can be
listening to.

My name is Sean Scanlon and I'm the Chair, House
Chair of the Insurance and Real Estate Committee.
As you all probably know if you're sitting in this
room, today is a joint hearing of my committee, the
Insurance and Real Estate Committee and the Planning
and Development Committee to look at nine different
bills related to the crumbling foundations issue.
I would just say at the top the legislature has done some great work in this regard in the last few years on a bipartisan basis. But we're sitting here today and we're hearing nine bills today because there is still more that we can be doing to help those who are affected in our state by the crumbling foundations issue.

This issue is something that my committee has heard before, assuming we will hear again and I will say, as one of the Chairs, I'll let the other Chairs speak in a minute, we wanna do whatever we can to help you out because I can't imagine what it would be like if my wife and I got the news that some of you got when you found out that your house was affected this way.

And so to the extent that we can have today be a continuation of the promise that we've been making to you in the last two years to continue work on this, I hope that's how you leave here today feeling.

So with that, I'll turn it over to my Co-Chair, Senator Lesser for some remarks and then to Chairman McCarthy-Vahey.

SENATOR LESSER (9TH): Thank you. Thank you, Chairman Scanlon. I'm State Senator Matt Lesser, I'm the other Co-Chair of the Insurance and Real Estate Committee and like Representative Scanlon said, this is not the beginning of the conversation, this is not the end of the conversation, this is kind of a continuation of work by this General Assembly to try to address this huge problem that's affecting so many homeowners. I've heard many -- many stories and I think we'll hear some more today
about why this is a critical issue and how this is hurting homeowners across the state. Or in a large portion of the state.

So we've got a lot of bills up today. I know that there's more work that needs to be done and happy to do my part as Co-Chair of one Committee in the legislature to continue that conversation, that's what we'll do today.

And we're thrilled to partner with our friends at the Planning and Development Committee who are here as well. And that's why I would like to turn it over to my friend and colleague, Representative Cristin McCarthy-Vahey who is the Chair of the Planning and Development Committee.

REP. MCCARTHEY-VAHEY (133TH): Thank you very much and welcome to all of you. I'm sorry that you have to be back here with us again and I know that you will be for many years into the future, I imagine.

I will not repeat what my colleagues have said but I just wanna give credit to those who have been such amazing advocates on this issue in helping to bring this to light not just for the people in your own communities but for those of us who live in other parts of the state.

I'm from Fairfield, Connecticut and many people where I live have no idea what is happening to those of you who are dealing with this in your day-to-day lives, in your homes, with your families, with your neighbors. So I'm very honored and privileged to be here today to hear from all of you and to learn more about how we can better partner with you to help solve whatever problems we can and move forward
together on this issue.

Thank you, Mr. Chair.

REP. SCANLON (98TH): Thank you. At this time we'll proceed to the first hour of the public hearing which will be elected officials and their guests. Then we will begin to alternate between those folks and the members of the public who are here.

If you have not signed up and want to do so, there are sheets in the back of the room and we will begin with Representative Geoff Luxenberg and Don Poulain and they're already sitting and ready to go, so without further ado, take it away, gentlemen.

REP. LUXENBERG (12TH): Thank you, Mr. Chair and to the other two Chairs here and ranking members and leadership of the Committee, I'm Geoff Luxenberg, State Representative from the 12th House District in Manchester.

Many of you have heard, probably repeatedly, my personal narrative on this issue but I wanted to use my time and yield it to my constituent, Don Poulin, who was the first impacted homeowner to contact me with this problem back in 2013 and has been working and volunteering tirelessly to help others impacted and is now on the Board of the Crumbling Foundation Solutions Indemnity Corp.

So with your indulgence, I will yield my time to my constituent, Don Poulin.

DONALD POULIN: Before I begin my testimony, I'd like to thank Representative Luxenberg for sharing his allotted time with me today. Thanks, Geoff.
To the joint committees, thank you for allowing me to testify here today. My name is Donald Poulin, I reside at 88 Princeton Street in Manchester but formerly at 57 Colgate Drive in Manchester, a home that we lost back in May of 2016 due to its crumbling foundation.

I'm testifying before you today wearing two hats. One is a homeowner financially devastated by this crisis and secondly as one of two affected homeowners serving on the Connecticut Foundation Solutions Indemnity Company Board of Directors.

As many of you know, CFSIC is the Captive insurance company created to disburse the funds associated with the Crumbling Foundation Assistance Program.

So as an individual devastated by this crisis, I'd like to offer the following blanket statement. I am in full support of all legislative measures that will aid homeowners through this crisis and those that will provide relief to their communities.

As a Director serving on CFSIC's Board of Directors, I offer the following. Regarding H.B 5969, AN ACT ESTABLISHING AN INTEREST-FREE LOAN PROGRAM FOR CERTAIN HOMEOWNERS WITH A CRUMBLING CONCRETE FOUNDATION; CFSIC supports this legislation.

Regarding H.B. 5852, AN ACT CONCERNING A PUBLIC-PRIVATE PARTNERSHIP FOR CRUMBLING CONCRETE FOUNDATIONS AND APPROPRIATING FUNDS FOR SUCH PARTNERSHIPS, CFSIC views this legislation as favorable and is in support of it.

Regarding H.B. 7179, AN ACT CONCERNING CRUMBLING CONCRETE FOUNDATIONS, CFSIC finds the concept of
this bill to be acceptable.

Regarding H.B. 5702, AN ACT CONCERNING QUARRY STANDARDS AND TESTING, H.B. 6040, AN ACT CONCERNING TRANSFERS OF TITLE TO CERTAIN RESIDENTIAL BUILDINGS SITUATED IN MUNICIPALITIES IMPACTED BY CRUMBLING FOUNDATIONS and H.B. 6659, AN ACT REQUIRING SELLERS OF RESIDENTIAL PROPERTIES TO DISCLOSE THE PRESENCE OF PYRRHOTITE IN RESIDENTIAL CONCRETE REPORTS, CFSIC believes each of these are great ideas that just make sense.

Regarding H.B. 5193, AN ACT CONCERNING THE SALE OR TRANSFER OF PRIMARY DWELLINGS AFFECTED BY CRUMBLING CONCRETE FOUNDATIONS FROM REAL ESTATE CONVEYANCE TAX. Although this is out of well house and expertise, CFSIC believes it's a good idea.

And then finally, regarding H.B. 6750, AN ACT EXPANDING THE DEFINITION OF RESIDENTIAL BUILDING IN THE STATUTES PROVIDING ASSISTANCE TO CERTAIN HOMEOWNERS, CFSIC supports the expansion of this definition. This bill will open up the participation into the Captive Insurance Program to homeowners of condos and PUDs. This is a segment that currently is excluded from participation.

In closing, I'd like to thank each of you for allowing me to testify to you today but I'd also like to just make a small announcement and that is that on Monday, CFSIC will be posting on its website an announcement regarding PUDs and condos and how certain homeowners can start to participate in that program.

I have Michael Maglaras here and if you have questions, he can brief you on what that
announced will be.

REP. SCANLON (98TH): Thank you, Mr. Poulin, for your testimony and for all your work on the board. I know you're already engaged in that and have been from the beginning and I know you're an advocate -- probably more than an advocate -- for the folks that are affected by this so thank you for all you've done.

Open up for questions from the committee. Representative Delnicki.

REP. DELNICKI (14TH): Thank you, Mr. Chair, and I'd like to take the opportunity to thank the Chairs for hosting this public hearing and having the public hearing that we have today on all these bills. They're all good bills and Don, I wanna thank you for your service on the Captive Insurance. I'm sure it's taking a lot of your time up and I'm sure that you're probably getting a lot of personal satisfaction knowing that you're helping people.

Now you spoke to all the bills we have before us today. Are we missing anything? Is there any additional legislation that we should have that we could add to what we have before us? Any additional suggestions?

DONALD POULIN: I'd -- I'd really have to look deep into that to see what's missing but I'm prepared to and I could get back to you, Representative.

REP. DELNICKI (14TH): Okay, I would ask that you do that and I see my -- my crumbling concrete caucus co-chair, Representative Luxenberg who's doing a great job. Do you have any things that we should be
considering in addition to what we have before us?

REP. LUXENBERG (12TH): Thank you for that question. You know, I just wanted to add that all of the remedies that currently exist for victims of the crumbling concrete crisis.

Ironically, none of those remedies will help Don, my constituent. And yet here he sits in front of this committee, having dedicated the last several years and continuing to advocate for other people to get relief even though our current structure doesn't -- doesn't and will not provide any relief for his particular situation.

I think it's sort of a testament to how emotional and impactful these problems are that when this happens to you, you're -- you're invested in helping everybody else that's impacted even if you know you're never gonna get any relief yourself and that -- you know, that makes me proud that I have a constituent like this and proud to have the honor to serve on the legislature here.

REP. DELNICKI (14TH): Well, I thank you for your comments and Don, give us some thought on what additional language we should have. Any additional proposals that we should bring forward because there still is an opportunity to amend language on the bills that we have before us.

And again, thank you for what you're -- what you're doing on the Captive insurance.

DONALD POULIN: You're welcome.

REP. DELNICKI (14TH): Thank you, Mr. Chair.
REP. SCANLON (98TH): Thank you, Representative. Any further questions? Seeing none, thank you both very much.

Next up we have Representative Jeff Currey and Debra Marloy. McCoy. I need glasses. [Background conversation and laughter]

REP. CURREY (11TH): Good morning, members. Thank you very much for holding this today. As a believer of legislators being able to talk to each other in the halls, I'm going to immediately yield my time over to Debbie McCoy who has been one of the fierce advocates for crumbling foundations along with her band of concrete queens.

So from one queen to another, the floor is all yours.

DEBRA MCCOY: Thank you very much. Hello, my name is Debra McCoy and I live in the hardest hit town of Vernon located in the capital region of Connecticut. With the economic impact the towns affected at $38 million dollars, Tolland and Vernon in South Windsor, each at $8 million dollars make up half of the total tax loss to the region.

I'd like to speak to you on what I call the five E's regarding the bills that I am supporting and they are extend, expand, explain, explore and expect.

For extension, you asked Tom what we need to add to the legislation. House bill 6557 extend the number of years. Public act 1645, gave reassessment on homes affected by crumbling foundation and it was for five years.

However, many of the homes and condos won't be fixed
by 2021. We need to extend that for another five years. Please include this in your 2019 legislation.

Expand, 6750. Expand the definition of residential buildings. Public act 617-2 defined residential buildings up to four dwellings. And it excluded most condo complexes because their structures are over four units.

Also please include House Bill 6098, former Legacy homeowners who are not included in the Captive criteria because they wanted it to exclude house flippers, which I understand.

But in turn excluded the very few homeowners who did the right thing when owning their homes and depleted their retirement savings to remove and replace the defective concrete.

Explain. House bill 5857 -- explain the intent that was meant for when you place the surcharge on homeowner policy.

Explore. Explore ways to fund our Captive. This year three bills were proposed for additional funding for the Captive and they were House Bill 6594, a surcharge on the mortgage loan. House Bill 6841, DEEP funds to affected towns and House Bill 6991, rainy day interest fund. These bills are aimed at raising more funds for the Captive.

Explore. H.B. 5852, explore remediation proposals through a public private partnership with all parties involved such as geologists, engineers, contractors and homeowners.

Expect. We expect protection. Protect us by
passing House Bill 5702, 5414 and House Bill 6941. Protect us from self-regulation so this never happens again.

The concrete lobbyist's testimony opposes all three of these bills and the efforts the legislators and the previous governor has made when meeting with the US Army Corps of Engineers.

Their argument is that they self-regulate and therefore there is no need to regulate. However, that self-regulating didn't stop the biggest crisis in the history of Connecticut. The quality control that is in place in most of the quarries may be stringent and most of the quarries adhere to ASTM C33, ASTM C94 specification but all it takes is one quarry open for 30 years to cause a billion dollar crisis.

It appears ASTM C295, petrographic examination of aggregates for concrete prior to sourcing the aggregate was not done at Becker's.

Protect us by passing House Bill 5048 which is now being raised as House Bill 7259 for the impending collapse of our home.

The insurance industry could be a big part of helping the homeowners either by legislation aimed at mandating their help for peril of collapse or through subrogating the cost to lift the home as the average cost is $30,000 dollars. Or better and more in line with their ads, on your side or in your good hands the benefit program.

Three insurance companies -- Travelers, Liberty Mutual and The Hartford -- have helped through this
program which will supplement funding up to $25,000 dollars. Where are the remaining home insurers?

Protect us by passing House Bill 6659 and Senate Bill 907, seller disclosure reports. And that should include all sellers, not just residential sellers. Banks are taking these foreclosed homes and they're selling them without disclosing it. All sellers need to be included in that. No new victims.

Protect us by passing House Bill 5163, deficiency judgement relief on affected homeowners is needed now more than ever. Due to the cap on the condos, Public Act 17-2 allows legislators to make suggestions to the Captive, the CFSIC. This cap will cause more condos into foreclosures and will likely wipe out complexes.

Thank you very much.

REP. SCANLON (98TH): Thank you, Debra, I appreciate your testimony today and all the work that you also have done on this issue with Representative Currey and others. Turn it over to a question from Senator Lesser.

SENATOR LESSER (9TH): Thank you, Mr. Chairman, and thank you Ms. McCoy for your testimony and I -- and I think you gave a lot of suggestions in a very short period of time and I really appreciate that. And your advocacy over -- over a long period is making a real difference.

Just one procedural note as separate from the substance that we're -- of any of these bills. We have nine bills on the agenda today. You and
anybody else here can testify and encourage us to include things that are not in those bills. You can encourage us -- if there's something that we're not doing that we should be doing, tell us. That's fine.

The one thing I would say, if you're talking about bills that are not on the agenda, we may not know what those bills are so if you could just sort of -- in the future, and this is more for other people who are coming up -- just help us to figure that out because the bills that we're aware of right now that are on our agenda are the nine bills that are listed on the agenda and there, I know there are other proposals that are out there and if you could just sort of encourage us.

If there's something that we should've put on the agenda that we didn't by all means let us know but it's tough to reference bills that are not on the agenda. So that's the only thing.

DEBRA MCCOY: Well, 41 bills were proposed this legislative session and nine are being heard out of this committee. Two were heard in Banking and two were heard in Finance.

So we've got 13 bills, 28 have -- I don't know what you do with those 28 bills, do you recycle them? I'm not sure but I did bring, in case you do need it, I did bring a copy of the 41 bills so you can refer to them and then I copied everyone on the bills in case you needed more in depth on it. But I do have the 41 bills. I can give it to you.

I'd also like to be able to give to you, because I mentioned ASTMC 295. A lot of people aren't
familiar with that. And so I brought the ASTMC 295 for you for somebody that can copy it and give it to the group as well as my consultant, he's a geologist out of Ohio.

He gave me an in depth of what you should specifically look at for C-295 because that's the testing of the aggregate for the quarry before you source it.

And most, I talked to the concrete lobbyists and most of the quarries do adhere. They're very stringent. I looked into ONG and Tilcon, they're great. But all it took is one quarry that has caused a billion dollar crisis.

We've already got a thousand homeowners that did the testing, that filed for testing through CRCOG, 790 DCP complaints and 662 re-assessments that caused $48 million dollars for the towns that they've lost.

So -- and I would like to speak on behalf of one industry that nobody has spoke about and it's four suggestions for that. And that's the banking industry. The deficiency judgement.

I thought, "Jeeze, you guys -- Connecticut was coming to our aid as crumbling foundation owners." When I did research on deficiency judgement, I had no idea how many states don't allow that of the banks.

So I'd like to get in line with the other states on deficiency judgement. We need it now more than ever.

The second one is the no-interest loan or low-interest. No interest or low interest. The Captive
needs that. There's supposed to be a dropdown line for homeowners to be able to get funding. I am a condo owner, our condo complex already has two loans. We can't get a third. And with the way it capped now, most of those elderly homeowners, condo owners, cannot get the loan.

The other thing is forbearance. In a disaster declared area, automatically casualty loss forbearance and $25,000 to the homeowner goes to them when FEMA comes in.

The thing I would like to have the banks do is the three-month forbearance while the homeowner is out of their home. I'm not asking them to not charge us but just put it at the tail end of our mortgage. That's all I'm asking for.

So forbearance, deficiency judgment, low-interest to no-interest and banks need to disclose when they're selling these foreclosed properties that it has pyrrhotite because they're not doing it right now. Okay. Thank you.

SENATOR LESSER (9TH): Thank you very much. Representative Delnicki.

REP. DELNICKI (14TH): Thank you, Mr. Chair. And thank you for coming forward, Deb. We've had a lot of conversations.

Just so you know, 5163 was combined with 5164.

DEBRA MCCOY: Yeah.

REP. DELNICKI (14TH): And it's scheduled for a committee vote on the 12th so if the stars aligned, it will be voted out of committee and will have the
ability to go to the floor so that's the good news on that bill there.

DEBRA MCCOY: I think it's come farther than when it was House Bill 6738 and now it's bill 6739 in 2017. I think they're now starting to understand why we need it so badly.

I have four pages of foreclosures in my complex. Four pages of foreclosures in my Ryefield One, Ryefield Two, 60 Old Town, 70 Old Town and 85 Old Town and I just got an addendum to that. I've got more pages to add to that.

And with the way it's capped right now, we're gonna see more condos go into foreclosure so now more than ever, we need that deficiency judgement.

REP. DELNICKI (14TH): Point well taken and I'd just like to take a moment to recognize Representative Currey for the tremendous of help in the systems that you've provided here. I mean you have been a good, honest, hardworking partner in the problem and I wanna personally thank you for what you've done here in this entire process.

DEBRA MCCOY: Yeah, thank you.

[Applause]

REP. DELNICKI (14TH): As for the quarry standards issue, I'm sure there's gonna be some questions pertaining to that from folks in the industry. Needless to say, if you attended the Army Corps of Engineers presentation back in October, they have done quite a bit of work and the Army Corps of Engineers has a tremendous reputation and when we get to that point, I'll have a lot to say about that
and a lot of interactions there.

I'm gonna take a look at each individual bill that you've mentioned here and just see if there's any chance that some of that language can be incorporated [crosstalk]. This is a work -- and I've gotta phrase it this way, it's a work-in-progress. Every year we're making progress. And that's the key point here because if you go back two, three years ago, we had no Captive insurance. Literally there was no method to try to make people's lives whole.

We all know the insurance industry has to be a part of the solution. We know that banking has to be part of the solution. We know that quarries have to be tested and we're gonna get pushback but we're gonna do the best we can to get it done because we don't want any more victims.

You made reference to the disclosure. The realtors are doing a good job with disclosing if there's an issue there, we know that. The concept of it as is, where is, how is -- sale on a home that could have pyrrhotite is reprehensible and that's one of those bills addresses that.

DEBRA MCCOY: Yeah, no new victims, please.


DEBRA MCCOY: And we'd like to thank you for the ten bills you proposed, the eight that Tim Ackert proposed and the 20 Geoff Luxenberg proposed. Out of 41 bills, you guys were really busy this year and we very much appreciate that. We do.

REP. DELNICKI (14TH): Well, we've got a lot of good
partners. I thank the Chairs because the Chairs have been great. They understand the issue. And the interesting part about the $12 dollar surcharge, people throughout the state of Connecticut are realizing it is a state issue. It's not just an issue in our part of the state.

Same thing with the bonding of $100 million dollars. People are realizing it's a state issue. It touches every aspect of the state of Connecticut and if we truly wanna rebuild Connecticut, we truly want Connecticut to be a desirable place to be in, then these are the things we have to do.

And again, I thank you. I'm sure there are other members that have questions for you. I know your issues intimately so thanks for being here and thank you, Representative Currey, for your work in this issue.

SENATOR LESSER (9TH): Representative McCarthy-Vahey.

REP. MCCARTHY-VAHEY (133TH): Thank you, Mr. Chair. And I would like to thank you. I have heard that you are the real McCoy so [crosstalk and laughter] meet you. I just wanted to echo my thanks first to, as I said in the beginning, all of the advocates. Representative Delnicki and Representative Currey certainly have been and there are a number of legislators here, I just wanted to point that out, who are here today who are sitting among us and I won't try and name names because I don't know if I see everyone. But I know that there's a lot of support for you here.

I wanted to ask you one question as a follow-up to
what you were talking about in terms of the banking piece and the deficiency judgement.

DEBRA MCCOY: Correct.

REP. MCCARTHY-VAHEY (133RD): In terms of getting in line with other states, if you could talk a little bit more about that and what that would look like. I'd love to hear that.

DEBRA MCCOY: Darn it, I didn't bring my banking folder. What I can tell you is a lot of people say to me, "Debbie, don't worry about bank deficiencies, it's not gonna happen."

Well, I have November 9th, 2018, a case right here, an Ellington family that I've known my whole life. I don't know if I should say their names. Okay, I won't say their names but bank deficiencies, you can't have one unless the lender asks the Judge to follow through on it.

And a lot of people say, "Well, don't worry about it. Big banks, they don't -- they don't do it, they don't follow it, they won't." Well, I've got a case right here where they did just a few months ago. So that's a lot of malarkey.

But when I did look up deficiency judgment I noticed that it said that most states don't have it. So I was shocked that -- wait a minute, why don't we have it here in Connecticut, especially with the propensity of 38,000 homeowners finding out they have it and not really having the funds that they have to match when the Captive funds. We have to come up with our own funding and now a lot of what they call -- what we thought was included in under
concrete foundation has now become ancillary costs. And then our other ancillary cost is the landscape and the road, the driveways you have to replace.

At our condo, we have an easement for the three complexes. So they all use our road. We have 20 large structures that are gonna be fixed in the next ten years. If we do two large structures a year, it's gonna be ten years.

My 82-year-old next door neighbor who has a heart attack anytime she -- and I don't own the -- I bought it for my son. But even if she hears a pin drop, she's screaming.

So imagine -- just close your eyes, ten years of the roads destroyed. All the trees are gonna be gone, the flowerbeds all gone. And for ten years, that 82-year-old lady has to hear the humming of concrete trucks, logging trucks, lifting trucks, construction trucks. All day every day because we use the same road. And my condo is on the main drag. That 82-year-old lady, it's gonna kill her. It's too much.

Just imagine, 10 years, and I hear homeowners say, "Oh my God, I've gotta be out of my home for three months." But at the end of three months, you'll see the light at the end of the tunnel. This is 20 large structures. And the way it's situated right now, we can't get a loan. They've already, you know, talked to banks. We already have two loans out. Vinyl siding they took out three years ago for 15 years and last summer they did all the roofs. So we have another loan.

And my condo fees are $200 dollars shy of what my
mortgage is for that condo. I'm paying two mortgages. Can you imagine? We can't get a loan so without the banks coming in and giving that interest-free or low, you know how Public Act 17-2 said, it's gonna have a drop-down line on the Captive for the loan. There's no drop-down line right yet because the banks haven't come to the table.

They need to come. They give us low interest or no interest because our condo association cannot get the funding. And I did the math and it would be 30 -- $31,000 dollars for each unit owner that they have to come up with. Where is that 82-year-old gonna get that $32,000 dollar loan? She's not going to.

And in Wellington, all six building are affected. They got two quotes. Don Childers is already being used up so Lucity [phonetic], their quote is $91,000 dollars per unit. How are they -- all of their buildings are affected. How are they gonna come up with what they have to come up with after the Captive's cap for them? So the cap -- the cap is $43,000 dollars. $91,000 dollars is -- where are they gonna come up with that $50,000 per unit owner? They can't get a loan. They've already got two loans. Their condo fees are higher than ours.

I don't know how they're gonna do it. We're really in a bad situation so we need deficiency judgement and we need it now.

REP. MCCARTHY-VAHEY (133RD): Thank you for sharing that and for just helping us to understand just how dire the situation is for so many people.
DEBRA MCCOY: There's 752 unit owners in the area that are affected right now. Two-hundred-and-fifty -- they don't get casualty loss. They can't claim it. None of them have Liberty, Travelers or The Hartford. So we're not gonna get supplement to income. If FEMA could come to town, which is what I'm working on right now, they don't get it because of the common element laws.

Condo owners get nothing and we have six complexes that are affected. And my complex has 118 units that are affected. It's dire.

REP. MCCARTHY-VAHEY (133RD): Thank you so much for sharing that. Thank you, Mr. Chairman.

REP. SCANLON (98TH): Thank you, Representative. Any further questions? Senator Saud Anwar.

SENATOR ANWAR (3RD): Thank you. Thank you, Mr. Chair. Debbie, good to see you here but not good to see you here because I'm looking forward to the day that we don't have to have advocacy around this issue. What you and the entire Crumbling Foundation family have done is you've actually helped the rest of the state realize that this disaster needs to be addressed.

And think about this and then I'm obviously not saying it to the people in this room because you already are aware of this disaster but people who are probably listening.

That if, God forbid, there was a hurricane and there were 3,000, 5,000, 10,000 homes that were impacted, it would be a national emergency. Every single person in the state of Connecticut is gonna roll up
their sleeves and come and help the people.

This disaster is no different except it's a slow-going disaster. So it is not making the headlines that it needs to. And that is the reason why we have not been able to address this.

So there is so many different aspects but I just want to -- to make a statement that the work that you have done has allowed the entire community members and an entire state to actually be united. Be a partner.

We still have a lot of work to do but you can see every year you're actually making and gaining more ground. There are more people who are becoming partners, they're allies to be able to help recognize the challenges of our communities.

So it's great to see so many familiar faces of my friends in this audience today but the good news is that we will be moving in the right direction. There is more work to be done but I can tell you when you have 40-plus bills that are in there, some of them will get combined. The issues are getting raised and we will have to find a way to be able to pay for this.

And then that's the bottom line and I think we will be working with various different parts of our government to try and -- and be a part in support. So thank you for being here and thank you for everyone else who's here to advocate on this big issue. Thank you.

DEBRA MCCOY: Thank you.

SENATOR LESSER (9TH): Thank you, Mr. Chair, for the second time. And I was concerned about one of the things that you had mentioned. So you talked about the deficiency judgements. Is this in the event of a -- so you -- my understanding, I used to serve on the banking committee.

DEBRA MCCOY: If you default on your loan --

SENATOR LESSER (9TH): So it's just --

DEBRA MCCOY: -- this is the first step. By not paying your loan for the first month, you go into default.

Then they start the foreclosure proceeding. And you end up with more of those pages. They can either choose to pursue the deficiency -- so I'll use my example.

I bought the condo for $135,000 dollars, I put $12,000 dollars into it, I have $147,000 dollars. I asked the realtor what is it worth now and they said $40,000.

I -- my condo didn't collapse. But the value on my home collapsed overnight. And what everyone says about the slow-moving situation here -- we're in stage four. So 20 years ago it was stage one and stage two. Right now we are in that hurricane situation.

In 2003, Virginia Tech did a dissertation and in the dissertation it said -- because people don't realize that the sulfide minerals are affecting Kentucky, Pennsylvania, Missouri, Colorado -- all -- the Chinese drywall found out was an abundance of pyrrhotite in the walls.
What they don't realize is that this is affecting everywhere. And what -- one of the sentences they said in the 2003 dissertation was, "Sulfite minerals is causing more destruction than any hurricane, flood, fire combined." Sulfite minerals.

And I have page after page after page. All the places have defected in the whole world.

SENATOR LESSER (9TH): And I -- and I do care about that, I don't mean to -- I'm really interested in finding out about the deficiency judgement. We're going a lot of different [crosstalk] here and --

DEBRA MCCOY: I didn't bring -- I didn't bring my bank folder of all things.

SENATOR LESSER (9TH): So --

DEBRA MCCOY: But after the foreclosure they can do the [crosstalk].

REP. CURREY (11TH): Senator Lesser, if you're ever interested in visiting her house --

DEBRA MCCOY: I don't have any [crosstalk].

REP. CURREY (11TH): It'd be a joy to sit down at her dining room table with the hundreds of manila folders and the hours you can spend discussing this and I'm sure she'd welcome you there.

DEBRA MCCOY: I would.

SENATOR LESSER (9TH): I think this is a broader question, I would love to talk about more about that specific issue and understanding how foreclosures might be affecting people and I have particular interest in that.
But I wanna thank you for your -- you're obviously passionate about this issue as you should be and you're a wonderful spokesperson and I will probably take Representative Currey up on that offer at some point.

DEBRA MCCOY: Oh, I'd love it. Come to my house.

SENATOR LESSER (9TH): And I did wanna -- I know you -- you acknowledged a few of the members who've introduced large numbers of bills. I also think I've probably gotten a zillion proposals. I see Representative Wilson Pheanious has probably put in another 40 as well, I'm guessing.

And I see that number of other legislators in the audience here today so there are a lot of people on there. I just wanna give a shout out to the formation of the Concrete Caucus which is helping to focus our efforts in this building and really figure out what our priorities should be. I think that's been very helpful to all of the committees that are concerned about this and recognize that this isn't just a problem about Northeast Connecticut or Eastern Connecticut, this is a Connecticut problem overall. It's been helpful for us.

DEBRA MCCOY: Can we -- can we get reassessments put on 7179? We really do need to extend it for five years. Our condos won't get started until after the reassessment years have extinguished. So if we could extend that by five years.

Representative Ackert proposed it so if we could do that, that would be great.

SENATOR LESSER (9TH): Thank you for that comment
and thank you for your advocacy. Thank you, Mr. Chairman.


REP. CURREY (11TH): Thank you, just one last comment. Appreciate the kind words, Representative Delnicki and I know to the Chairs that you have a number of members on your committees who would probably prefer to be sitting at this table to be able to share their thoughts so I just wanted to take a moment and just thank the work by Representative Vail that he's done over the years on this issue as well as Representative Delnicki and Senator Anwar who's stepped out.

So I appreciate the Chairs holding this joint committee meeting today.

DEBRA MCCOY: Thank you.

REP. SCANLON (98TH): Thank you, Representative and thank you, Ms. McCoy.

DEBRA MCCOY: Thank you.

REP. SCANLON (98TH): Next up is Representative Pat Wilson Pheanious and Tim Heim. As they walk up, I just wanna make two sort of announcements.

You may see some legislators that are standing -- or sitting, I see Representative Winkler over there right now. That is because they can't legally sit up here though I know they would want to if they could.

But they're in the room because they are engaged in this issue and I wanna just point them out. Also,
Senator Champagne who is the ranking member of P&D is sick today and he also is very interested in this issue and obviously has been working on it but he's -- he's not here. And Representative Davis we're gonna hear from in a second, so I won't spoil the fun of introducing him.

Representative Wilson Pheanious.

REP. WILSON-PHEANIOUS (53RD): Yes, good afternoon, Representative McCarthy-Vahey, Scanlon, Lesser, all of the members of the joint committees. I really appreciate the opportunity to provide some testimony.

I would just like to introduce Mr. Tim Heim. He is the Director of the Connecticut Coalition Against Crumbling Basements and he is one of the most knowledgeable people I know, much like my other Tolland person, Debbie who just spoke, she's from Tolland.

I represent the district, the 53rd District, Ashford, Tolland and Willington and as you know, it is the heart of the crumbling foundation problem.

So I have not put in 40 bills this time, it was only a couple. I've just been running around making enough noise that you might have thought it was 40. And that's what needs to happen.

So without further ado, I want to introduce --

REP. SCANLON (98TH): But two very good bills. Two very good bills.

REP. WILSON-PHEANIOUS (53RD): Thank you. Yeah, well as you know, the Birch Grove School in Tolland
has been discovered to have crumbling foundation. That's a whole new area because it's not residential, it's a school building, a municipal building -- a whole 'nother set of problems.

So that's why. But thank you very much. Mr. Heim, please go ahead.

TIM HEIM: Thank you. And just for the record, Deb McCoy definitely has me beat with being the most knowledgeable one on the issue.

Good afternoon. My name's Tim Heim and I'm the President of the Connecticut Coalition Against Crumbling Basements. Before I get started, I'd like to say thank you for giving me and many others the opportunity to testify before you today.

I applaud each and every one of you -- or legislators, our Senators, for all the support and hard work every one of you from both sides of the aisle and coming together and addressing a crisis plaguing our state.

One thing Connecticut can teach Washington is bipartisanship. And I'm proud of that. Pyrrhotite has destroyed many families -- good families. Hard working middle class families here in Connecticut.

It doesn't care who you are, what you do for work. It affects law enforcement, doctors, lawyers, elected officials, blue collar, white collar -- it does not matter.

The emotional, mental and physical stress this has caused homeowners is beyond comprehension and at times unbearable. The stress of this has caused high anxiety, high blood pressure, depression and in
Canada, suicides.

When you're told everything you've worked for all your life is now worthless, it's devastating. I found out I had a crumbling foundation in July 22nd of 2015. I eat, sleep and breathe this crisis every minute of the day for the last three-and-a-half years.

I've heard many stories, spoken with many people and have shed many tears. I'm a victim of pyrrhotite and I have a crumbling foundation.

In November of 2017, I was appointed by Senator Fasano to a working group to study and recommend testing standards for quarries here in Connecticut. In all honesty, it's been a slow process. The last working group member was appointed in December of last year and we have not had the opportunity to meet thus far.

I was challenged with not knowing who was appointed and who the appointees were and then life got in the way. And honestly, I was hoping that someone other than me would take on this leadership role.

Unfortunately, that has not happened. I have reached out to all the working group members and I'm hoping we will be able to meet within the next few weeks.

I met with our state geologist yesterday afternoon to get her input but I need more time. I'm asking the committee to please postpone a vote until May on quarry standards so I can convene with our working group and speak with the experts here in the state.

I also need to meet with my counterparts in Canada.
CAVP, the Canadian Coalition, who already have testing -- quarry testing standards in place to see how the Canadian model is set up.

I'm also here to talk about homeowners and the disclosure if pyrrhotite. I was told by a home inspector that minor cracking was normal and now my walls are bowing in an inch-and-a-half. Homes are still being bought and sold without testing the concrete. A visual inspection by an engineer or home inspector can tell you if you have a crumbling foundation but they cannot tell you that you don't. It's science.

This is a problem that manifests itself for years internally before surfacing and showing its ugly head. An engineer or home inspector will tell you what the structure looks like today but cannot tell you what the structure will look like tomorrow.

There was a homeowner a couple years ago that was told they had a crumbling foundation and when she had it petrographically tested, came back negative for pyrrhotite.

There have been cases where the homeowner skin coated or painted over the cracks before selling the house. Another homeowner purchased the home in 2015 and now found out she has a crumbling foundation.

I would ask for mandatory core testing for any home being bought and sold within the 30-mile radius of J.J. Mottes, the concrete company that has poured the contaminated concrete and the results reported to the DCP.

If you have a home, as I do, with bad concrete, you
have it. Trying to sell it to a newlywed couple who just graduated college, expecting their first child is just plain and simply wrong.

I would also ask that an engineer doing any inspection for a crumbling foundation be mandated to have a report back in hand no later than three weeks. Some homeowners have waited as long as almost two months for a report but yet the engineer took the check when they left the home that day. Don't take on the work if you can't provide a report in a timely manner.

Some insurance companies are paying for core testing for homeowners. Reporting a crumbling foundation but not providing the reports. Some homeowners have waited five, six, seven months or never received them at all. If an insurance company is gonna core test a home, we need legislation mandating them to provide the report within four weeks from the time the samples were taken.

Everyone in this room is paying for the crumbling foundation crisis except for the people who insured them. Taxpayers are paying $20 million dollars a year for the next five years. Every homeowner is paying $12 dollars a year for the next ten years and affected homeowners are paying the difference that Captive insurance doesn't cover.

And if you live in Tolland, you're also potentially paying a higher mill rate to offset the $46 million dollar difference to cover the middle school.

How many times are you and I expected to pay for this? The insurance needs to step up and won't until they are legislatively mandated to. The
insurance lobbyists will sit in front of you today and give you the insincere, we feel bad for the people affected and will fill your ears with a bunch of lies like, "We never covered this from the beginning and we're not a warranty."

Well, if they never covered this crisis then why did they define collapse by adding some and abrupt to the policies throughout the years as the problem became more familiar?

So if your house collapses today, you're covered. But if your house is gonna collapse tomorrow, it is not. How does that make any sense at all? A few insurers have offered to contribute a very small amount to the fund. However, in doing so, receive immunity from any potential litigation brought upon by the state of Connecticut.

We need -- we need a CUIPA. Connecticut Unfair Insurance Practice Act investigation.

On July 7th, 2016, Attorney General Jepsen released a nine-page status report to former Governor Malloy and former DCP Commissioner Jonathan Harris regarding his involvement in coordinating efforts along with DCP in any wrong doing which is attached. I also sent that report.

Mr. Jepsen said and I quote, "In addition, as discussed above consideration of further appropriate investigation into assures conduct and coverage responsibility as it relates to the foundation failures is warranted and may aid in forming or advancing the availability of relief from the insurance companies. My office remains available to assist in any such efforts." End quote.
If possible, I would like to see legislation mandating a CUIPA investigation. From my understanding, our insurance commissioner is the only one that has the power to order such an investigation which was never initiated.

I applaud Governor Lamont who took time from his busy schedule last year to come visit my home and see the crisis firsthand. He spent hours listening with how this has affected me and my family. He gets it and I truly believe he wants to help.

I'm hopeful under Governor Lamont's administration this will be taken more seriously and aggressively and a CUIPA investigation will be coming in the near future.

Again, I want to thank each and every one of you for all your hard work and support throughout this crisis. We're making progress but more needs to be made. I'm asking you to please put yourself in our shoes. Do the right thing. We're your parents, we're your grandparents, we're sons, daughters, cousins, neighbors, brothers and sisters. We're fighting a problem that was completely out of our control at no fault of our own and now we're asking for your help.

As I mentioned earlier, every single one of us are paying for this except the people who caused the problem, the ones who ignored the problem and most importantly, the ones who insured the problem.

Thank you very much.

REP. SCANLON (98TH): I wanna thank you, Mr. Heim, for all your obviously work. I've actually been to
your house before, I don't know if you remember that.

TIM HEIM: Yes, sir.

REP. SCANLON (98TH): And I was blown away by what I saw in your basement and I know that for a lot of folks sitting in this room and a lot of folks around the state, it may be worse than yours. And getting worse by the day.

TIM HEIM: Sure.

REP. SCANLON (98TH): And so I wanna thank you for being here today, I wanna thank you for educating those of us like myself who don't represent that part of the state and we look forward to working with you further on this.

TIM HEIM: Thank you.

REP. SCANLON (98TH): Senator Lesser and then Representative Vail.

SENATOR LESSER (9TH): Thank you, Chairman Scanlon and thank you, Tim, as well for your advocacy and Representative Wilson-Pheanious as well. I know how passionate you are about this.

I'm going to try to zero in on a couple of the comments -- suggestions -- you have regarding the insurance parts which is my focus is that insurance chair.

I don't know if we can mandate a CUIPA investigation. I don't know -- I just don't know if that's a power that the legislature has. I know that we do have an insurance commissioner who's been designated by the Governor, who is now subject to
confirmation. And I think one of the questions that we're gonna be asking him is how he intends to, you know, address this issue. I think that's a question that you should have and those of us who are members of the General Assembly should have.

So what I don't know is whether or not we can mandate that he investigate something. That's not something that I don't think we have the power to do but we can look into that.

TIM HEIM: Sure.

SENATOR LESSER (9TH): The -- specifically with regard -- you mentioned the issue of insurance companies not disclosing the results of core testing and I wanted to know why they would be doing the core testing and why they would not disclose it, do you have a sense of why?

TIM HEIM: Well, and that's interesting. Some insurance companies, if a homeowner calls and notifies the insurance company that they have the issue, some insurance companies have come out and actually cored.

I know there was a couple homeowners that hadn't received those results at all and some have taken three, four, five months for those results.

That's a great question and that's a question maybe for Eric George if he comes up.

SENATOR LESSER (9TH): So I'd be happy to ask him or any other representative of the industry about why they're not disclosing it. I guess I was just -- I didn't know if you had information about why people -- why insurance companies were performing the core
testing to begin with or how common that is, if that's something you can answer.

TIM HEIM: I don't know how -- I don't know the answer to your question. I don't know how common it is. I know certain insurers are core testing and certain insurers are not, so.

SENATOR LESSER (9TH): Thank you and while I don't have anything direct to do with that taskforce, I understand sometimes it is very difficult to get these task forces that we create up and running and I sympathize with you and I wish you luck with that and we'll give a nudge to our colleagues over in the other committee here to see if we can help resolve that.

TIM HEIM: Thank you, sir.

SENATOR LESSER (9TH): Thank you very much and Representative Vail.

REP. VAIL (52ND): Thank you, Mr. Chairman and I -- and I'd like to take this opportunity to thank the Chairman of the Insurance Committee for having this public hearing and the Planning and Development, too, but the two gentlemen in particular for allowing us to hear this once again this year and I greatly appreciate that.

Is it afternoon? Good afternoon, Mr. Heim. I've just got a question for you. Who hasn't been to your house? [Laughter]

TIM HEIM: Ahh, that's a great question.

REP. VAIL (52ND): But as far as -- you talked about postponing a vote until May, until we have more
information. But I think we need to vote things through the committee process and then we'll have the opportunity to hold that up for a vote on the House floor so we can amend it if need be.

TIM HEIM: Okay.

REP. VAIL (52ND): But we definitely would have to take action on that now as opposed to waiting.

TIM HEIM: Okay.

REP. VAIL (52ND): But that's certainly something we could look into and obviously the Chairman would help [crosstalk].

TIM HEIM: And amend it at a later point.

REP. VAIL (52ND): If need be, absolutely.

TIM HEIM: Sure.

REP. VAIL (52ND): You know, as far as the insurance piece goes, I'd think they haven't done their part in this thing and I've been pretty vocal about that from the beginning and we have done the Captive insurance program and it started.

And I'd like to know, from your perspective and an honest perspective, what your impression so far of the Captive is and you talk to a lot of other homeowners because of your position within the coalition.

What is the general sense so far of how the Captive is operating from a victim's standpoint?

TIM HEIM: Well, on a personal level I have spoken with Mr. Mike Maglaras, who is the Superintendent of the Captive Board of Directors.
I have heard a lot of positive. They're doing a great job. You know, Mr. Maglaras is definitely an advocate for the issue.

I applaud the Board of Directors who -- they were in a tough situation, they had -- they had to start somewhere and I think they came up with a good base. I think there's still -- along with anything, there's still a little bit of work to do and I'm confident that, you know, the people that sold their home, that weren't included in this will be taken care of at some point because it's not a huge amount of people.

It's not their fault that they had to sell their house, you know, ten or 15, 20 years ago when this issue wasn't, you know, as popular or out there as common as it is today.

So the answer to your question is yes, they're doing a great job. I've heard a lot of positive. I had a meeting and there was probably 150 people there and there was a lot of positive.

I think what we need to do is we need to be very careful for shady contractors. I think that's the next step. You know, I'm gonna probably, in the next few months, have the Canadian coalition come -- come down -- and have a big meeting maybe with Debby and Ireland, possibly and Massachusetts.

So we'll have four coalitions, three different countries under one roof. And I think we need -- I think it's important that we learn from other mistakes -- others' -- their mistakes. And so we don't repeat the same mistakes.
And I think three countries working together, I think that's important and I applaud again, Mr. Mike Maglaras and the Board of Directors that, you know, and Mr. Don Poulin, who have done a great job with setting up something very complicated, so.

REP. VAIL (52ND): Well, that's encouraging to hear. Again, you know, when Government puts their hands on stuff, and I know that's, you know, not a government agency but sometimes things don't go too smoothly.

And again, I think we've made progress from where we started in 2015 and I know it goes long before that but when it got back when George Colley broke the story, we finally made what I see some real progress here. We have a long way to go. And I think we're gonna be here every year trying to fix things.

I think we're gonna try to do things with good intentions and then, you know, maybe someone gets left out. We're gonna constantly be here trying to make it as good as we possibly can. And I know if people are getting left out, in all the meetings I've had with different politicians from both sides of the aisle, different levels of government, everybody wants to find a good solution for everybody.

And a shout out to Representative Luxenberg for his idea to put together a caucus specifically dedicated to this. And I think moving forward, we're gonna be -- that caucus is gonna be really good in crafting bills so there's not 41 bills. I mean that sounds great but when you have 41 bills, sometimes they're not as effective as having four really good bills that are collectively worked on with people on both sides of the aisle.
So I'm encouraged that things are moving in a good direction. I'm happy to hear that there's some positive feedback with that and I'm certainly dedicated to continuing to find solutions to make this better. And again, I wanna thank you and Representative Wilson-Pheanious. I always get it backwards, I got it right that time, correct?

Yes, I apologize for that but I just want to let everyone know I have screening, I'm gonna be back but I'm the ranking member of the Veterans Affairs Committee and I have screening so I will be back as soon as I possibly can.

Thank you and thank you for your indulgence.

TIM HEIM: Thank you.

SENATOR LESSER (9TH): Thank you, Representative Vail and I hope you look after my bills you're screening while you're there.

REP. VAIL (52ND): You got it, sir.

SENATOR LESSER (9TH): Yes. Representative Delnicki.

REP. DELNICKI (14TH): Thank you, Mr. Chair and thank you for coming forward, Tim. You know, it's amazing how this issue has created friendships among people and I count you as a dear friend and I'm glad to see you here today.

The quarry standards, as Representative Vail made the comment, we need to do something, we need to get something joint-favorably done or joint-favorably substitute language done. And then if something better comes up, we can have an amendment from the
floor if and when it does get run.

But that is the key point. We need to take action on it, we need to get it moved forward. Because based on comments I heard from Deb, the last thing we wanna have is more problems and more people becoming victims to this issue.

And right now it's like the wild west out there. There's hard and fast standards to the point where we're going with a year-to-year agreement with Becker's. A voluntary agreement, not even a cast in -- pardon the pun -- concrete agreement that has to be renewed every year.

TIM HEIM: And that's coming up.

REP. DELNICKI (14TH): Yeah, and it's coming up July first.

TIM HEIM: Yeah.

REP. DELNICKI (14TH): And if it's like the past, the letters will have to go out to remind everyone that, hey, you need to get the agreement codified. But that agreement only covers residential, the aggregate being used in a residential environment, not in a commercial, not in a governmental, as we've seen what's happened out in Tolland. They've got a firehouse, I believe, that has a problem. They've got a school that has a 20-year bold on it that has a problem that the state of Connecticut also has a role in it because of the money that the state of Connecticut fronted so that the school could be built.

The CUIPA investigation -- we're working together, the Chairs are working together on the foundation
coalition to craft a letter to send to the insurance commissioner requesting this. And I -- I applaud the Chair of Insurance for his willingness to get involved in this also. The more people that are asking for it, the better.

I had an opportunity to meet him, he's a great guy, I explained the issue to him and I made him aware that there's gonna be a request for a CUIPA investigation because we need to get to the bottom of this.

TIM HEIM: Sure. Sure.

REP. DELNICKI (14TH): We need to find out if there's a smoking gun. If something occurred, if something was done that isn't right. Because as you said so eloquently, the insurance companies haven't done a thing except for the three that have voluntarily come forward to ameliorate the situation. And I'm sure when we have the insurance industry come before us later I'll have couple of questions for them.

TIM HEIM: Sure.

REP. DELNICKI (14TH): So you touched on -- or someone touched on the warranty issue about the foundations. And that to me is the biggest red herring I've ever heard. Because when you think of a warranty, you think of your roof. Your shingles. You think of your vinyl siding, it has a lifetime.

I drive down Old Main Street in South Windsor and I see homes built in the 1600's and they don't have foundations that have failed. So your basement walls, that's not a warranty issue. That's
something that should be covered but we're gonna have to find out what the real cost because we've had some numbers thrown out there and I don't know where they got these numbers.

And again, I'm sure that's gonna come up later in the testimony here.

I wanna thank you for your suggestions on the core testing with a four-week turnaround because we're talking about people's lives in the lurch. And the positive declaration so there is no-as is, where is, how is sales when it comes to someone selling a home and there's no declaration and they know that there's pyrrhotite there.

And that goes for the banking industry.

TIM HEIM: Sure it does.

REP. DELNICKI (14TH): Because that is the primary focus. I know there are a number of bills in there. The thought of getting away with an as-is whereas and some young couple buys it which occurred in my community and suddenly they find out that that great deal they got is now the worst deal they could have ever found. Can't stand.

TIM HEIM: Yeah, and you know, I think we all know in this room the feeling when we buy our first home. You know, and to find out, you know, because we're so proud of that because we worked so hard to buy our first home and to be told, you know, a year or two later that you have pyrrhotite in your concrete because the basement was finished or the walls were painted. And you know, that is happening. You know, not everybody is gonna do something like that
but we wanna avoid that happening in the future.

You know, like Debbie McCoy said, no new victims. And today if you have it, you have it. There's a program up there, it's being well very -- it's being run very well, the Captive. So you know, that would also help get a scope of the issue to find out, you know, who has the issue and who doesn't. Because, you know, quite frankly, somebody trying to sell a home to a newlywed couple or to anybody is just wrong.

So we need protection for that. But thank you.

SENATOR LESSER (9TH): And thank you, Representative Delnicki, for all your help.

REP. DELNICKI (14TH): Thank you, Tim, I can't say enough good about what you've done and how you've brought people together in this issue. And quite frankly, you have been the best educator on the issue, bar none.

TIM HEIM: Well, it's -- it's a lot of people. You know, it's a big puzzle and everyone has a little piece of the puzzle and you know, we're a big family with a little bit of dysfunction and that's in there. As for my first time saying, Senator Anwar, you know mentioned it and we've met some remarkable people and I'm grateful for that.

REP. DELNICKI (14TH): And welcome to the coalition there, caucus -- Crumbling Foundation Caucus, Representative Wilson Pheanious. I got it right?

REP. WILSON-PHEANIOUS (53RD): Yes, you did.

REP. DELNICKI (14TH): Good deal.
REP. WILSON-PHEANIOUS (53RD): Yes, you did.

TIM HEIM: She's jumped right in. She's ready.

REP. WILSON-PHEANIOUS (53RD): If I can just close with, I don't -- there's one thing I would say it's that people have to recognize all over the state that this is a problem for the state of Connecticut.

I just heard -- I think it was -- it might have been you that said that a minute ago. But it is so important that we recognize this is not just a Northeast Connecticut problem. The continued support of the Governor, of the legislature are going to be critical in this matter because we're not gonna be able to do the things we have to do if we don't have those -- those elements in place.

And so that this is a bipartisan effort makes it all the more -- makes me very proud to be a part of it and all the more important that people recognize we are in this together for the state of Connecticut. And I thank you so much for your time and for the attention that you've given us, Mr. Heim and Debbie McCoy.

SENATOR LESSER (9TH): Thank you so much.

REP. WILSON-PHEANIOUS (53RD): You're very welcome.

SENATOR LESSER (9TH): Representative Gucker.

REP. GUCKER (138TH): I want to say in full disclosure I've never been to your house but [laughter].

I do wanna -- I do wanna applaud all the activism that you've done to get to this point and I think it's very important that we recognize that the
entire state is with you.

TIM HEIM: Thank you.

REP. GUCKER (138TH): My district does not have this problem. But yet when you talk about it, with the people of my community, they have -- they're very sympathetic and how do we make sure that, (a) we help the people that are having this problem but (b) how do we prevent it from ever happening again.

You know, because I kinda vision -- kind of like my community but the state of being like a big pond and where you throw that stone, the ripples go out to everywhere and we need to ensure that we're all safe.

I am disturbed with the -- with the practice of covering up the damage. How do you see going forward? Is there any kind of way of penalizing or enforcing when that does happen or if that does happen? Because I do know, I've had a few friends in the real estate business where there -- the homeowners or the tenant, whatever, will purposely just not answer questions or just blindly, you know, fill it in erroneously just to get rid of their issue.

TIM HEIM: Yeah, and that's a great question. And you know, some people say -- well, because there's a disclosure form. To the best of your knowledge -- you know, how do you prove that a homeowner knew about it before they painted it?

And even if you were to take legal action, it's very expensive. And going through litigation and I think to avoid this issue, it is simply to core test. And
that will tell you if there's pyrrhotite in that concrete or not. There's no visual inspection that will tell a homeowner they don't have the issue. If somebody tries to sheet rock and cover it or paint it skim coat it, that will stop that from happening because it's -- it's science.

Whether it's petrographic testing or whether it's trinity testing, they'll both tell you whether there's pyrrhotite in that concrete.

But you know, and right now the state of Connecticut offers 50 percent of the reimbursement for the core testing up to $2,000 dollars. So you know, it's -- there are programs out there but the fact that somebody would sell a house or try to skim coat it, you know, infuriates me.

REP. GUCKNER (138TH): Well, again I wanna thank you for coming forward with this and I think it's -- even though we don't have it on my end of the state, we're behind you 100 percent.

TIM HEIM: And I appreciate that.

REP. GUCKNER (138TH): And we're pretty sure that we can -- we help everybody in the state. But thank you for coming in.

TIM HEIM: You're very welcome.

REP. GUCKNER (138TH): And I'll wait for the invitation to your house. [Laughter]

TIM HEIM: Anytime. Wait, we'll do it in the summertime where we can do some karaoke and have a barbecue.

SENATOR LESSER (9TH): We may have to bring the
entire Planning and Development and Insurance Committees.

TIM HEIM: Bring in the bus.

SENATOR LESSER (9TH): Okay, sounds good. Are there questions from other members of the committee? Yes, Representative Arnone.

REP. ARNONE (58TH): Thank you, Mr. Chairman. I think something really important here, you mentioned the Attorney General's report --

TIM HEIM: Yes.

REP. ARNONE (58TH): -- and his cover letter. And on his cover letter there's been a lot of -- lot of legislation going on here and the big paragraph, I don't know if you're familiar with on the front of why there is no -- no consumer protection laws.

TIM HEIM: Yeah.

REP. ARNONE (58TH): And if you could just quote that little bit. If you have it in front of you, what he says on the laws never been prohibited. On the front cover letter. So --

TIM HEIM: What paragraph was that?

REP. ARNONE (58TH): On the second paragraph where it says, "Connecticut law has never been prohibited, limited or otherwise regulated for the presence of pyrrhotite in residential concrete foundations and construction."

So one of the reasons you couldn't use consumer laws is because there was no regulation. And that was probably one of the third strikes from the insurance
company saying, "Well, it's not crumbled, the FEMA". And FEMA rejecting and then consumer laws rejecting. So I think it's important also, too, for the concrete industry to hear that.

TIM HEIM: I think it is very important and not to be funny but FEMA was at my house along with the Army Corps of Engineers and you know, for the folks that don't understand this issue, it's extremely, extremely complicated.

And I applaud, you know, other districts supporting us because that's been -- that's been an uphill battle from the beginning. "Not my problem" and it's opened my eyes to support and really listen to other people's issues.

You know, not -- and not to take a lot of your time but one thing that I did notice last session is there was a Representative and he was talking about dishes. You know, satellite dishes on buildings and I think it was out in Waterbury and how there's too many of them and you know, I'm thinking to myself -- and at the time our state Representative didn't support that but I think -- it made me really sit and listen that, you know, it's not important to me because I don't live in the city but it's important to him.

So it kinda taught me a less that to listen to what matters. And what matters in my district or -- and I'm not a state Rep -- but where I live versus your district is equally important.

So and getting back to your letter from -- from former Attorney General George Jepsen, that is very important. And it even notes in that letter from
the investigation, you know, waiting on legislation for the quarries and not having to renew it.

So absolutely. So that's important and did everybody get a copy of the letter that I emailed? I think you should have it.

REP. ARNONE (58TH): I thank you much. So my district is Enfield, my neighbor has a crumbling foundation. A military man his whole life, had to spend his life savings -- his life savings that we paid him to defend our country.

TIM HEIM: Yes.

REP. ARNONE (58TH): On a -- on a crumbling foundation. So I'm proud and happy to be on this committee now --

TIM HEIM: Thank you.

REP. ARNONE (58TH): -- and work my way up from not -- not being a state Representative to being here today to help -- help this situation out. So yes, it even affects my district. So thank you very much for your testimony.

TIM HEIM: Well, thank you for your support. You're very welcome and you know, I did get one story out of all the many stories that I heard was a woman who called me and because of the radon level was ten times or 20 times higher than the acceptable level, they had to drain their entire savings and retirement to get it fixed.

And she said to me, "You know, Tim, a lot of heroes involved in this", she said, "but my biggest hero is my 74-year-old husband who's back to work fulltime
because he can't afford to stay where he is."

So that brought a tear to my eye. That's hard to swallow. So but thank you for your support.

SENATOR LESSER (9TH): Thank you, Representative Arnone and I'm not sure that we -- I'm not sure that all of us did get that letter so if you wouldn't mind resending it, that would be helpful. We'll check with the committee Clerk to see if we can get a copy of that.

Yes, Representative Nolan.

REP. NOLAN (39TH): Good afternoon.

SENATOR LESSER (9TH): Good afternoon, sir.

REP. NOLAN (39TH): Anthony Nolan from New London. Thank you, sir. Earlier in your testimony you talked about a language change from the insurance company?

TIM HEIM: Sure.

REP. NOLAN (39TH): Could you repeat that? I'm kind of new to that.

TIM HEIM: So I'd be more than happy to elaborate from my own personal experience. So in 2000-ish, 2007, 2008, my wife and I sold our first home which was a raised ranch in Wellington. And we purchased a home five miles up the street.

After we purchased that, we had a home inspection and the home inspection had said minor cracking was normal. My insurance company defined the word collapse by adding sudden and abrupt the year after we purchased our home.
So that, in that, so by adding sudden and abrupt, if your home collapses today it's covered but if it's gonna collapse tomorrow, it is not.

And whether your -- and I think that there's, in the Supreme Court it was argued what constitutes a collapse, does structural impairment constitute a collapse and I think that decision was already made and a decision was from a previous case. I think it was the Beech case. Don't hold me to it.

So, you know, the question is what constitutes a collapse and that was argued again in front of the Supreme Court and I'm hoping that decision will -- I'm hoping they don't overturn that decision and that decision will be out in June.

So basis -- it's based on collapse and also the reason why I'm pushing -- I would ask for a CUIPA investigation is because how were we notified? You know, how -- how did an insurance company notify you that, you know, your house that was covered is half the coverage.

You know, and the insurance lobbyists will fight me all day long and that's why they get paid a lot of money and they do what they do but you know, my -- as a homeowner, how were we notified and why weren't our rates cut in half because half the house is now covered.

And what's interesting is so if your house above your foundation collapses into your -- into your basement, it's covered. But if your walls of your basement collapse and your house falls into the basement, it's not covered.
So I would love to talk to you about this because it will pique your curiosity for sure.

REP. NOLAN (39TH): Well, I appreciate that.

TIM HEIM: You're welcome.

REP. NOLAN (38TH): I look forward to visiting your house. [Laughter]

TIM HEIM: I look forward to having everybody, you're welcome.

REP. NOLAN (38TH): And I just want to thank everybody who has advocated for this because I believe it is a very serious issue, one that goes around our state. And I'm just looking forward to supporting you to make sure that things go well.

TIM HEIM: Thank you. Thank you for your support and one thing is, you know, our communities have really actually come together and really worked together.

Not everybody gets along or likes each other but we will all work together. The dysfunction, and I'll never forget that, as a family we all have it. So it's made us a lot stronger as communities and residents of the state of Connecticut. And louder.

SENATOR LESSER (9TH): Thank you, Representative Nolan and I'll point out Representative Nolan's been a state Representative for about a week as of today. He's already getting an education on this -- on this issue.

I'm gonna call on Representative Haines in a second but I do wanna note that the other Co-Chair of the Planning and Development Senator Cassano is in the
room but due to mobility issues, he's not up here with us but I know he is very much interested in this issue as well and I just wanted to note his presence here as well.

TIM HEIM: Sure.

SENATOR LESSER (9TH): Representative Haines.

REP. HAINES (34TH): Thank you, Mr. Chair and thank you to all of you who are here today and also thank you for allowing the Planning and Development Committee come in on this. I think it's wonderful that we're doing this jointly and really appreciate you being here and all of you, thank you so much.

So really just a quick question and just -- I'm kinda getting caught up even though I've been here a little bit longer than a week but not by much.

Any -- thank you -- any looking into on the insurance side of it, product liability insurance. Is there any -- is there any piece of all of this in that?

TIM HEIM: Well, I was in a lawsuit for two-and-a-half years. My summary judgement the Judge made -- the decision on summary judgement for the defendant and actually did me a favor. Because it's extremely, extremely expensive to go for litigation. Some homeowners have spent $30,000, $40,000, $50,000 dollars for litigation. And that'll get you to trial. Some.

Attorney Brenda Draghi who stepped up to the plate and really advocated hard. And all along, you know, had said this isn't an issue that should be in the courts. You know, Brenda and Brian Danforth, they
have really fought hard in the courts. Not by choice because you had a limitation on how long you had to file a lawsuit.

Now you know, my litigation -- my lawsuit was thrown out because with minor cracking being normal, the Judge had said that that was manifesting prior to when I purchased the home.

And you know, quite honestly, it would've cost me probably $15,000 dollars or $20,000 dollars to go through trial. And even if I won -- even if I won the lawsuit, the insurance companies have big pockets. They're gonna appeal it. And I can't afford that.

You know, your average middle class family can't afford all that money to go through and it wasn't a sure thing.

So you know, the answer to your question is I don't know the answer. I wish I did legally but if -- there's been a -- there's a class action suit that I know Attorney Ryan Barry is involved in in Manchester on behalf of some homeowners.

I know there's a lot of individual lawsuits that are in federal and state court. I think a lot of the cases are waiting on the decision to be brought down by the Supreme Court, hopefully by June.

And you know, if they just -- if they just came to the table, the insurance industry. You know, with all that money they put aside fighting in litigation and just wanted to be a part of the solution in my opinion would be, you know, the easiest choice of the two, so.
REP. HAINES (34TH): Thank you very much. Thank you, Chair.

SENATOR LESSER (9TH): Thank you, Representative. Other questions from members -- yes, Senator Anwar.

SENATOR ANWAR (3RD): Thank you, Mr. Chair. Hi Tim, how are you?

TIM HEIM: It's a -- it's a pleasure to face Senator Anwar. I'm so used to saying Doctor Anwar but congratulations, Senator.

SENATOR ANWAR (3RD): Thank you so much. I think, Tim, you touched on something that's worth highlighting a little bit more about the radon level in one of the family's homes.

TIM HEIM: Yeah.

SENATOR ANWAR (3RD): We touched on this before. This is a silent killer.

TIM HEIM: Yep.

SENATOR ANWAR (3RD): So assume people lose their home and while they're losing their home, every single day the cracks in the basement actually allow more radon gas which is a colorless, odorless gas which is a carcinogen that actually they're inhaling.

And that actually can lead to cancer. It's a known carcinogen and people develop lung cancers.

So this is happening. The other emotional impact on the lives of individuals, there are families that unfortunately have been broken because of this. We have seen that, we have -- in other parts of the
country -- not the country, sorry, in other country there've been suicides attributed to this.

So this is a real traumatic situation where people have lost lives in other parts. Thankfully at least to the best of our knowledge, we have not seen that in our state. But we have seen families broken and then health issues that are actually evolving. Then the allergies because there are mold that are growing into the homes of people. That actually leads to respiratory illnesses, allergies which are truly impacting their daily life.

I think that may be an area for legislative perspective as well. To look into about the health impact of individuals from this disaster.

TIM HEIM: Yeah, and I agree and I remember a year or two ago you did a very informational presentation on that at one of our meetings. And that needs to be addressed and really focused on and shown that the urgency of how this issue needs to be corrected and the steps in legislation that we would like to see made.

SENATOR ANWAR (3RD): Yeah, and I think the sooner we address this the less long-term health issues. There is an urgency in from a solution point and that's the argument I think we should make, too, from the legal point of view but also legislative point of view on this.

TIM HEIM: Good point, that's a great point and thanks again for all your help. I think you were the second or third story in August of 2015 as Mayor of South Windsor with Mr. George Colley standing up for. So you know, you were there for us then and
you're still here for us now and that says a lot for me and thank you for that.

SENATOR ANWAR (3RD): I'm looking forward to staying the course, thank you.

TIM HEIM: You're very welcome.

SENATOR LESSER (9TH): Thank you, Senator and Senator Anwar's only been on the job for a week as well but this is not the first time he's thought about this issue, I'm pretty sure.

SENATOR ANWAR (3RD): No.

SENATOR LESSER (9TH): Thank you. Thank you, Senator. Other questions or comments from members of the committee? If not, thank you. Thank you for your testimony and thank you, Representative Wilson-Pheanious, you've been great -- thank you very much and Representative Delnicki, thank you again for everything and Senator Cassano who has been on the job for longer than a week, thank you very much for all your support. Thank you very much.

And next up we have Representative Tim Ackert. And then -- and actually we are past the first hour so we're gonna be alternating between legislators and members of the public. But Representative Ackert go ahead and then we'll -- we'll switch up after that.

REP. ACKERT (8TH): I felt left out so I wanted to bring Linda up with me. So we'll help your list to quicker, sir.

So we'll -- first of all, thank you. Thank you for being here and doing this and having this and welcome to the new members, Representative Nolan,
Senator Bizzaro and already a team member on this issue, Senator Anwar. So it's good to be here with you.

Senator Lesser, Representative Scanlon, Representative McCarthy-Vahey and all of the esteemed members of this committee -- these two committees.

You know, first I've got to start off by saying, just a compliment to this body and the folks behind us, we're fixing houses. We're fixing houses. That's one of the things that happened. I would not have left this legislative without knowing we're fixing houses so I will just briefly touch on mine and then I wanna turn it over to Linda, probably the very first victim of the state of Connecticut in this place here.

So I wanna start by giving my support to certain bills. Senate bill 907, AN ACT CONCERNING RESIDENT DISCLOSURE REPORT AND CRUMBLING FOUNDATIONS. I'm in support of this legislation. Wanna make sure that we add any tax sale houses for municipalities in there so they're not dumping products onto unwilling people and of course bank foreclosures which we've already heard of.

H.B 7179, AN ACT CONCERNING CRUMBLING CONCRETE FOUNDATIONS, thank you for the pieces you put in here regarding the insurance, making sure that it's one person paying for it. Also the piece of what is a resident so that we're including the larger buildings now.

One area that I'm not sure if I support at this time, it's the innovation board piece. Eight
million dollars is a lot of dollars. I can tell you what, right now we have some great technologies being used. I can't really -- Epitome is one company. They don't have to lift the houses. They replace them but they're a premade product putting in. So there's an area on there and they're -- they're -- we could talk more about that but there's some technology out there that we can use.

Also part of 7259 and 6750. One area of caution I have on one piece of legislation is 6040. Right now that -- and I appreciate Representative Geoff Luxenberg for putting this in. I have reservations because it would be a mandate on a lot of house sales.

There's -- because it says if one home -- if one home is -- has an effect on the community, we have them all the way south where this is one town, one home. That every home in that large city would have to have -- for sale -- they'd have to have a home inspection report done at $500,000, $600,000 dollars and also core tests at thousands. So just gotta watch that bill and see on -- on what that'll be but those are the areas.

I would love to now turn it over to Linda. Linda, introduce yourself and tell them your story. You got it, yeah.

LINDA TOFOLOWSKI: Mr. Chairman and members of the Committee, thank you for having me. I'm Linda Toflowski formerly from Tolland and Stafford and I pretty much support all the bills. I am patient zero, that's what I call myself. I'm in the medical field. First person to have this in the state. Lucky me.
I took my first measurements of my cracks in my basement walls in 1993. That's 26 years ago. I was 35 when it all started for me. Now I'm 61. I fought long and hard to open people's eyes to this disaster and to help find financial solutions to set standards so that we can all put this -- end to this nightmare.

Yes, there's been great progress made towards financial solution for the victims. I do appreciate that. But there are still some victims being left behind. Those being condominium owners and Legacy victims which I call them, I'll explain it. Basically people who have replaced their foundations and no longer own that home.

These victims are no less devastated by this disaster. I know. I am a Legacy victim. We paid for our home twice with no help from anyone and still to this day don't have a sufficient retirement fund because of this disaster.

There are very few of us who did the right thing by fixing our crumbling foundations before we sold them. For many years, most people covered it over -- covered the cracks over and did not disclose their cancerous walls and sold those homes for full price. It's hard to watch that over the years.

Both condo and Legacy victims have not qualified for any funding programs thus far. So to exclude them from any financial help yet again is just a travesty.

The Capital Insurance Fund will be running out if they are not all spoken for already. There are 790 BCP complaints to date. The capital -- the Captive
only has funds for around 514 homes. Well short of the 790 known crumbling foundations. It's a given that that 790 number is only gonna increase and this disaster potentially will last for 20 more years.

The finances that are set in place do not add up to this expansive disaster we have on our hands. I strongly urge the committees to support any legislative proposals for further funding -- financial funding for crumbling foundations.

Finally, we need concrete standards for our construction industry. It's been well-known for hundreds of years that concrete made with expansive minerals such as pyrrhotite make for an inferior self-destructive product.

Connecticut Construction Industry Association, CCIA, will tell you that in quote, "It will cost thousands of dollars, days of effort, additional staffing and more in depth assistance to have a set standard for expansive minerals."

But what has it already cost Connecticut and the homeowners just to start fixing this disaster. We desperately need a standard for this industry that has been self-regulated for years.

The massive financial crisis that lack of standards has caused far outweighs the inconvenience it will be for the construction industry to have a set standard.

These regulations will not only protect Connecticut citizens but will also protect the state's investment into the crumbling concrete disaster.

UConn is already working on better testing methods
and standards for Connecticut so I implore the committee to support any legislation that will protect Connecticut from another massive disaster with expansive minerals.

Thank you very much.

SENATOR LESSER (9TH): Thank you, Representative Ackert and thank you, Linda, for telling your story and I'm so sorry about what you've gone through. I think we're looking to try to address some of those issues that you've raised in your testimony. But thank you for your --

LINDA TOFOLOWSKI: It's -- it's finally very nice to see that something is finally being done. I've waited a long time and I do appreciate all the work that I see going on.

SENATOR LESSER (9TH): Well, thank you. I think Representative Delnicki has a question or two.

REP. DELNICKI (14TH): Thank you, Mr. Chair and thank you, Linda and Representative Ackert. And Representative Ackert, you've been a big help in this issue, too, I have to tell you. The more folks we have on board the better.

You made mention of the money running out in the Captive Insurance. Just to let you know, the Crumbling Foundation Caucus has sent a letter to the Governor's office requesting that it be put on the next bond commission meeting for the next $20 million dollars which will basically be the current fiscal year's money, if I recall correctly. Previous?

REP. ACKERT (8TH): Second payment.
REP. DELNICKI (14TH): Second, yes. As we are operating on the previous fiscal year's money now and then in theory there should be another additional monies come July 1st that we would be qualified for for the next fiscal year's money.

So it looks like that's gonna come together because we've had conversations, both co-chairs pertaining to the issue and I think that's gonna -- it's gonna fall right into place so that there won't be a run-out of money.

You mentioned quarry standards and obviously that's a key part here and we just can't put our heads in the sand on that. And unless I'm wrong and I'm sure Mr. Maglaras will comment on it when he comes up to testify, the Board of Directors, I think, has the latitude to do something about that and if they don't, certainly there would be an opportunity to get something in to a placeholder bill or one of the bills.

Because I know it was a -- my recollection is a concept we brought up, language -- insurance language pertaining to crumbling foundation issue. So there's an opportunity to do something there if we have to. But I think the board may have a latitude on that.

REP. ACKERT (8TH): But one of the things that Mr. Heim brought up earlier is the working group that I'm also a member of.

REP. DELNICKI (14TH): Right.

REP. ACKERT (8TH): And we're just waiting to meet. Like unfortunately it's been known in this building
that we sometimes get these working groups together but we actually gotta get together as soon as possible. And I think that would help your committees if we're able to get together and start discussing. It might not happen in this year's but the number one thing is we've got eight people, we've just gotta get -- gotta have a scheduled meeting.

REP. DELNICKI (14TH): And seeing you're in that working group. I wanna pose a question to you pertaining to standards.

If we put standards in place as an interim action, not taking away the authority of the working group, because you simply could come up with something better than what we may put as an interim -- would you be receptive as a member of the working group to an interim set of standards that we would operate on so that we would know that we don't have the issue.

They may be a little bit more stringent than you come up with, they may be less stringent but something in place to ensure that we don't have this issue in another quarry in Connecticut.

REP. ACKERT (8TH): I think that's a great question. And one of the things that we always like to know, though, in this body is how the stakeholders weigh in. Right? So meaning that whether it's a governing body that oversees foundation quality -- or concrete quality -- and over the -- or the installers.

You know, there's sometimes that we have, you know, an issue where we'll put together a piece of legislation and it has unintended consequences. So
that all of a sudden we put together standards and they were -- they weren't strong enough, say and then the foundations were bad and we had standards set, who do they fall back on so look at it and say, "But that was your standards, Representative."

And/or we make them too tight and next thing we know we can't pour any foundations because we've gotta buy concrete from out of the state or something.

So you know, it's just -- and which you can't do that. You can't, you know, those big trucks can't get here quick enough.

So that's the unintended consequences that we have to talk about.

REP. DELNICKI (14TH): My comment pertaining to standards is the gold standard, the Army Corps of Engineers, perhaps the best engineering association group ever on the face of the planet, the Army Corps of Engineers would be the interim standard that I would be looking to see.

REP. ACKERT (8TH): And that makes an excellent point, that was a great presentation that they put forward for us.

REP. DELNICKI (14TH): Right

REP. ACKERT (8TH): Thank you.

REP. DELNICKI (14TH): Thank you, Mr. Chair. Thank you, Tim and Linda.

SENATOR LESSER (9TH): Thank you, Representative. Are there questions or comments from members of the committee? If not, thank you very much for your testimony.
REP. TIM ACKERT (8TH): Thank you.

LINDA TOWFLOSKI: Thank you.

SENATOR LESSER (9TH): Okay, now we are moving to the public portion of the testimony and then we will be alternating. We have a couple more legislators who want to testify but we're gonna be alternating and we're gonna be speaking in bill order and so the first bill up is Senate Bill 907. Dan Keune from the Connecticut Realtors.

DAN KEUNE: Sorry, it's a little humorous because last week when I testified -- my last name was Keune. But that's okay.

SENATOR LESSER (9TH): You know what, I knew I mispronounced your name but you -- thank you for reminding me, I apologize.

DAN KEUNE: No problem.

SENATOR LESSER (9TH): I may do that again today, we are --

DAN KEUNE: My attitude is pronounce it wrong every time, I'll be glad to show up, that's all that matters.

SENATOR LESSER (9TH): Thank you. It's good to see you again.

DAN KEUNE: Thank you. I'm here as President for the Connecticut Association of Realtors and its 17,000 members which, you know, Representative Delnicki shakes his head yes because he knows.

I'm here to talk to you about Senate Bill 907. The bill requires additional information on the
residential disclosure report specifically when this -- it would necessitate a seller to disclose to a purchaser any facts that are within the seller's actual knowledge concerning the following.

The presence of pyrrhotite in the concrete foundations located on the seller's property.

Any testing or inspection done by a licensed professional to determine the -- whether such foundations contain pyrrhotite.

Any foundation deterioration problem settling caused by the presence of pyrrhotite in foundations.

Any repairs, remedy or from settling also from pyrrhotite.

The concern that we have is most sellers that would have all of those issues may not know it's from pyrrhotite.

We have actually proposed some amendments to the disclosures ourselves and basically we're looking to take what we're using in our voluntary forms, making them mandated but we're not qualifying it to the presence of pyrrhotite. We're saying do you have any repairs that you've made to the foundation.

In other words, we're looking for the signs of because most people have no idea whether it's from pyrrhotite or not and our fear is that what they will do is the minute they hear the -- see the question written that way, they're just gonna say unknown because there's only one way to know. And that's if they actually ran a test which one of our proposed questions also is have you had any professional testing of your foundation.
So we think the direction that we've taken this is probably a much more productive direction to get what we're looking for for information. You know, I -- I think Mr. Delnicki may have had his hand in writing this and I fully understand out of, you know, we're all desperate for data. But with that said, I think the approach the association is looking to take would probably be much more productive in trying to achieve what this bill is trying to achieve.

So we are in support of it but we're really looking to support it with some changes. There's been additional information provided to you beyond this testimony. Hopefully if you have any questions, I'm here to answer.

SENATOR LESSER (9TH): Yes, thank you and I hope the next time you testify before me I'll get your name right and I apologize, Mr. Keune for that.

But can you -- so just understanding your concerns about the bill language drafted, so the homeowner has knowledge they've done an inspection that indicates the presence of pyrrhotite.

DAN KEUNE: Okay, let me -- let me reword it, I can see where -- so one of the questions in this would be, "Do you have any cracking from the presence of pyrrhotite?"

Okay, the answer is unknown because they may not have from pyrrhotite. Where our question would be, "Do you have any cracking?" Well, that answer could be yes.

"Have you made any repairs to your foundation from
pyrrhotite?" The answer is no. "Have you made any repairs to your foundation?" That answer could be yes.

So again, by qualifying it, by specifying the mineral, we could be actually providing the seller a correct answer that's not giving us the data we're looking for.

SENATOR LESSER (9TH): I think -- but I think the language is specific to pyrrhotite. So you may know that there may be cracking in the foundation but if you don't know what's -- the question is if you have actual knowledge about the presence of damage caused by pyrrhotite, that would be disclosed, right.

DAN KEUNE: Correct and if you look at it, we're also proposing asking questions in there, "Have you had any professional testing done of the foundation?" That would give us the data that you're looking for.

SENATOR LESSER (9TH): Okay. And then the specific -- we'd also gotten some comments about expanding it to make sure that it included bank and tax sales, was that -- does the Association have any issues or quarrel with those questions?

DAN KEUNE: We are not adverse to that.

SENATOR LESSER (9TH): Okay, thank you very much. Representative Delnicki.

REP. DELNICKI (14TH): Thank you, Mr. Chair, and my bill is actually 6659 which was basically a framework and the intent of that was to present -- or prevent, I should say -- a as-is where-as how-is sale if somebody has knowledge of pyrrhotite having
been involved.

If a credit union or a bank took ownership of a home that they knew had pyrrhotite in it, they couldn't sell it as-is, they'd have to disclose the fact that pyrrhotite is there.

And I go back to the young couple, you know, that occurred where I am and they bought an as-is and they sure got the worst deal of their life.

DAN KEUNE: Right.

REP. DELNICKI (14TH): And it was obvious that it had been a foreclosure. And it was obvious that there was a reason why it was foreclosed upon. And that's to preclude and prevent that.

The realtors have been good -- good actors in this whole deal. I mean they wanted to make sure that there are protections there for people because that's your business. And you don't want customers coming back to you saying, "Hey, you know, I went to Tom's Realty there in South Windsor and I got a home with pyrrhotite. I will never go back there again", and throw you out on the internet as being a person to stay away from. You want the reputation of being a good -- a good person to deal with.

So you're not the concern there, I can tell you that on my part.

DAN KEUNE: I think it's worth mentioning and I don't disagree with you. I mean I've shown houses that were bank owned that the symptoms and signs were so obvious. My license does not allow me to call you up and say, "Hey, you've got the issue." But I would call the listing agent and say, "Have
you had the bank look at this foundation because there's concerns?"

And the number of times I've heard, "We've suggested it to the bank and they won't do it." So that is a little uncomfortable because frankly, I'm not playing engineer. I'm not playing a lot of roles and if I see it and the blind eye is being turned, then it is awkward.

REP. DELNICKI (14TH): That is.

DAN KEUNE: It poses potentially an issue. I can tell you I have a property that is a short sale situation right now. We're working with the lender. Lender was a little disappointed to hear the short sale is happening because frankly we have a failing foundation.

So we're well-documented and we've provided all the information to the bank and we're right now trying to see where they're gonna go with this. They certainly won't be able to deny they've got the data because we provided it.

REP. DELNICKI (14TH): And in a case like that, the last thing you'd want to see is that home become an as-is home being offered up by the bank.

DAN KEUNE: Correct.

REP. DELNICKI (14TH): Because they know that you won't list it and you won't show it without pointing that out to people.

DAN KEUNE: It's obvious.

REP. DELNICKI (14TH): Yeah. Well that's what the intent of my legislation was, to make sure that
you're not gonna have some person that even though it is an as-is sale and they should consider that -- fall prey to what they think is the best deal of their life.

DAN KEUNE: Well, as-is with disclosure is the way it should be.

REP. DELNICKI (14TH): Correct.

DAN KEUNE: And right now I think that piece may be missing in many aspects of the real estate transaction.

REP. DELNICKI (14TH): And you serve on the Captive Insurance board?

DAN KEUNE: Yes, I do.

REP. DELNICKI (14TH): Can you just make a couple comments on how it's working out? Because I know Representative Vail asked another member.

DAN KEUNE: From my perspective I think one of the things that's been impressive, we've gone through many evolutions as we've gone through our discussions on criteria with the change. I think one of the things that's been impressive is maybe not from the outside as much when you're staring at it every day but it's been how good we've been at adapting.

We've set up some things, put things in place, got some feedback or saw how something was working and next thing you know, Maglaras is calling us back in to a meeting. Mr. Maglaras. [Laughter]

REP. DELNICKI (14TH): He's right behind you.
DAN KEUNE: Sorry.

REP. DELNICKI (14TH): He's hiding in plain sight.

DAN KEUNE: There you go, sorry about that.

MICHAEL MAGLARAS: I'm sorry, what's your name again?

DAN KEUNE: There you go. Call us in for another discussion and again, it's the fact that we've been -- we've been fairly nimble on trying to address the concerns the best we can.

The main thing that we really love -- yeah, it's called more money.

[Crosstalk] There's nowhere near enough funding to do it all and that's one of the biggest challenges. If you would give us a blank check, boy, we could do -- we'd love to be everything to everybody but this is the state of Connecticut, there's no blank checks.

REP. DELNICKI (14TH): And they wouldn't trust me with a checkbook, so.

DAN KEUNE: Trust me. [Laughing]

REP. DELNICKI (14TH): And I know you've heard some testimony pertaining to situations that presently don't fall within the criteria of the program. I don't know if that's something that you can look at or whether you need something from the legislature but I think [crosstalk].

DAN KEUNE: I can tell you at first glance [crosstalk]. I really should leave the Mr. Maglaras to comment on that one.
REP. DELNICKI (14TH): Good deal. Good deal. Thank you. Thank you, Mr. Chair.

SENATOR LESSER (9TH): Thank you, Representative. Senator -- Senator Anwar, I'm sorry.

SENATOR ANWAR (3RD): Long day. Thank you, Mr. Chair. Thank you for your testimony. I think the legislative intent for the specific bill you're talking about may have been because there have been incidents where the people who are selling their home knew it and the one who was selling the home, the realtor, also may have had some understanding.

And that resulted in a new person coming from out-of-state who had no clue about this little disaster impacting our region. And then they were caught and then impacted. So in order to protect the customers or the future homeowners, this was the intention.

I recognize what you're saying because it sort of gives a way out to somebody and say, "Look, they're cracks but I don't know the cause of it so I'm not gonna report it and say unknown."

So if you change that language and just include that, "Do you know if there are cracks" and then specifically remove the pyrrhotite part, that may actually help capture the data.

DAN KEUNE: Correct.

SENATOR ANWAR (3RD): The part I'm more worried about is something that we have seen. In the beginning when you asked -- started to identify this was an issue, we knew on some road there were like -- if there are 15 homes there are about seven that are impacted and all the homes were made at the same
time, we pretty much knew that the other homes were impacted and when we talked to the families, they say, "We don't wanna know."

And then their rationale was that if we know then we are obligated to inform somebody else. And then this would be the unintended consequence of something like this where people will stop testing and stop noticing and they say, "I don't know."

And that does not help this disaster, if you will. And so that's -- that's my fear. Have you thought about that aspect at all?

DAN KEUNE: I can tell you that the -- the Connecticut Association of Realtors has developed several forms and one of the forms is really -- we borrowed some data from the Captive and basically the Captive has some criteria that started February 1st in which you had to either do a core sample or a visual inspection by an engineer starting February 1st or any closing thereafter.

And if you didn't do it, you will never quality to apply with the Indemnity Company. We've got that on a buyer advisory that we give to the buyers up front. It's also in a seller disclosure that was written up, that same wording.

Right now there are probably almost zero -- and I would say zero but I don't wanna be bold because the minute you say all or none you're always wrong. Almost no buyers right now are proceeding on any house built in this timeframe without doing one or the other.

SENATOR ANWAR (3RD): Excellent.
DAN KEUNE: So what we've done by adopting the criteria and putting it forward, it's actually somewhat created an industry standard finally that we're all wrapping our arms around that the buyers were rather eager for because -- and frankly, so were the sellers -- I mean once we created a standard that's fun or not fun as it is, at least it's finally a standard.

This going bump in the dark which is what we feel like we've been doing for a while, trying to figure out which way to go -- the Indemnity Company actually was an asset.

SENATOR ANWAR (3RD): So I'm gonna repeat what I understand what you said. Now the homes that fall into the timeframe and the region, the realtors are actually having the seller and the buyer look at a form and complete a form to make sure that those aspects are recognized and identified.

DAN KEUNE: Correct.

SENATOR ANWAR (3RD): Okay.

DAN KEUNE: In fact, if you'd like, you're not hard to find. I'll email them to you.

SENATOR ANWAR (3RD): Okay, good. Good.

DAN KEUNE: Okay, all right.

SENATOR ANWAR (3RD): Thank you, this is very helpful, thank you. Thank you Mr. Chair.

SENATOR LESSER (9TH): Thank you, Senator. Other questions or comments from members of the committee. If not, thank you for your testimony.
JOINT INSURANCE/REAL ESTATE
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PLANNING/DEVELOPMENT COMMITTEE
PUBLIC HEARING

DAN KEUNE: Thank you very much.

SENATOR LESSER (9TH): Returning back to the legislative portion, we have another new legislator who has taken this issue on with zeal. Representative Joe Barry as well as Margaret Wilcox and Linda Edelwich. And again, apologies, I've been mangling names all afternoon and Mr. Keune, I hope you forgive me.

Good afternoon, Representative.

REP. BARRY (31ST): Good afternoon. Good afternoon Chairs McCarthy-Vahey, Cassano, Lesser and Scanlon, ranking members and esteemed members of the joint committee.

With your permission, I would like to yield my time to two noted realtors in Glastonbury, which is my district. Linda Edelwich and Margaret Wilcox.

LINDA EDELWICH: And I'm a realtor with William Raveis Real Estate. Thank you, Jill, for the opportunity to provide my brief statement to the committee.

As a realtor in Glastonbury area, we are not as widely affected by the devastation of crumbling foundations as seen in the eastern portion of our state.

Hearing the stories and the nightmare of the financial nightmare these homeowners are living with is heartbreaking and unimaginable. It would be my hope not to add to the list of victims by inadvertantly creating more. And by that I mean to ensure their future eligibility to file a claim with CFSIC, the Captive Insurance program, buyers are now
requesting to perform visual or core sample testing.

Post February 1st, 2019, I'm seeing written into purchase and sale agreements foundation inspection. What happens to the seller when they consent to the core sample and a small amount of pyrrhotite is found in that sample?

If the buyer's not comfortable with the results, then the seller is now left with a positive result of their foundation and must now disclose the presence of pyrrhotite as a material fact and subsequently may not be able to sell their home.

If no minimum standard is set or determined to be the lowest concentration of pyrrhotite that will affect concrete, then any amount is bad in a buyer's mind. Even in foundations with no visible signs of deterioration or evidence of factors contributing to the acceleration of deterioration.

Furthermore, agents in my office have repeated that certain few mortgage companies may now require core samples as part of the mortgage approval process.

In the early 1990s, US Congress tasked the EPA to establish acceptable levels of radon gas in the homes and in well water. And by doing so, the public now has information they could act on when purchasing homes would have an acceptable level or an unacceptable level and then an action plan.

Establishing the acceptable level and the action plan is what helped continue the process of purchasing and selling homes. Without it, the public would rely on misinformation or fear.

I believe standards must be developed as part of the
core sampling process or we may be faced with buyers too afraid to purchase and sellers not being able to sell their homes which could have a catastrophic effect on our current market.

Thank you.

MARGARET WILCOX: I think Linda has -- oh, I'm Margaret Wilcox from Glastonbury also with William Raevis Real Estate and I think Linda has very aptly described the situation we're seeing in Glastonbury.

Glastonbury is on the fringes of the impacted area and when I have listened to the Representative saying that it's not impacting their area perhaps at all or greatly, we'll see. Because we are really on the fringes and my -- I wanted to share some of the experiences that I've had recently with homes that are well outside the 30-mile range from the quarry that has been identified as the problem.

And we are being asked by -- interestingly enough, it's not a lot of the inspectors that are asking for the -- the engineering -- visual engineering report. And/or the core sampling. It may be the buyers from their reading, it may be their attorneys from their reading about the problem and they're not limiting it to a very specific area, it's really expanding out further.

And also, this past week -- two days ago -- my, one of my sellers well outside of the 30-mile range was asked by the buyers' mortgage company for visual engineering exam. And we're having that tomorrow and it's well outside the 30 miles. So I think when Representative had said that it's not impacting your area, well maybe it's not impacting your area at the
moment but it may be soon because it is expanding.

And I would like to reiterate what Linda said. We, so if we have the core testing, if someone goes to the core testing and there is some amount of pyrrhotite, how much is too much? Or how much is acceptable, we don't know.

And I would like to also reiterate that as realtors, it would be helpful to have some kind of standard or guideline. And because at this moment it is as Representative Delnicki said, it is the wild, wild west out there. That's what we're seeing as realtors.

Thank you.

SENATOR LESSER (9TH): Thank you. Are there comments or questions from members of the committee? Yes, Senator Anwar.

SENATOR ANWAR (3RD): Thank you for your testimony. I think you're touching on an important issue that we, from a scientific point of view, do not have a true answer for.

I think the specificity and sensitivity of the various tests that are out there are vague and not clear at this point. We have a gold standard of the core testing but who tests and looks at that core testing is a challenge.

And then if you look at the core testing in more detail, some of the times, to make it more complex, there is an issue with reactive pyrrhotite and non-reactive. So you can have pyrrhotite which is non-reactive which would not as dangerous as the one that is reactive.
And then if we don't have that answer, then you have a problem with the sensitivity of the test and the value of the test. And I think that's why some of the research money issue that is coming up needed to be looked at because if you look at and put some of these questions and clarify these questions, that would be helpful.

In the absence of that data, the -- we will -- it's a challenging situation because we want to have standards in the absence of data and then we can actually look at the standards that other parts of the world have identified.

And then look at so Canadians have identified a standard and then I think it would not be a bad idea to use that for the time being and we can always go back and revisit it. That standard basically is -- does not look at pyrrhotite as a yes and no. You can have a slight amount and then you can still have this.

Now if you look at academically that part, the answer that I'm giving you academically is not a sound answer. The reason is that the pyrrhotite that is in Canada is not as reactive as the one that we have had in Connecticut.

So with that said, we have to have a starting point and then -- and then that could be a starting point with the understanding that as we invest into the real research on this, we may have to change that standard at some level.

At least that's how I look at it but you're touching on something that is important in the absence of the disease manifestation of cracks, doing the core
testing is not necessarily a good idea because you will be confused with the results. But in the presence of the cracks and the manifestation of the disease as I look at it, then it's better to have the core testing and that would give us some better understanding.

So it's a combination of the two. I hope I've confused you. [Laughing]

MARGARET WILCOX: I think that we are very confused so I think that has happened, yes. Thank you. [Laughing]

SENATOR ANWAR (3RD): And I think that's the whole point is that we are trying to manage a disaster in the absence of enough sound scientific data. Thank you.

SENATOR LESSER (9TH): Thank you, Senator. Representative Delnicki.

REP. DELNICKI (14TH): Thank you, Chairman and thank you, Senator, for your comments there because we both have been working on this quite a bit.

You know, the Army Corps has a good standard for quarries themselves. They've come up with a pretty good paradigm on how to go about testing them.

They also have some material that they've been working on pertaining to standards for the foundations themselves which gets a little more complex.

So to that point, we may find ourselves accepting the Canadian standards as an interim with an evolution to something more precise. It's one of
those deals where I talk about how a lot of things are being done and we're making a lot of progress and that's one of the things.

Now my understanding is there's at least one or two bills pertaining to some funding for UConn to do some analysis on that. I may or may not be correct on that, that was my recollection.

So they may be able to yield a much more hard and fast standard when it comes to the foundations themselves because the Army Corps criteria lists a number of items there pertaining to the water in the area, observations about the cement itself. A potential finding -- there's quite a bit in here and I'll forward you the information so you can share it with them.

You know, it's fairly easy to test a quarry and know whether you've got that material there. It gets a little more difficult to make a determination on the foundation itself. But one thing that is apparent, once it shows, you know you've got it for sure. It's kinda like cancer. Once it pops up, you've gotta deal with it and treat it and understand that there's no easy course there.

Thank you, Mr. Chair.

SENATOR LESHER (9TH): Thank you, Representative. Representative Baker.

REP. BAKER (124TH): Thank you, Mr. Chair. Thank you for coming out here and all your testimony. I'm not sure who I can direct this question to but as a realtor, you know, I heard a lot of testimony and some concerns, you know, and some solutions and
But as a realtor, what do you think -- what would you -- be your suggestion on the first step? If I'm an individual that came to you and said, "I wanna sell my house, I want you to represent it." What do you think that would be the first mechanism that you would want to have in place to -- to -- as I say, to find out or protect yourself or the person that's gonna buy the house as a -- on this particular foundation.

Would you want some kind of authorization, something in place or what -- what was the first step?

LINDA EDELWICH: Thank you. President Keune did talk about the disclosures that we have and first step would be to give our seller client the disclosures to fill out and any further questions are outside of my paygrade so I'd have them talk to their attorney.

REP. BAKER (124TH): So from your perspective, do you feel that's comfortable with the disclosures and stuff?

LINDA EDELWICH: For the seller to fill out the disclosures? Absolutely.

REP. BAKER (124TH): Oh, okay.

MARGARET WILCOX: And we have copies of those with us today. The concrete advisory and disclosure for sellers and buyers. And we also have the foundation advisory for buyers and that's from the Connecticut Association of Realtors. And those would be the guidelines that as listing agents we would follow from our association.
And then obviously if someone is telling us, "Oh yeah, I think I do have a problem", then we probably would refer them to their attorney. Or perhaps we would discuss -- no, I know what we would do -- we would tell them to go to crumblingfoundations.org and educate themselves. That's what we would do.

And obviously then, you know, there would be a discussion beyond that. But most of the people that we -- in our area, and again, we're -- we're working in an area that's not as greatly impacted as so many of these people that have been testifying, they're working in different areas.

So we have not encountered people with obvious problems as much as someone working in an area closer to the quarry might encounter.

LINDA EDELMICH: But we could potentially be looking at sellers having core sample testing done, receiving a positive whatever that amount may be even if it's a trace amount and having to disclose that which is what they should do but unfortunately then having a buyer determine whether or not they're gonna purchase that property in the future.

So that's why we feel that our standard should be, you know, discovered and effectuated out in the field where we're working and selling properties.

REP. BAKER (124TH): So does that -- is that website on the actual disclosure?

MARGARET WILCOX: Yes, it is, mm-hmm.

REP. BAKER (124TH): Has that been submitted as part of your testimony?
LINDA EDELWICH: I believe it was referred to that it'll be emailed.

REP. BAKER (124TH): All right. Well, thank you, I appreciate all the answers, thank you.

SENATOR LESSER (9TH): Thank you, Representative. Other questions? Yes, Representative Gucker followed by Senator Bizzaro.

REP. GUCKER (138TH): Thank you, Chair. I thought my years of chemistry was over when I was in college, probably 30 years ago, but I'm learning a lot about what's actually happening here with the -- in regards to the pyrrhotite and such.

Have you seen anything as far as not only just the concrete but maybe the structure it's built on or near or have pyrrhotite used as a filling material that may be causing some of this heaving or buckling?

And too, would that show up with a core sample?

LINDA EDELWICH: Are you thinking of the physical structure of the home or what, a shed or auxiliary building?

REP. GUCKER (138TH): No, in this physical structure, if there is some aspect where if some pyrrhotite materials used as gravel, we'll say, underneath a concrete floor, when that is exposed to oxygen or water, then it starts to obviously swell, break and it starts pushing and heaving the concrete or pushing the walls. Have you seen any of that happening?

LINDA EDELWICH: I haven't seen any of that,
encountered that. I mean we've seen inspections where it's been observed on the flooring, some mat cracking, you know, but I don't know what it's from and we haven't experienced any testing as a result of that.

You know, typically, I mean I hear home inspectors hear that a foundation floor is integral to the walls. [Crosstalk] So they tend to --

MARGARET WILCOX: That's what we've been told.

LINDA EDELWICH: Yeah, that's what we were told when we were sitting in a home inspection.

REP. GUCKER (138TH): I used to design buildings for a living. And I used to do a lot of foundation plans and such and I can understand how this may or may not be depending on how it's put in.

I just want to ensure that, you know, we know where there's an issue with concrete in some homes that if this material was used as a fill underneath, you know, compacted to be able to put your concrete on top of that, we ensure that maybe we add protections to where if they use that material underneath or around the concrete that somebody doesn't buy a home to find out that this pyrrhotite gravel used underneath the floor or on -- or down around the footings of the foundation, per se, curtain drains or such to where it doesn't push or damage to where maybe a core sample won't show it but maybe this might be a contributing factor.

LINDA EDELWICH: Actually I haven't heard of that at all so that's very interesting that you're bringing that up.
REP GUCKER (138TH): Well, thank you.

MARGARET WILCOX: Yeah, that's not a topic we've encountered yet.

REP. GUCKER (138TH): Just trying to kind of weed it out before it comes up, that's all. Thank you.

MARGARET WILCOX: And just to clarify, we're realtors, we're not, you know, inspectors or engineers and so we're relying on these other experts that we bring in.

LINDA EDELWICH: To communicate with our clients effectively and educate them.

MARGARET WILCOX: And both Linda and I, since the beginning of February, have been present at the visual engineering inspections and -- and the engineers that you bring out that are there present at site, it's been very interesting and educational for us but I have not personally been present at a core test sampling yet either.

LINDA EDELWICH: Neither have I.

SENATOR LESSER (9TH): Thank you, Representative. Senator Bizzaro followed by Representative Haines.

SENATOR BIZZARO (6TH): Thank you, Mr. Chairman. Thank you ladies for being here today and providing testimony.

Ms. Wilcox, you just answered one of my questions. I was gonna ask if you had been present for any testing. Do either of you know what your clients are being charged for core testing?

LINDA EDELWICH: We've hard for the Trinity College
method, we heard it's about 1900-ish. And then for the other test that it could be upwards of $4,000 dollars.

MARGARET WILCOX: Now I've heard that it could be a minimum of two core samples, $2,000 dollars and depending on how many other core samples you want, it's an additional $1,000 dollars per sample. And we've heard -- and again, this is not verified -- I've heard $6,000 dollars or $8,000 dollars for core testing.

SENATOR BIZZARO (6TH): Okay. All right, thank you very much. Thank you, Mr. Chairman.

REP. MCCARTHY-VAHEY (133TH): Thank you Senator Bizzaro and next, I believe, was Representative Nolan? Oh. Nope, Representative Haines, my apologies.

REP. HAINES (34TH): Thank you, Chair. Just a real quick thank you, ladies, for -- all of you -- for being good advocates for our consumers and that's who, you know, you're really representing here today and in all of this we -- clearly, we can understand how many people are gonna bring a solution to all of this and I hope that the rest of your organization is working as hard as the two of you are and showing up at these tests just to again be educated enough that you can educate the consumer.

Because in this situation, obviously consumers need protections and you are part of that line of defense so thank you so much for being here today.

MARGARET WILCOX: Thank you.

LINDA EDELWICH: Thank you.
REP. HAINES (34TH): You're welcome.

SENATOR LESSER (9TH): Thank you, Representative. Representative Baker.

REP. BAKER (124TH): Thank you, Mr. Chair, just one more question. So I know this is not an issue that's going on in your particular area but what are you hearing in terms of engineers and inspectors that are coming out and robbing this issue.

I know that they must be having some concerns of the whole issue. What are you hearing out there?

MARGARET WILCOX: Do you want to go first?

[Laughter]

LINDA EDELWICH: Well, we hear a lot. But I don't know that hearing -- I mean from various inspectors, you know, if they observe, you know, shrinkage cracks or any type of cracking in the foundation, they're recommending to the client, you know, the buyer, you know, if they're concerned about it, where they could go for further information, research and/or testing.

And it's really up to the buyer, you know, to decide, you know, what they're gonna do.

REP. BAKER (124TH): Are they concerned in terms of them doing inspections that if they're not qualified or not -- it's not part of their standard list but they're doing -- [crosstalk].

The inspectors that are coming out and inspect -- you know, doing the general inspection. You know, that's what I -- are they concerned that it's something that they're not seeing and they're gonna
be held liable and their reports are gonna be challenged and their credibility is going to be shot.

MARGARET WILCOX: So I was present at a couple inspections within the last week to ten days and the -- and so I asked the inspectors, "So what do you think about, you know, the whole foundation issue?"

Just casually.

And they were like, "Oh yes, you know, it can be a concern in certain areas." I think they're really looking at the area that they're working in saying it's probably not, you know, a concern here.

And a lot of the home inspectors are saying this is normal settling. This is what they call cold pours. This is, you know --

LINDA EDELWICH: Overzealous backfilling creating shrinkage cracks.

MARGARET WILCOX: Yeah, we're hearing that. Yeah. But then however, Linda and I have said to our buyers, you know, "You're having a home inspection that you can also have a visual engineer -- a visual engineering report." So I've been present at a couple of those recently. And that I've only been present -- I've only seen one engineer doing three of them and then tomorrow I'm gonna see another engineer that actually Linda had experience with.

And the one engineer that I've had experience with, he walks in and he says, "A lot of times you walk in and you say 'Why am I here because this is obviously a crumbling foundation.'"

Or he may walk in and say, "Why am I here because
there aren't any cracks at all." And then you know, other times he's walked in and said, "Oh."

SENATOR LESSER (9TH): It's not you, it's us. [Laughter] Is there someone here who can help with the -- great, okay.

MARGARET WILCOX: He's walked in and said, "Oh, I really need to examine these cracks and measure them" and they've taken photographs and he's come back. The one engineer that I dealt with, he's gone back to a committee of other engineers and they've looked at it all together and then the results that he reported back to us was there is no concern for this foundation.

But it was -- they take it very seriously, I think, the engineers.

REP. BAKER (124TH): Okay, thank you. I appreciate your comments. Thank you once again for sharing that with me.

SENATOR LESSER (9TH): Thank you, Representative Baker. Representative Rosario.

REP. ROSARIO (128TH): Thank you, Mr. Chairman and good afternoon, everyone, thank you for your testimony.

I don't know if it's more of a comment than anything else. Representing Bridgeport, I have a background as a Housing Code Enforcement Officer and I've seen some extreme cases of hoarding that would put a strain on a regular foundation let along a crumbling foundation so I'm kind of curious if you've reached out to the -- I'm a member of CASIO which is the Statewide Housing Code Enforcement Official
Organization.

How many active cases of maybe extreme hoarding are happening in these communities that have these crumbling foundations that may exacerbate the issue even put those families in greater danger.

So just throwing that out there.

MARGARET WILCOX:  I haven't encountered them.

REP. ROSARIO (128TH):  I was curious to see if there was anybody out there on the housing code side. Thank you.

MARGARET WILCOX:  We've seen hoarding but not in relation to foundation, you know, that's evident to us.

REP. ROSARIO (128TH):  Yeah, because I've seen some cases where there's so much items packed on that first floor that we've seen just everything just collapse so I'm kinda curious to see if there was an extreme case of hoarding in a home that had a crumbling foundation that kind of exacerbated the issue. Thank you. I have no further questions.

SENATOR LESSER (9TH):  Thank you, Representative. Other questions or comments from members of the committee? If not, thank you very much for your testimony.

MARGARET WILCOX:  Thank you.

LINDA EDELWICH:  Thank you.

SENATOR LESSER (9TH):  Next up we have, returning to the public portion of the list, we have Brenda Draghi and then we will hear from Representative
Chris Davis. Good afternoon.

BRENDA DRAGHI: Good afternoon, everyone and thank you for having this hearing.

I'm attorney Brenda Draghi from Ellington, Connecticut and I've been involved in these issues for almost four years. We've become quite a family but I do have to note that Dan Keune who spoke as President of the Board of Realtors has referred to himself as my son for about 40 years and Linda, the realtor who just spoke, we've considered her to be my daughter for about the same amount of time.

And they're both right.

I did present some brief comments on bill 907 and to include residential disclosures where condominiums are involved. Because without that piece, the potential buyer of a condominium could have a very positive disclosure report and not know that there were other units in the condominium complex that would greatly affect them if they were to buy into it. So by adding that to the disclosure, I think it would strengthen it.

I believe my second comment which was on House Bill 7179, I think it's -- if I'm hearing correctly today, it's going to be taken care of. And that is the uncommon situation where someone had the house repairs done on the house, the bill was passed for the funding and then they sold the house before the application for the Captive actually took effect.

So when they sold the house, they fully relied upon the language and I believe in the language in the legislation that reimbursement would be available.
So if that could be tweaked so that those few homeowners who had their houses fixed as the owners then sold it before the Captive application, that would alleviate a lot of suffering for a few people.

When comments were being made, I -- I just made all sorts of notes in terms of the various issues that were brought up. Representative Delnicki who has just been a huge factor in this asked one of the early speakers as to what more could be done.

I think the most obvious thing that needs to be done is a coordination of all of the complicated aspects of these crumbling foundation issues. That has been lacking. I think it was the intent of the legislature to include that in a homeowners advocate within the Department of Housing, it just didn't come together.

The first advocate had no knowledge. Six months later retired. The second one served for a very short period of time and was ineffective.

So there does need to be a coordination and a pulling together. You can see from today's testimony these issues are extremely complicated. The testing and -- and everything else that's involved is a part of it. The real estate part of it is huge.

The losses, the impacts, the banking is a huge part of it and deficiency judgements are certainly in the heart of what I do except that it's tricky because right now at the federal level, there is taxation on forgiveness of debt.

And a deficiency judgement could protect the
homeowner because there is no forgiveness of debt if there's a deficiency. Now, I just think the banking part of it needs a lot more work but it's a critical component.

As to the Captive, we have people who are in tears they're so happy, delighted, relieved. Their life has been changed by the wonderful work of the Captive.

I can't believe that given the challenges that they were given, starting from zero, that they were able to put together such a successful launching. And Mike Maglaras has been available every -- I apologize for bugging him so much because there are so many questions.

He has been available -- I can't believe the availability that he's given not only to me but to everyone who has contacted the Captive with questions. And they have wonderful people that work for them.

I was glad to hear that there was mention of a mold problem. You always think about the people that you met with last and yesterday I met with people who have the worst degree of degradation. A 24-year-old autistic son who is non-verbal and 24-hour care. They have mold that is causing all of them health issues.

So to get their house fixed, they're not gonna have the gap financing which is another huge problem. They won't be able to have it fixed. They have a house that is causing health problems to all of the family. They can't relocate because of their high mortgage and also because taking their son out of
his specially equipped handicapped situation would not be realistic. So mold is a real problem that impacts people's health.

Noise is a shocking thing to most people when all of a sudden they will hear noise that is like nothing they've ever heard. That's another part of it.

But in terms of the work that is being done, the interest that's being done, the family of legislators who are working on this and Tim Heim and it's really been a fantastic effort. I hope somebody writes a book about it sometime because it is amazing what can be done, what has been done slowly.

We still have the gap financing piece where people can't afford, even with the Captive, to get their homes fixed.

We have the real estate scenario which is very tricky in terms of the testing because all results are gonna come back with some pyrrhotite and that will scare off buyers and banks, even if the pyrrhotite level is not a problem.

SENATOR LESSER (9TH): Can you please summarize?

BRENDA DRAGHI: Yes.

SENATOR LESSER (9TH): Thank you.

BRENDA DRAGHI: Actually I'm finished. I just wanted to -- the only other thing I was gonna mention was products liability that was brought up.

SENATOR LESSER (9TH): Thank you very much for your -- for your testimony and we'll -- if you -- it'll certainly come up in questions and certainly
appreciate your advocacy.

Yes, Representative McCarthy-Vahey.

REP. MCCARTHY-VAHEY (133RD): There you go, product liability. There were two pieces that were touched on earlier, actually. But I wanted to thank you for -- for referencing the deficiency judgement which I had asked Ms. McCoy about earlier.

And that piece of information that you shared in terms of detectable POC [crosstalk] is really critical.

And then if you could, talk about the product liability as well.

BRENDA DRAGHI: The product liability is something that the Attorney General looked at early on to see if there was any recovery against the supplier. And the standard that would have to be proven is that someone knowingly and intentionally put the product in the marketplace knowing that it would cause harm.

Even if that could be established, which is a very high standard, the company that supplied that has basically no assets. So he felt that it would not be productive and it was not pursued.

REP. MCCARTHY-VAHEY (133RD): Thank you for that. Thank you, Mr. Chair.

SENATOR LESSER (9TH): Thank you, Representative McCarthy-Vahey. Other questions or comments from members of the committee? Yes, Representative Delnicki.

REP. DELNICKI (14TH): You know, it's interesting you mentioned the housing advocate and I just went
on the online and it's still listed as Lena. And I think she's gone.

BRENDA DRAGHI: She is.

REP. DELNICKI (14TH): For a while. So it points out the fact that we need to make contacts with the housing department and find out what's going on there. Because that was a commitment. That was part of the legislation that enabled this and that's a key component because you're right, there's no one there coordinating. Because if you were to call and ask for her, "Well, she's not here."

There might be another person but obviously it's on the [crosstalk] --

BRENDA DRAGHI: I don't believe --

REP. DELNICKI (14TH): -- the follow-up list of things to do. [Crosstalk] And there's a pretty long list here, I've gotta tell ya.

BRENDA DRAGHI: Well, the -- the rules of the Department of Housing became problematic. I spent over two hours with the Commissioner and the -- and the original Homeowners Advocate. They didn't have a clue and not much interest.

That needs to change traumatically or the legislation needs to be redirected towards a department that is going to be taking more of an aggressive role. These issues are too important to just lie in a department where there's little or no interest.

REP. DELNICKI (14TH): That's why I was ashamed to lose Lena. Because she knew the issue, she had
worked with the issue, she had been involved with the issue with Senator Giuliano and jumped into it and knew what to do.

But --

BRENDA DRAGHI: It didn't happen.

REP. DELNICKI (14TH): We're gonna follow up on that and find out what's going on there. So that's to the coordination part of it and I think everything else you commented on was straight forward and I think we've talked about it prior.

So past that point, I've got really nothing to add unless you have something.

BRENDA DRAGHI: I'm sorry?

REP. DELNICKI (14TH): I have nothing, no further questions for you unless there's something there that I missed.

BRENDA DRAGHI: No, I just wanted to mention quickly Glastonbury, the first house that I went to for the house lifting which was on the Lester Holt show was in Glastonbury.

REP. DELNICKI (14TH): I wanna say on the coalition's website, I think that -- that picture is still there from about three or four years ago.

BRENDA DRAGHI: So the impact is very widespread.

REP. DELNICKI (14TH): And it is. There's no two ways about that. Again, thank you for your hard work on this issue. Thank you for being an advocate and a lawyer that people could trust in this issue and keep up the good work.
BRENDA DRAGHI: Thank you.

REP. DELNICKI (14TH): Thank you for coming out to testify. Thank you, Mr. Chair.

SENATOR LESSER (9TH): So thank you, Representative but don't go anywhere. Ms. Draghi. We're not done yet.

BRENDA DRAGHI: Okay.

SENATOR LESSER (9TH): So that may be the seventh inning stretch, though, I'm not sure. Just a -- you'd said a couple things about the deficiency judgements that I found interesting. Does that apply to all -- the specific issue about whether or not that's reportable income -- does that apply to everyone or only for folks for whom capital gains is -- is --

BRENDA DRAGHI: You know, sometimes there are questions that you don't want to ask because you don't want a bad answer back.

So what's been happening with foreclosures is that people have been quietly going through them. The banks will bring in appraisals based upon as if they never had the concrete problem.

So that would mean that any deficiency judgement would be minimal. But that could change tomorrow because if at the foreclosure hearings the banks bring in appraisals that reflect 40,000 rather than 165,000, then there's gonna be huge deficiency judgements.

If -- if there's a forgiveness of debt component, then the problem is if somebody tries to do a short
sale, that's a forgiveness of debt, then right now that would be taxed at the federal level and probably the state level.

From 2008 until 2017, it was not a taxable event because of the nationwide crash. We thought that we were protected in 2018 but Congressman Courtney discovered that no that isn't true, that people that were having a forgiveness of debt in 2018 were getting 1099s.

So that's why as much as I'm in favor of the banking bills that Senator Delnicki worked on, we have to be careful.

SENATOR LESSER (9TH): Thank you. That's concerning and I will -- I take that back, I used to serve on the Banking Committee, I don't currently but certainly maintain an interest in that issue and I think it sort of overlaps with the cognizance of the real estate side of the committee I'm now on [crosstalk].

BRENDA DRAGHI: Don't wanna alert the banks to come in with appraisals of 40,000.

SENATOR LESSER (9TH): Thank you, good to know. Other questions or comments from members of the committee? If not, thank you very much for your testimony. Now you're free to go.

Next we have Representative Chris Davis followed by Sheila Cyr. Good afternoon, Representative Davis, I know you've been waiting a good long while to testify.

REP. DAVIS (57TH): Glad to do so as many people, my constituents included that will be waiting here for
quite a while so I appreciate the committee's indulgence.

Distinguished members of the Insurance and Real Estate Committee and Planning and Development Committee, thank you for allowing me to testify in favor of House Bill 6750 and I'm willing to talk about any of the other bills here as well.

It's always a pleasure to be back before you as a former member of both of these committees, it's always an interesting topic to discuss here with crumbling foundations.

I specifically want to talk during my testimony about House Bill 6750 because it directly involves the expansion of coverage for condominium owners. And as someone who helped draft the 2017 bill that was passed by the legislature dealing with the eligibility for the Captive insurance company, I wanted to be very clear that it was our intent to include those condominium owners in that. It's -- and totally understood strict interpretation by the Captive Insurance Company that the limitation to up to four-family homes has restricted their ability from offering it to those individuals.

So I'm here to testify in favor of expanding that coverage as was originally intended by the legislature in my view as someone who helped draft the bill as well.

I also wanted to know on House Bill 7179 the issue dealing with the Healthy Homes fund surcharge and making sure that we limit it to only one charge per policy rather than per policy holder for those circumstances where there's a couple that has a
policy together. We're actually getting charged twice so I applaud the committee, the Insurance Committee's efforts on trying to rein that in as well.

With that, I'm willing to open up for any questions anyone may have.

SENATOR LESSER (9TH): Thank you, Representative. Are there questions from members of the committee? Yes, Representative McCarthy-Vahey.

REP. MCCARTHY-VAHEY (133TH): Thank you, Mr. Chair and thank you, Representative Davis for being here. I just wanted to thank you for coming here and clarifying. Some of us are new to this committee and new to the issue and the specific detail. Certainly have been aware of it in general but as we drill down into those things, it's really helpful to know that that really was the original intents and hopefully we can follow through and make that happen this time.

Thank you.

REP. DAVIS (57TH): I appreciate that and I -- and I wanna specifically point out that I wanna thank the new legislators that have stayed here for many hours during this testimony so far that have been willing to educate themselves along with you, Madam Chairwoman. I appreciate that very much on behalf of my constituents that are dealing with this issue.

SENATOR LESSER (9TH): Thank -- thank you, Representative. Representative Delnicki.

REP. DELNICKI (14TH): Thank you, Mr. Chair. We received testimony in writing from the insurance
department pertaining to the language changed to
clear up the -- the confusion on the $12 dollar
Healthy Home surcharge.

And it's different from the language that we have in
the bill. Do you have any input on that?

REP. DAVIS (57TH): Unfortunately I haven't reviewed
the Insurance Department's testimony yet. I'm
willing to look at that and work with the committee
on trying to clarify that language and exactly how
it's being implemented.

I have been told that people have been told that
they won't be charged twice so I wanna make sure
that that doesn't happen because that was not truly
the intent, I believe, of the legislature at the
time when it was passed.

Another note, too, I know some of the questions
earlier about the school's reforms. Last year the
legislature actually passed a law to change those
disclosure forms and actually include a number of
those questions that were mentioned earlier
including is the foundation made of concrete, have
there been any repairs made to the foundation? Has
there been any testing done by a licensed
professional and if so, you must provide those
results as part of those disclosure forms.

So those already exist. I think that the points of
the Realtors Association that by including the word
pyrrhotite or referencing it directly may actually
lead to people getting around needing to answer
those questions if they don't actually have that
knowledge of whether or not those cracks were
created by pyrrhotite or not and leaving it more
broad as we did in that legislation in 2018 in what is now included in the fiscal reforms that took effect at the end of last year may encapsulate what we're trying to accomplish with that bill already.

REP. DELNICKI (14TH): I concur with your comments there and quite honestly it was everyone's intent that the $12 dollar charge was only gonna be a one year deal and not if you change, a slight change to your policy you suddenly get another charge.

One -- only one troubling aspect and I'm just gonna make you aware of it if you hear from your constituents is there was at least one insurance company that was not noting on their policy the surcharge. That's been addressed. But there may be others and if you find or hear of others, obviously we need to get that to the Insurance Commission.

REP. DAVI (57TH): Thank you, that is the first time I've heard of that issue as well. [Crosstalk] Thank you.

REP. DELNICKI (14TH): Thank you. Thank you, Mr. Chair.

SENATOR LESSER (9TH): Thank you, Representative Delnicki. Thank you very much for testifying. Are there other questions from members of the committee? Oh yes, Representative Zawistowski

REP. ZAWISTOWSKI (61ST): Thank you, Mr. Chairman. Good afternoon. I have more of a comment than a question. You have been working tirelessly on behalf of not only your constituents but other members of the communities outside of your own for the past couple of years now. And you've made a
tremendous impact and I just wanted to thank you for your leadership on this issue.

REP. DAVIS (57TH): Thank you. Thank you very much, Representative.

REP. ZAWISTOWSKI (61ST): Thank you, Mr. Chairman.

SENATOR LESSER (9TH): Thank you and this isn't related to your testimony, Representative Davis but I did want to say I think we -- in the course of this hearing we did hear from the Department of Housing that Lena Holleran is still the Housing Advocate on this issue and I just wanted to say for the record, we just got that information relayed to us.

So other questions from members of the committee? If not, thank you very much for your testimony, Representative.

REP. DAVIS (57TH): Thank you.

SENATOR LESSER (9TH): Good to see you as always. Next up, Sheila Cyr.

SHEILA CYR: Good afternoon. I wasn't planning on testifying, my name is Sheila Cyr, I'm from Tolland. I wasn't planning on testifying but as I was listening I was getting a little worked up and I am a realtor. I'm a broker. I have been in real estate for 28-plus years. I'm a homeowners with this issue. I work with concrete victims every day with Attorney Draghi. I have been present at structural engineer visual inspections and core inspections.

When you see this problem, you know this is the
problem. A core inspection -- they go to various areas of the foundation. There could be more concentration in one part opposed to another. They are not set in stone.

My house, I actually have a double problem. We replaced the front wall in my home in 2005 which was an extensive undertaking. I, too, have a disabled son. It wasn't a good situation at that time. That wall was replaced and the footings, we were told that they were good from the town. The town made no reference to what pyrrhotite -- at that point they did not know or we did not know, I should say.

So now we're redoing the whole foundation. Our whole house has the problem. I don't necessarily agree that there is a 30-mile scope of the problem. It has been found outside of that 30 miles.

This is also a problem with additions. I didn't hear anything with additions, I heard a question about -- one of the Representatives had asked about the rock under a foundation. I haven't heard anything about that but there are additions that are also affected. And there are additions that some are quite extensive.

That's all I really have to say. I just wanted to give my opinion on this.

SENATOR LESSER (9TH): Thank you. And thank you for sharing your story and thank you for your patience with us. We're sorry of all things you have to go through. It's hard to -- it's hard to understand how we would be if we were in your position and some of us may be one of these days.
Yes, Representative Baker.

REP. BAKER (124TH): Thank you, Mr. Chair. Thank you for coming out here and testifying. I know that you heard us so much and you just wanted to get the input and I really appreciate that.

Question for you. So do you think as far as -- and this is just your perspective on things and the feedback.

As a new property that's been -- new foundation and part of the building inspected, do you feel that there should be a -- that should be part of testing in terms that that should be part of a foundation inspection?

SHEILA CYR: On a new property or --

REP. BAKER (124TH): Yes.

SHEILA CYR: Like new construction? I think if they have the standards, I -- I would think that that would be sufficient. But one thing that I do know is that they -- before a permit didn't have to be pulled specifically from the quarry who supplies the concrete. I think that's something that should be done. That would've solved a lot of issues even though, you know, I'm hearing hearsay that there could be pyrrhotite in other quarries also.

But this particular one is the one who has affected all of us here. And I really feel as long as we could know where it's coming from and if they have some type of standards for the quarry itself, I think that would solve a lot of those issues and I don't think they would need to do it on the new construction.
But this is just my analysis.

REP. BAKER (124TH): Well, thank you. I appreciate that. Thank you.

SHEILA CYR: I do have one other thing I wanna add real quick is I have gone through the grant process and it was wonderful from start to finish and you had asked if people had any feedback on that. It was awesome.

REP. BAKER (124TH): Thank you, that's good to hear.

SENATOR LESSER (9TH): That actually concludes the list of public speakers we have signed up on the first bill, minor seven but we go -- we have other bills before us and now we're going onto House Bill 7179 and the first person we have signed up to testify is Mike Donovan followed by Phillip Morris.

MIKE DONOVAN: Good afternoon. My name is Mike Donovan, formerly of Rhodes Road in Tolland. And originally I'm going to testify in support of H.B. 6098 which is one of those apparently 41 bills but did not make the agenda and in particular it addresses people who are Legacy homeowners where you fix your foundation and then sold the home.

But a chance conversation with Mr. Maglaras -- Maglar -- I'm sorry. Okay, close, sorry -- has really upended my testimony.

So with your permission, what I'd like to do is quickly tell my story and then bring Mr. Maglaras up to maybe clarify something that is not only germane to me but others in the audience.

Would that be okay? I'll keep it brief.
SENATOR LESSER (9TH):  Sure, go ahead.

MIKE DONOVAN:  Okay, great.  Thanks.  So I retired in -- well, first of all I do wanna thank the legislature for cobbling together the solution, we are so grateful.  And also I appreciate all the effort down at the CSFIC.  I can't imagine all the detail that went into that.

But I retired in January of 2017, immediately started working on my home.  Home Depot, light fixtures, with the ultimate objective of selling our home so we could relocate to be near our children and grandchildren.

Do all the work, get a real estate agent and she says, "Great job on the house, however any buyer in Tolland is going to require an engineer's report."

So I hired the first engineer on the list, he comes by, within three minutes he says, "You definitely have a problem."

Of course I'm in denial and I don't like the answer.  I hire another one at another $400 bucks.  And he says, "Absolutely you have a problem."

So now we have the dilemma.  We desperately wanna be with our children and grandchildren but $180,000 dollars out of your life savings is for almost all of us, that's a big hit.

So ultimately the -- the weight of family and also that when you're in your mid-60's there's a little sense of urgency when it comes to time.  So we bit the bullet and we fixed the foundation.  By the way, with a great contractor, his name is Dave Bush.  Competent, honest, conscientious if anybody needs a
contractor.

Anyway, and fortunately sold the home in January of 2018. So January 2018 sold the home. In April it's announced that you wonderful folks have provided a remedy and CFSIC is gonna be formed and my wife and I felt like it was a miracle and really, like a miracle, we can't believe it.

And then ultimately the application goes live online and I start to take it and I realize that there's no place for us. That you need to be a current homeowner and I wrote an email and Mr. Maglaras got back to me and said, "It's true, you're not eligible."

However, he's just told me something and I think -- if you don't mind, if you could come up and maybe explain what he just explained to me. Would that be okay?

SENATOR LESSER (9TH): Briefly, yes. We try to keep things to three minutes but we'll make an exception in this case, thank you.

MICHAEL MAGLARAS: Mr. Chair, thank you. My name is Mike Maglaras, I'm the Superintendent of the Crumbling Foundations Captive.

What we discussed a moment ago was the result of our Captive Insurance Company board meeting which was held on the 28th of February where after a lot of research and a lot of soul searching, I went to my board and suggested that we needed to make things right with what we call Legacy claimants. The type of claimant that the unfortunate story you heard from Mr. Donovan.
And I will tell you that we're in the process now of creating an expanded application process for Legacy claimants and to include them. I need a little bit more time because I've got to work with our accountants and actuaries to make that happen because it impacts the financials of the Captive.

But I am pledged as a Superintendent to make that right and we will make it right. And we will make it right and I need time and our job with the Captive is not to get in the way of legislation. Our job is to administer the insurance company according to the -- to the issues that we have.

But I wanted to step up and make sure that you knew that, Mr. Chair and the others. We launched on January 10 -- we have $57 million dollars of claim liabilities on our balance sheet.

By the end of April we'll have $70 million dollars. By the end of my fiscal year, we'll have $90 million dollars of homeowner claims. I know where the claims are. I know what towns they're in. I know that there are 96 in Tolland and 62 in South Windsor and 47 in Vernon and 46 in Ellington and 7 in Glastonbury and I could go on.

We've got the data and it's the data you need and others need to make good decisions. And we've done it in less than eight weeks.

So we are launched and we are paying claims -- we paid $1.2 million in claims thus far. We are going to be paying at least $4.5 million dollars in claims in the next four weeks. We have $57 million dollars of claim liabilities and $18.6 million dollars of cash on hand.
It sounds a little bit like safe government, Mr. Chair. But having said that, I wanted to make sure that we made that point because with all of the bills that you must consider to the extent you can give us some time on one of them, I think we may need to legislate less on that one point and allow the Captive to do its work.

And I thank you for letting me speak.

SENATOR LESSER (9TH): Thank you. Thank you both. Actually I have a question. Don't -- don't go anywhere.

MICHAEL MAGLARAS: I'm taking all your time.

SENATOR LESSER (9TH): You come up to testify, you've gotta answer questions.

MICHAEL MAGLARAS: I'm sorry you're breaking up.

[Laughter]

SENATOR LESSER (9TH): Well, thank you for your testimony and obviously your situation sounds particularly painful having -- having gone through all of that. I meant Mr. Donovan, your having gone through all of that work and then -- and then right afterwards see this program that you could've taken advantage of. I can imagine why you're upset and looking for this change.

Just to understand the -- but I'd like to sort of understand how the Captive is looking at this particular problem because as you pointed out, the liabilities vastly exceed the amount of funding that's currently available and that problem is only gonna grow in the near term.
So how do you sort of weigh these competing priorities? Obviously we wanna make people like Mr. Donovan whole but there are other folks who have, you know, their homes have not yet been repaired. How do you sort of sort out that problem and addressing multiple unfunded liabilities is something we're experienced with, as you point out in this building.

MICHAEL MAGLARAS: I'll be honest with you, Senator, you do it by making it up as you go along. Every time we're confronted with a new variation on this theme of the crumbling foundation, our immediate reaction is to look at our balance sheet which is a catastrophe. And try to figure out how we make a catastrophe less of a catastrophe and still fulfill a need.

And then what we do is figure out that maybe we've got some space. We could shave some expense over here. We are going to have some people in litigation who are going to come into our application stream once the litigation is complete.

We rob Peter to pay Paul. It's a lot like state government in that regard. I have a theory. And the theory I have, and I don't have enough evidence for it yet so -- but the theory I have is that the number of people we're talking about that I would qualify as Legacy claimants, we've heard from two of them today.

I'm not dealing with 100 people. I'm not dealing with 50 people. I'm doubting if I'm dealing with 25 or 30. I'll make space for them and we'll make it work.
Having said that, here's what's important. What's important is because the liability sender are cooling faster than our cash is. We're in the business of making promises at the Captive that of course people expect us to keep. And you know the story and you've heard about our funding dilemma so you're clear about that.

But here's what's important. What's really important is that by this time next year, this Captive will be shut down. We'll be out of business. I will have accrued liabilities on my balance sheet from a statutory perspective which are more -- which are 137.5 million and that's all I'm getting.

So a necessity, at some point I'll be coming before you at some meeting and saying, "We're in suspension. We can't entertain any more applications and the money we've got has gotta be allocated to the people who applied. In other words, we are literally debiting and debiting and debiting as each day goes on.

We're not out of business, we won't be out of business. We're operating on a wing and a prayer but I'm gonna tell you, the close of my fiscal year which occurs on June 30, I'll have 90 million reserves and probably less than 35 million in cash.

So every time we make an accommodation like that, Senators, we're doing with these Legacy claimants, we do it because it's the right thing to do but it doesn't mean that I've extended my life very far in terms of the operations of the insurance company. I hope that's an adequate answer.
SENATOR LESSER (9TH): It is, you know, I -- I still have that question, I mean, about how to prioritize it because I think there are obviously there's the number of homeowners that are looking for assistance is -- is enormous and vast and we're trying to figure out how -- how to --

MICHAEL MAGLARAS: Five hundred and seven as of this morning at 9:00.

SENATOR LESSER (9TH): Yeah. So the -- when you estimated your reserves on June 30th, that's assuming all of the authorized bonding is presented and is that --

MICHAEL MAGLARAS: No sir, it's not a cash issue, it is the applications coming in. We pretend the cash isn't there because we don't have any assurance that -- what will be on the March 29th bond agenda for example.

But we have to book liabilities as the applications come in and as they're approved by my team. The moment that happens, I'm forced by the Insurance Department to put a statutory reserve to eventually pay that claim.

So I've spent the money without having the cash. That's an important account issue. And I think what's important in this process is you don't want us to stop doing that. You want us to take applications. You want us to identify who the homeowners are. You want us to be able to come to you at some point -- and we've got the data now to do that -- and actually discuss what is the average cost of a foundation replacement.
In the last three weeks I reviewed 168 construction proposals. I know what the average cost is right now. So we're gonna have a ton of data to give you which is gonna help you sort through the sort of rumor from reality in the future but we can't stop taking applications. We have to fulfill our mission.

SENATOR LESSER (9TH): I understand. And now specifically the -- we've heard some discussion about the voluntary agreements that some of the -- about three of the insurance companies have entered into. That money isn't going to you, is it?

MICHAEL MAGLARAS: It is not, alas. Through the superb efforts of Congressman Courtney who's been a real champion, we are about ready to get tax exempt status. We'll be 501-C3, tax exempt organization in the matter, I think, of a couple of weeks.

But I've not been able to convince an insurance company, a commercial insurance company, to actually cut a check and contribute it to my balance sheet. These funds are set up alongside of me and they feed off our success, if you will, because we provide application assistance but at the end of the day, they're separate mechanisms.

It is possible, however, and I do wanna point this out in all fairness to the insurance industry, that if you are current insured of one of those three insurers and a former insured of the other two, you can collect as much as $45,000 dollars towards the payment of your client.

So I would be encouraging every possible avenue with respect to insurance companies. If I could get
another dozen of them doing the same thing, I can contribute $30,000 dollars to $40,000 dollars per foundation just by having been either a current or prior insured.

There are more than one way -- there is more than one way to skin this cat, Senator, if I could.

SENATOR LESSER (9TH): Thank you. Other questions from members of the committee. Yes, Representative Delnicki.

REP. DELNICKI (14TH): Thank you, Mr. Chair and Mike, thank you for coming here today and testifying.

So we presently have 507 applications on the books.

MICHAEL MAGLARAS: We do.

REP. DELNICKI (14TH): We presently -- I'm just look at your reserves that you're talking about and I've got one bit of good news for you today.

MICHAEL MAGLARAS: I could use it.

REP. DELNICKI (14TH): Talking to the co-chair of the Crumbling Foundation Caucus, the letter requesting the $20 million bonding to occur was hand delivered moments ago -- probably about an hour ago -- so hopefully that'll get it on the agenda [crosstalk] and we'll get you that money.

MICHAEL MAGLARAS: Thank you.

REP. DELNICKI (14TH): So you can continue to pay the bill there and put people's lives back together. You said that you have a feel for what the average cost is now based on your experience.
What is the average cost to repair a foundation?

MICHAEL MAGLARAS: There are two costs and you should consider both of them. One is the entire project itself, Representative Delnicki, in other words, that's everything from lifting the house, tearing down the walls, removing a deck, putting a deck back on. All of the things that go into each house and each house is unique, as you can imagine, because of the landscaping and other requirements.

That average cost right now is running about $202,000 dollars.

REP. DELNICKI (14TH): Say that again.

MICHAEL MAGLARAS: $202,000 dollars.

REP. DELNICKI (14TH): Okay.

MICHAEL MAGLARAS: The average concrete replacement cost right now that we see, the proposals I viewed, is $168,000 dollars. Our cap is $175,000 dollars.

REP. DELNICKI (14TH): Right. Let me ask you a question. There is a proposal before us pertaining to innovation and offering, for lack of a better term, a prize for innovation coming up with a less expensive way of doing things yet without compromising the repair.

And quite honestly, to the folks that have the issue, that is really the key question, whatever alternative method could be developed. You can't compromise the effectiveness of that alternative method because that would really be self-defeating.

What do you think of that proposal?
MICHAEL MAGLARAS: We, at the Captive level, I think I could speak for my board. We're interested in innovation because, candidly, I'd like to lower the cost of a foundation replacement and innovation may assist in that.

Given the fact that our funds are finite, given the fact that FEMA has been very discouraging relative to what we would like it to do even though I happen to believe on a personal level that this is a very slow-moving natural disaster, a hurricane comes to town and you wipe out a town in half a day, the crumbling foundation issue comes to town and you wipe out a town in 30 years. It's the same disaster, it's just the timeframe.

But because our -- our funds are finite and because the market reaction of the launch of the Captive has been to spur competition, I've been in the room when a contractor has handed a proposal to a claimant and the second contractor has come back and said, "I'll lower that by $20,000 dollars." I've been physically in the room.

I need to get that number down further and the only way I can do it, other than old fashioned capitalism, is innovation. And so we're all for that, Representative Delnicki.

REP. DELNICKI (14TH): And just -- don't take this question the wrong way -- the contractors that are coming forward with proposals, are they good solid contractors that we're not gonna have problems with? Because I've heard horror stories on the front end with folks that had contractors come in and do work and the work was substandard and five, ten years later they have the problem back again or a
different problem arose because of the work that was done.

Your -- your comments.

MICHAEL MAGLARAS: Two comments. Number one, we rely to a certain extent on CROG and all of you know who CROG is, of course.

REP. DELNICKI (14TH): Yep.

MICHAEL MAGLARAS: CROG does a superb job, yeoman's work, in helping to sort through who are qualified contractors. They've assembled a team of community building inspectors, people who know their business, who have to give certificates of occupancy when a project's done.

CROG's done a good job in vetting those contractors and making sure they have adequate limits of insurance coverage. That's an important point.

The second point is you can't get through the door of a Captive unless you have a surety bond. So I won't cut a check to you because I'm using taxpayer funds. So I forced the issue of the posting of a quarter-of-a-million dollar surety bond if you want to do business with us.

And I have to tell you that three contractors have thus far declined to participate because they can't be bonded. And I'm very sorry to hear that but if you can't be bonded, I'm not gonna cut you a check. It's pretty simple stuff.

REP. DELNICKI (14TH): And one thing I learned years ago about surety bonds, the last thing any contractor wants to have is a surety bond pulled.
Because once it's pulled, they're never gonna get another one.

MICHAEL MAGLARAS: And -- and I'm gonna find you and I'm gonna get my money back.

REP. DELNICKI (14TH): Yes.

MICHAEL MAGLARAS: So what's really important is that I can't speak 2000 percent, Representative Delnicki, about the quality of all construction because it is a contract at the end of the day between the homeowner and the contractor.

Check references, check levels of insurance, make sure that you're making a good decision as a homeowner because the Captive doesn't have privy of contract with the contractor itself. We don't have a contract with the contractor at the Captive level.

But what's critical to this whole process is its going to take a village. And that village is us and CROG and the homeowners pulling this all together.

But we've taken very strong steps to make sure that we won't cut a single check unless you posted a surety bond with us and we have copies of those bonds and they are automatically required.

REP. DELNICKI (14TH): And in the -- in the effort to save a little time here, can you write up some kind of report pertaining to where you started out with on your average -- on what it was costing --

MICHAEL MAGLARAS: Of course.

REP. DELNICKI (14TH): -- to have it done, where you are today, where you think you might be six months from now. Because it sounds like it's going down
significantly. But I will ask you one question and if you don't have the answers to this, think about it and come -- come back to us on it.

If we were to offer an innovation price, who should pay for it? Should it be the insurance industry that literally has not come to the table and offered anything up?

MICHAEL MAGLARAS: You're -- you're putting your favorite Captive superintendent on the spot. [Laughter]

REP. DELNICKI (14TH): You know I love to do that.

MICHAEL MAGLARAS: Because I'm -- I need to be (a) political, if I could as superintendent. But if I could volunteer something, it is in the commercial insurance markets interest. It's in the property insurer's interest to when part of a house needs to be replaced to do it as efficiently and cheaply as possible.

And so if I could, I'm not talking about crumbling foundations, Representative Delnicki, I'm talking about houses lost by fire or hail or windstorm. Any of the other perils of the property policies. I think that that's a good issue to bring up with the insurance industry because at the end of the day, forget crumbling foundations, they would derive the most benefit from innovation.

REP. DELNICKI (14TH): With all other things that they have to address.

MICHAEL MAGLARAS: Indeed.

REP. DELNICKI (14TH): And so it would be in their
best interest.

MICHAEL MAGLARAS: I should think it would be.

REP. DELNICKI (14TH): I sure hope we can get that across.

MICHAEL MAGLARAS: I'm happy to help.

REP. DELNICKI (14TH): Thank you, Mike, you've been a great person in administering the Captive. The directors on there have done a great job in being reactive to issues as they come up because we all knew we were walking into uncharted territory on this and what we would come up with.

And keep up the good work.

MICHAEL MAGLARAS: And I have 1200 emails from the last seven weeks and those 1200 emails have gone from -- I think you're going to fail, I think you won't succeed -- to thank you. And we're happy to have had both sides of that equation, Representative Delnicki, but right now we're getting more emails saying thank you than anything else and that's helpful to my staff.

REP. DELNICKI (14TH): I'll share one brief story and then I'm going to relinquish the rest of my time on this. I had somebody with a foundation issue come up to me when I went into the Home Depot the other day, hugged me and thanked me for the work of the Captive, of my colleagues up here and everybody -- and when I say everyone involved.

And this is an individual who I've talked to for the past two years about it and he would talk about how literally the point of desperation he was in. And
to see that change.

MICHAEL MAGLARAS: Well, that's very good news to hear. Thank you for letting me know that.

REP. MCCARTHY-VAHEY (133TH): Thank you, Representative. Are there further questions from members of the committee?

I just would like to say thank you to both of you for being here today and I think it was very helpful that you shared your time and to hear some of the information you've shared. And thanks for your work as well.

MICHAEL MAGLARAS: Thanks for the opportunity.

REP. MCCARTHY-VAHEY (133TH): Next up on 7179 we have Phillip Morris.

PHILLIP MORRIS: And before you ask, no I'm not part of that Phillip Morris because if I were, I wouldn't be here, my very highly paid attorney would be here.

REP. MCCARTHY-VAHEY (133TH): Well, I wanna thank you for clarifying that, by the way.

PHILLIP MORRIS: Okay. All right.

REP. MCCARTHY-VAHEY (133TH): Welcome.

PHILLIP MORRIS: Most of you are probably too young to remember but I sorta feel like I'm in an episode of Perry Mason where right at the end new explosive testimony just upends the case.

And following Mr. Donovan that's how I feel because I was in Mr. Donovan's -- I am in Mr. Donovan's exact situation. Minor differences -- and by the way, I submitted written testimony which given the
previous testimony I'm not going to read. There's just a couple of points that I would make and it's brief.

My story is essentially the same except maybe a little more heart wrenching. I don't have grandchildren but I have a daughter graduating from UConn attached to the old family home who could be enticed to buy her childhood home and live within a half mile of her parents new home. It was really a dream.

And that's what happened. Before we sold the house to her, we fixed the foundation. It's our daughter, we wouldn't want her to go through that. And then we found ourselves excluded. So I'm very happy to hear the previous testimony but I do have a couple of concerns.

First of all, we lost our place in line. On the morning the Captive was opened, I was on my computer, I had prepared, I filled out a dummy application, I can type fast when I need to. I was very, very fast. And that line is gone now and you hear about how many millions, tens of millions I'm behind now.

So I think we suffered. The impact, the financial impact to us, despite having sold the house, is exactly the same as if we hadn't sold the house. Withdrawals from retirement accounts, the penalties that are incurred in that process. Earnings lost. Everything is exactly the same.

Now, the Captive Insurance Company, they were not mandated by legislation to exclude us. They interpreted the language that way. I believe it was
Public Act 17-2 section 337 in which they based the denial of our claims.

And that section defined a -- quote "eligible borrow" unquote as, quote, "the owner of a residential building". Unquote. Notice there's no temporal element in that definition. The Capital decided, interpreted the law, to exclude us.

Even the basis -- they had to realize the financial impact was exactly the same. We are not in a unique class relative to the financial impact.

So I would be frankly, more comfortable with a legislative remedy to this problem than promises of the Captive. I have no reason to distrust them, they've been honest with me and told me why my claim was disqualified but frankly I would ask you to offer a legislative remedy.

That's it for me. Thank you.

REP. MCCARTHY-VAHEY (133TH): Thank you very much, Mr. Morris, that was very well timed as well. Are there questions from members of the committee?

Seeing none, thank you very much for being here with us today.

Next up, I have Attorney Keith and I'm not exactly sure, if you can help me with your last name. Yagaloff? Did I get that right?

KEITH YAGALOFF: Thank you, Representative Delnicki for that.

REP. MCCARTHY-VAHEY (133TH): Wonderful, welcome.

KEITH YAGALOFF: Thank you. So I'm an attorney and
I've been doing some litigation in the area of concrete for the last few years. And the issue is the language changed to abrupt, the requirement for abrupt collapse and I'm here to tell you that from my litigation, the depositions I've taken, the work we've done, abrupt collapse is an illusion. It doesn't occur. There is no example of an abrupt collapse.

The expert from the insurance company, Leonard -- Dr. Leonard Morse-Fortier -- when he was opposed says that he doesn't know how an abrupt collapse could occur. He is not aware of it ever occurring.

The attorney told the Judge the other day that he has never heard of an abrupt collapse of a -- of a pyrrhotite contaminated foundation.

The work we're doing now is trying to identify why the insurance companies were able to change the language to abrupt collapse to remove the coverage that was existing in these policies, to remove it, to create a condition that simply does not occur and there will be no abrupt collapse.

People that -- Judges and people and people in the community that are expecting it to happen are gonna find it's -- there's never gonna be coverage with the current language.

And the reason is is because these foundation walls are attached to the -- to the floor and they're attached to the house. They're bolted to the house and you can shatter these walls into a thousand pieces but this is like a 3-d jigsaw puzzle. And when you compress from the top with the tons of weight from the house and you compress from the --
upwards from the expansion of the concrete, that wall is locked in solid. You can fracture it all you want and it's gonna deteriorate over time slowly but it will never collapse.

Interestingly, when these people do the repairs and they jack the houses up, they lift them up, take the weight of the house off and these walls will just sometimes just fall on their own.

So this needs to be fixed. The legislature needs to fix it. They need to change that language for abruptness. The insurance companies are telling you that there'll be coverage some day for people and they just need to be patient and they need to wait.

And their own expert is telling us that this has not happened. This is called an illusion, it's called a loser recovery. It's when a person pays for insurance, they expect to get coverage and they don't have any coverage for that event when it's supposed to happen.

So this is the state of the litigation. Everybody is losing their cases on summary judgment because the Judges are finding there needs to be an abrupt collapse. Even at the Supreme Court they're evaluating cases, it's not going to affect the fact that an abrupt collapse doesn't happen.

We need the -- we need the judiciary to recognize this, we need the legislators to recognize this. The solutions that people are proposing are important but the insurance companies need to be involved. They intentionally changed this language, they knew this condition doesn't occur, they went to the Insurance Commissioner and got permission to
change the language and they just basically wrote out coverage for everybody for this condition. And it's going to be a billion dollar problem.

The 507 that you have is really just a portion. It's the people that are willing to stand up and say they have the problem and are looking for coverage.

I can tell you, it's going to be thousands. It's not gonna be a thousand, it's not gonna be 1500, it's gonna be thousands of people. You're looking at a billion dollar problem and the only way that this is gonna get solved is if the insurance company is brought to the table. Not asked to come but brought to the table and the only people that's gonna do it are you folks, the legislature.

And so that's my update, I just wanted to inform you about the state of the testimony that's being brought forth in these cases. Thank you very much.

REP. MCCARTHY-VAHEY (133TH): Attorney Yagaloff, thank you for your testimony today. Are there questions? Representative Gucker followed by Representative Delnicki.

REP. GUCKER (138TH): Thank you for coming out and testifying today. And you're absolutely right. I used to design for the insured steel buildings and I used be in the home -- home building trades and have done a lot of engineering in that point.

So yes, unless you have a foundation that goes south on a loadbearing wall or on your center beam coming through -- but even the odds of the roof being pushed down are just -- the forces are coming from no direction so you're absolutely right.
I cannot see there being a -- as you say -- an abrupt collapse happening. Especially if the foundation is surrounded by soil. Because it's gonna go inward, not outward and yes, you could knock down three-quarters of that foundation and not go anywhere.

So what language would you like to see that would -- that we could put in there to change this?

KEITH YAGALOFF: You really need to do what's been attempted before. You need to say that the definition of a collapse shall be a substantial impairment as set forth in the B-standard.

And you need to say that an abrupt collapse -- I mean the insurance that puts the language abrupt in the policy, that provision is not gonna be applicable in terms of -- in terms of when a person makes a claim for coverage.

The other piece of language they put in there it says it has to be unfit for its intended use. And you know, the wall's not going anywhere and people are using the basement for storage. They're using the basement for ping-pong tables.

That's -- you know, the houses are being pulled apart. The walls are expanding. They're shifting. The houses are coming apart. You bring anyone through to do a thing, it's tearing the walls apart but it's slow. It's not abrupt. And you don't get coverage. And -- and so there -- you can legislate to say that that language shall not be applicable. That condition shall not be applicable in interpreting insurance coverage.
And -- and -- and that's -- that would be simple except the insurance companies don't want that because it's gonna expose them to some responsibility here. It's a problem.

REP. GUCKER (138TH): And if I could one more --

REP. DELNICKI (14TH): Would you wanna see like a percentage of failure that you could look at? You know, so let's say the foundation's coming in or it's expanding out. I could see it actually, if it's underground, would actually buckle in the center and push in if it's expanding.

KEITH YAGALOFF: What actually happens is it expands inward. People that see bowing --

REP. DELNICKI (14TH): Yeah.

KEITH YAGALOFF: The bowing is inwards. The outward is flat because the expansion is to the area where there's no resistance.

REP. GUCKER (138TH): Yes.

KEITH YAGALOFF: So if you look at the exterior wall, it's flat. The interior wall is what bows. There should be a standard for substantial impairment. You could do that just like you're doing the standard for a quarry.

You could say substantial impairment shall be a certain demunition in the compacted strength, right, of the concrete. And you could create a standard where they'll have to be testing for coverage.

So not everyone that says they have cracks could come in and get coverage but someone whose condition
-- if you see these houses -- these folks have seen them. They are fractured. There are thousands of cracks in these walls and if you lifted up the wall you could take chunks right out.

So yes, there should be a standard for substantial impairment. It could be a legislative standard, it could be a -- through a department. But that would really be helpful.

REP. GUCKER (138TH): Well, thank you very much for coming in and we look forward to taking your considerations because you're the one that has to deal with it.

If there's anything we could do to help you, we can --

KEITH YAGALOFF: Right.

REP. GUCKER (138TH): -- we'd certainly like to be in your corner. Thank you.

REP. MCCARTHY-VAHEY (133TH): Thank you, Representative Gucker. Representative Delnicki.

REP. DELNICKI (14TH): Thank you, Madam Chair and for the record, I had the pleasure of serving on the South Windsor Town Council with Attorney Yagaloff here what, about ten years ago, probably at this point?

KEITH YAGALOFF: Correct.

REP. DELNICKI (14TH): You touched on something I've never heard mentioned before. Illusionary coverage?

KEITH YAGALOFF: Correct.

REP. DELNICKI (14TH): Can you just explain what
that is and why that is such a harmful thing?

KEITH YAGALOFF: The law says that when an insurance company offers coverage for which there's no real coverage, for a condition that's not reasonably likely to occur, the Judges -- I'm sorry, the insurance companies are supposed to interpret that in favor of the insured person. The person who paid for the policy.

And so if -- if we can persuade a Judge to accept the evidence, allow us to go to a trial, actually, so we can actually have this heard, that's all we're asking for. That's all any attorney has ever been asking for is let us get to a trial on these issues and we can't get there because of the issue of abrupt.

But on the issue of the looser recoverage, I have four cases now and right now two of them are up for summary judgement and we're gonna have two judges make this decision as to whether this coverage is an illusion.

Because again, the law says that if the coverage is an illusion, if it's a condition that's not reasonably likely to occur, that person is insured for that condition. And we're pulling the term abrupt right out of the policy. That's the way it should work.

REP. DELNICKI (14TH): Now it sounds like you've done some research pertaining to the change in policy language.

KEITH YAGALOFF: Correct.

REP. DELNICKI (14TH): How and when did it occur?
KEITH YAGALOFF: So there's been some publications on this. What the insurance companies were doing is using a company called ISO. Insurance Services Organization.

And they were using ISO to gather data as far as how many claims were coming in for these -- all these kinds of conditions including the concrete conditions.

And ISO working for the insurance company changed the language to add the word abrupt. And ISO submitted that to the -- back to the insurance companies that went to the State Insurance Commission and this was right at the -- right around 2000 to 2002 when the insurance companies were coming in to the Insurance Commission asking for the change.

By using ISO, the insurance companies have really a front. They've created a straw man for discussions about how to avoid coverage. The insurance companies don't have to have internal coverage about how to avoid coverage for this condition. They use an organization called ISO to do that for them.

So now we can't go to ISO and say, "Show us your internal documents", they're not the defendants in these cases. So you go to the insurance company and say, "Show us your internal discussions", and then they say simply, "We got the language from ISO."

The companies knew what they were doing. It was right after the Beech decision. Right after the core said that substantial impairment would require that you provide coverage even though the walls haven't collapsed. And that's when they went to
ISO, got the language and came to the Insurance Commission and were able to add the language for abrupt sudden collapse. This was right around 2000, 2002, after the Beech decision.

And we know that people were putting in claims for this condition prior to the time that they did that. I don't think the Attorney General, when he -- when the Attorney General was doing this investigation as to whether or not there could be claims made against the quarry, they took a look, I believe, at the Insurance Commission and when the data came in -- but you know, you have to realize that was several years ago. And it's not what I would call the legal state of the art or the knowledge -- the knowledge state of the art. And certainly it wasn't the engineering state of the art.

And so there was some talk today about undertaking an investigation about this issue. When you need to look at ISO, the Insurance Services Organization and the insurance companies and look at how that was brought to the Insurance Commission.

I don't think the Insurance Commissioner had an idea at the time that the change was going to do this. That was an internal decision made by the insurance companies that they wanted to avoid coverage for this condition.

And it's devastating. It's a billion dollar problem and everything you've heard today is going to help a lot of people to get past this devastating situation. But it's not gonna help the 507 and it's not gonna help the several thousand that are gonna come in. It doesn't help the schools that are failing. It's not gonna help the condos that are
failing and you're gonna find more -- certainly you're gonna find more public buildings that are failing. The money is just gonna get pushed back on the taxpayer -- I mean on the taxpayer in those towns that have to make those 40 some odd million dollar repairs for schools.

And the one group that's sitting on the side with virtually no contribution is the insurance company that removed the coverage for this condition by asking the state to make a change to the policy language. And it's just -- that's the problem. That's the reality of the situation.

REP. DELNICKI (14TH): But for your information, the Crumbling Foundation Caucus is going to be making a request to the Insurance Commissioner for a Connecticut Unfair Insurance CUIPA investigation pertaining to this.

And I don't know what you have in the way of documentation that would be a benefit to us but I would ask that you could submit it -- if provided you have the ability to do that because I know you have an attorney/client privilege.

KEITH YAGALOFF: No, I -- public documents.

REP. DELNICKI (14TH): Public documents. Even better.

KEITH YAGALOFF: I have the deposition of their insurance company expert who says exactly what I've just told you in terms of the fact that these buildings won't collapse.

Representative Delnicki, you and I have been working on discussing this back when I was with you on the
town council.

REP. DELNICKI (14TH): Right.

KEITH YAGALOFF: I think that the people need to understand that the knowledge has shifted, there's more information and as you're saying, there needs to be an investigation in terms of the Connecticut Unfair Insurance Practices Act claim that could be brought.

REP. DELNICKI (14TH): Correct. I agree. And I think what information you could bring us could be the key that we need for making our case for that investigation because we heard from Mr. Maglaras just moments ago about the scope and the cost and right now you're right. Cities and towns and every Connecticut taxpayer is on the hook for addressing this issue and other than three insurance companies, to the best of my knowledge, have offered anything up.

KEITH YAGALOFF: Correct.

REP. DELNICKI (14TH): So this could be what we need to get some movement on this and a realization that there is a responsibility here. A moral, ethical responsibility when you collect premiums for years and years and years from folks, you change the coverage, the price doesn't go down in the premium to reflect it.

And I feel bad for the insurance agent out in the field selling insurance because they have no hand in whatever language is going to be there.

KEITH YAGALOFF: Correct.
REP. DELNICKI (14TH): They're given, from their company that they work for, this is the policy that you can sell. [Crosstalk] And I even asked my insurance agent when I was renewing and I'm sorry for cutting you off like that. I asked my insurance agent, I renewed my insurance just a month ago. And I said, "Could I buy a rider for my foundation?"

Nope. So that was that particular company. I don't know if other companies offer it.

KEITH YAGALOFF: You heard the gentleman earlier. They changed his policy language without even telling him. They removed that coverage. They didn't reduce his premium, they gave him -- they gave him the same policy but they removed the coverage for the condition without even letting him know.

And that condition that they changed it to, the abrupt collapse, is never going to happen. He's not gonna ever get coverage for the condition. It's just incredible and the insurance companies tell people -- "Oh, you'll get your coverage if abruptly collapses come on back. Come to us."

And the judges essentially say, "You can't get it now but when it abruptly collapses, you can get it then." Because we have to inform people. They have to understand the problem.

REP. DELNICKI (14TH): All right, I certainly thank you for your testimony, I appreciate you coming forward and it's great to see you, it's been a while.

KEITH YAGALOFF: Good to see you, thank you.
REP. DELNICKI (14TH): And I'm sure there's another old friend here that's probably gonna ask you a couple questions.

KEITH YAGALOFF: Congratulations Senator Anwar.

REP. DELNICKI (14TH): Thank you, Madam Chair.

REP. MCCARTHY-VAHEY (133TH): Thank you, Representative Delnicki. Representative Haines.

REP. HAINES (34TH): Hi, thank you so much for coming and thank you, Chair. Just some -- just some questions.

An insurance -- I'm an insurance agent. Don't hate me. What's that? Not my fault.

So but I will say that, you know, language is an important thing in an insurance policy. One of the things that I stress when I talk to my insureds is that the deterioration of something within their home is on you as the homeowner. You have to keep it up. You have to take care of things -- the plumbing, all that kind of stuff.

So when a pipe bursts abruptly -- I'm gonna use the same word -- abruptly bursts, we then cover that problem. But if it's been leaking and you pick up the rug and it's black and moldy underneath, we can't fix that because that's something that's been ongoing.

However, should that deteriorated pipe burst, we'll take care of the water but we're not gonna change out a floor that's rotted, okay?

So not that I'm defending anybody here but I'm just saying that when you read through a homeowners
policy, a lot of that language is throughout whether it be the plumbing, whether it be the roof, whether it be this, whether it be that, whether it be this.

So I guess my question in regards to this and how can we remedy this is that why should it be different? Or how can we justify it being different when it comes to a foundation?

Now let me just addendum that. This is why I asked questions before about product liability. Because I think on the product liability side, we have so much more to stand on because you're assuming that when you build -- you know, the wood is good, the -- you know, the concrete is good, the plumbing are good, the pipes are good, all of that.

So how do we change that language when the language throughout talks about deterioration and we don't use the word abrupt except in the area when we cover something.

KEITH YAGALOFF: So the policies that I've been working on for my clients, many of them do cover defects in workmanship and materials. And they also cover deterioration.

REP. HAINES (34TH): From the policy or from the products?

KEITH YAGALOFF: In the policy. I'm starting with the first half of what you said. So a number of the policies do cover for defects in the materials and defects and deterioration that occurs.

But then you get an exclusion because it has to abruptly collapse.
The second part, I'm sorry. The -- the first part was the -- oh --

REP. HAINES (34TH): So, product liability.

KEITH YAGALOFF: But you have to sue the manufacturer. And the manufacturer here is the quarry. And the quarry has no assets. So for my feeling is yes, it's a products liability case but to insure it -- the only -- the person responsible for the product would be the quarry. Or perhaps the --

REP. HAINES (34TH): Or its insurance company.

KEITH YAGALOFF: Or its insurance company, I don't know anything about the insurance for the quarry. The Attorney General said that he wasn't even gonna pursue a claim because in some respects because I thought that there were sufficient -- but then it didn't look like they would be able to recover in terms of the Connecticut Unfair Trade Practices claim.

And so and I don't think the insurance is going to have to have a billion dollars' worth of insurance. It may have a million dollars or so for coverage.

But I think that the -- you know, you don't wanna write things into policies to create new coverage necessarily. And say that the policies need to cover this condition because I think that -- that would be perhaps unfair also. But most of the policies that I've seen cover materials and they cover deterioration and they should cover -- and Judges have determined that this concrete condition is a form of decay and they cover hidden decay.
Most of these policies that exist.

So if they cover hidden decay and the materials, the only limitation right now is the word abrupt because my clients would have coverage under their policies if but for that word abrupt. For that -- for that situation that we say is an illusion because it doesn't occur.

And if somebody in the community that's listening, if any of you know of a foundation that has ever collapsed abruptly as a result of pyrrhotite foundation, then let me know because I don't think anyone has ever heard of one.

In fact, the Beech foundation, that was from many years ago which is still, you know, when we have these cases that are pending in court, those have not collapsed. And those were really bad foundations from years ago. They are locked into the house. They're bolted at the top. They're not gonna -- they're not gonna fall over suddenly.

REP. HAINES (34TH): Okay. And the other question I had for you was that because of the timing in which they changed the wording, don't we have something on that? Isn't that something that we can go after?

KEITH YAGALOFF: If you found they did it on purpose, if you found that they changed it on purpose for the purpose of avoiding coverage, I think you can -- that you could do something with that.

You know, you could have a legislative -- you could legislate that an insurance company may not, right, change language to avoid coverage for a condition
which is legal -- which is not reasonably likely to occur.

You can -- you can legislate against a looser coverage and say they may not do that and that would give people a remedy. But there's a lot of options but they're not -- they haven't been really explored yet because all the attorneys, most all the attorneys have been focusing on abrupt. They've been saying that it's ambiguous, it shouldn't apply and the courts have not agreed with them. They feel that the blame -- the word abrupt is not ambiguous and that's what's require in order to get coverage.

REP. HAINES (34TH): Okay and just one last thing. My understanding is that when your renewal comes to you in the mail 30 days, 45 days prior to renewal, that is your time to review your coverage with your agent. By yourself, with your attorney, whatever. And if you send your premium in, you have accepted the terms of that contract. So that's the time to take a look at your policies. Just a PSA. Thank you very much.

REP. MCCARTHY-VAHEY (133RD): Thank you, Representative. Senator Anwar.

SENATOR ANWAR (3RD): Thank you, Madam Chairman. Good to see you here, Keith, Attorney Yagaloff.

So I want to come to you this line of conversation a little bit more about the timeline for the language that changed across the board in a number of insurance companies is interesting. I don't know what word to use but suspicious is probably a better word.
Suspicious because that is around about the time we started to hear about the crumbling foundations. And as soon as this was identified that there are crumbling foundation complaints coming from the community, that resulted in across the board all insurance -- it's almost like there's a secret society that actually says --

KEITH YAGALOFF: Of ISO.

SENATOR ANWAR (3RD): Yes.

KEITH YAGALOFF: That's what it is, right.

SENATOR ANWAR (3RD): And so how can we as a legislative body, we have talked this offline in the past. But how can we as a legislative body have an investigation done on this aspect because to me, if somebody is changing the policies when they know that there's a -- for example, if there's a fire they would say, "Well, if a fire is a certain degrees of temperature", then they'll change the policy. And then identify they're not to pay the people. That's criminal.

KEITH YAGALOFF: I think -- I think, Senator Anwar, the timing of it was that, I think, that the number of claims was increasing where it came out -- you know, the ISO and the insurance companies realized because they track these claims -- they realized that the claims were increasing and a certain threshold number of claims were coming in and they decided to assign somebody to start investigating how the language could be modified to protect the insurance companies.

That's what they do. ISO is an organization which
creates language in order to be able to serve its --

SENATOR ANWAR (3RD): Clients.

KEITH YAGALOFF: -- its clients which are the insurance companies and their goal is to change the language, to modify the language, to ensure that its clients' needs are being met.

So here's a situation where I believe the number of claims hit a threshold, it hit a point where it became -- they became aware that this was a potential -- they were getting claims it's gonna be a future problem and they needed to do something about it.

And yes, you're right, all of a sudden the knowledge about this condition comes in, the home inspectors are starting to identify it, the real estate agents are starting to identify it and the companies just change the language to create this absolute bar to coverage.

And the investigation should look at the timing, absolutely. I think -- I think the insurance companies need to provide written explanation as to why they changed that language and when they changed the language and what was the source of information they used to change the language.

SENATOR ANWAR (3RD): So that's probably the legislative area to work on. If you can't go back in time but we can at least go back forward and then say that -- first of all they have to change the fonts, right? So the likelihood of you being able to read this unless you are 12 years old, you cannot read them.
But that's the reality that they hide the information and they need to underline the part that has been changed and they need to explain why that has been changed and then give us a rationale for that.

I mean they will not like that argument but that's what would be needed because if they're expecting the consumer to -- in the middle of the night after a full day work, read at about a -- font of about six and identify the hidden information, that's not gonna happen. That doesn't happen and that's how they survive and thrive.

KEITH YAGALOFF: That's why you have an insurance commissioner. The insurance commissioner should be doing the work for the consumer to ask why the changes are being made. And this is -- now we're looking back, you know, I believe they thought it was as we said earlier, sort of a minor issue.

You should ask those questions. Ask the insurance companies to provide you with some written information about that and I think it'd be interesting to see what the responses are.

SENATOR ANWAR (3RD): Now for this abrupt collapse, if the language is changed by the legislature doesn't help the victims right now.

KEITH YAGALOFF: It does.

SENATOR ANWAR (3RD): Tell me how.

KEITH YAGALOFF: They would get coverage because their policies say that there's coverage for collapse. There is coverage for collapse for hidden decay, there's coverage for collapse for materials.
If you take the word abrupt out there would be coverage. They offer -- it's not an exclusion, they offer additional -- they call it additional coverage for collapse.

And under the Beech standard for substantial impairment, there would be coverage. These policies would cover this condition. If you were able to somehow, either through the judicial process or legislatively be able to do that.

Now I don't know what litigation there's gonna be in terms of retrospective, you know, how it's gonna work. I suggest that we have intelligent people in this state who have an intelligent AG. He's got resources and you have resources and we should see if it's possible, if you're gonna go down that direction, to fix the problem with the language with some legislation.

SENATOR ANWAR (3RD): Okay.

KEITH YAGALOFF: Right.

SENATOR ANWAR (3RD): I'm sorry, I'm just gonna repeat what I understand. What you're saying is if as a legislature we actually change the definition of abrupt collapse to just a collapse.

KEITH YAGALOFF: A substantial impairment. And you set some standards to that, as the Representative said earlier. If you change it to that a collapse is the find -- abrupt collapse is to find a substantial impairment, then that would -- that's what is before the Supreme Court right now.

Now of course they're not gonna be able to change it in my opinion because they have to rely on the law,
it's a legislative fix. They can reinterpret the contract that's -- what they say is clear and unambiguous just to protect the insured. But you could do that and if that language was changed, there would be coverage under these policies, yes.

SENATOR ANWAR (3RD): Going forward or going backward?

KEITH YAGALOFF: Well, you'd have to legislate that the change would affect, would be impacting policies that were in effect and you would also probably have to do something in terms of statute of limitations on this so that people would be able to make claims.

So I think the solution is more complicated than -- than -- it's complicated but --

SENATOR ANWAR (3RD): Yeah. I think we should talk offline because it's gonna take a longer time but I appreciate what you're thinking and maybe that maybe an avenue to explore. With that, thank you, Madam Chair.

REP. MCCARTHY-VAHEY (133RD): Thank you, Senator. Representative Vail.

REP. VAIL (52ND): Thank you, Madam Chair. Good afternoon. I wanna talk about the abrupt piece again. So when that language was change, roughly --


REP. VAIL (52ND): -- 2002. Before that, the language that didn't have abrupt, were there -- is there a list of court cases that were adjudicated before that and what was the result before the language changed?
KEITH YAGALOFF: So the result was the findings in a case called Beech. And the Beech case said that you don't need it to collapse to the ground. If the wall is substantially impaired, then you get coverage. The insurance company is responsible to provide coverage for what they said was substantial impairment. Meaning that the walls were weakened and the walls were -- I mean it allowed the homeowner to get coverage so they could repair those walls as the walls were continuing to deteriorate.

REP. VAIL (52ND): So what year was the Beech case?

KEITH YAGALOFF: Beech case, I think was at the -- it was before 2000. I'm gonna say '98 or '99. I could be wrong.

REP. VAIL (52ND): Okay. And were there any other cases besides the Beech case or did that Beech case set a precedent so that when claims were made in this regard -- before the language change was made, were the insurance companies then paying the claims without -- without fighting because of the ruling in the Beech case or were there other cases subsequent to the Beech case and before the language change?

KEITH YAGALOFF: There are cases right now still in the Supreme Court and there's gonna be a decision issued soon. The language, the pre abrupt collapse language is being litigated as well as the abrupt language because there cases that Attorney Danforth and others have appealed that are being decided in the Supreme Court.

So that information should be available in the next few months. They are gonna -- they already argued it in December, they're gonna issue a decision. Now
that's not going to address this illusive recovery piece because that was not litigated. It's gonna address the pre abrupt language and then the abrupt language.

I don't think that the court can change the language of -- they're asking that abrupt is ambiguous and the Judges have decided both in the federal court and the state court that the word abrupt is not ambiguous. It's clear and therefore it means what it means. And they've asked the Supreme Court to address that, the Connecticut Supreme Court. And everyone's waiting for a decision.

REP. VAIL (52ND): And again, if you have a deterioration and in a homeowner's policy with any of the things -- your roof, your plumbing, as Representative Haines mentioned -- it'd by your responsibility then to fix that problem.

KEITH YAGALOFF: Well, hidden decay is --

REP. VAIL (52ND): Hidden decay is one thing but it's covered.

KEITH YAGALOFF: -- is covered.

REP. VAIL (52ND): If it's not hidden decay, there's gonna be a responsibility. But if it's your foundation.

KEITH YAGALOFF: Correct, you have to make repairs and you have to mitigate the losses. The foundation is -- that's correct, if you have a pipe that breaks you have to -- you have to do it from normal conditions. Correct, if it freezes, you have to repair it.
REP. VAIL (52ND): Right.

KEITH YABALOFF: But this is a -- this is a hidden decay from material that the homeowner cannot -- well either -- this is a condition that's not like a pipe breaking.

REP. VAIL (52ND): No, it's a chemical reaction.

KEITH YAGALOFF: Right.

REP. VAIL (52ND): To a different stimulant or whatever it is because of a certain mineral --

KEITH YAGALOFF: Right.

REP. VAIL (52ND): -- that wasn't -- you know, that was in there. So it's definitely a difficult situation.

In your opinion, do you think that the language change was done specifically -- and if you don't have an opinion, that's fine but specifically to address this issue, this potential issue?

KEITH YAGALOFF: Yes.

REP. VAIL (52ND): You do.

KEITH YAGALOFF: I do, I think it was done to avoid coverage for this condition. In the state of Connecticut, at least.

REP. VAIL (52ND): But again, the ISO language would have changed nationwide but so -- is it commonplace so if they had, you know, you hear a lot about the sheetrock issue and things like that.

Does the ISO tend to change language? If there's an issue in Montana and they see that coming, they tend
to change the language nationwide? It's usually universal when they do that.

KEITH YAGALOFF: Well, what happens is each -- each insurance company applies to its own space insurance commissioner for the change. And that's really a good question. I mean we don't know that every state went and changed this language at the same time.

It would be really interesting to see whether or not every state did it universally or specific states like the insurance agents -- the insurance companies of Connecticut did it and I think that would be pretty damning if you found that the Connecticut insurance companies made the change and the claims were coming into Connecticut and maybe Wyoming didn't and that would be a good indicator of whether or not the Connecticut insurance companies were really attempting to avoid coverage for the condition. And that would be one good way, Representative, of taking a look at that.

REP. VAIL (52ND): And again, so if someone -- someone gets a new policy, your changes are made, they get sent a new policy with the changes, correct?

KEITH YAGALOFF: Right.

REP. VAIL (52ND): You know, sometimes maybe people don't know how to read those properly and so on and so forth. Is there any type of disclosure they have to make publicly or anything like that when there's a language change issue? Is the department -- because the insurance commissioner has the sole authority to make that change, correct?
KEITH YAGALOFF: Correct.

REP. VAIL (52ND): And so if they make that change, is there any type of notification that the insurance department in Connecticut has to give to policy owners or is it just the new policy that's sent out to the homeowners and then it -- that would be on them to read that policy, understand it and --

KEITH YAGALOFF: I don't know if they have to like publish a legal notice or if they publish it in one of your, you know, there's some publication coming out of the -- the Insurance Commissioner. But I don't believe homeowners ever get notices of that sort of change.

And I've never -- I know from my own policies I don't think I've gotten a notice that there's been a specific change in the policy unless there's something in terms of the dollar amount of the coverage or something else. Or they're doing -- they may say, "Well, now we've added Connecticut exclusions", or "We've added something for Connecticut, take a look at page four or page five."

So I don't know the answer if there's -- I don't think people are getting notices -- I don't think anyone got notified that the insurance coverage went from collapse to abrupt collapse.

REP. VAIL (52ND): The language change would've been there but they probably wouldn't have known to look for it.

KEITH YAGALOFF: I don't -- right, nobody would have thought to look for it. Who would have thought to say that -- that my collapse coverage went from --
suddenly went to a requirement for abrupt collapse, nobody would've thought because nobody -- the average person wasn't even thinking about the condition because nobody knew -- most -- 98 percent -- I mean nobody knew about the condition except for the few people that were living it, right? So yeah.

REP. VAIL (52ND): I was considering legislation, we already had 42, 41 bills out there but that every time someone requests a change with the Insurance Commissioner that there be a public hearing held in the Insurance and Real Estate Committee. Not that we would vote on approval but we could ask questions. Maybe every six months or every quarter. I don't think that was a really popular suggestion but it's still something I'm thinking about looking at doing in the future. Do you think that might be something, at least bring more awareness when changes come so nothing sort of -- you know, Hanover made a late change a few years ago and we all found out at a -- at a meeting.

And it's nothing that's Hanover because all they did was follow suit with everybody else, you know. But we didn't know about it. And I think if we had some type of public hearing that when requests are made to the policies that we -- that it'd at least give us, you know, we'd be able to ask questions and so on and so forth.

I'm not saying that it would have to go through the legislature for a vote. Do you think that's something that might be helpful in the future?

KEITH YAGALOFF: So there are a lot of minor changes
that you wouldn't want to have a public hearing. But you could require that the insurance commissioner bring forth, present to you substantial changes and the required hearing.

That would force the insurance commission -- the commissioner -- to review the changes to see which ones are meaningful and which ones are not and then to let you know which ones are meaningful. And they would have to do their job.

So you would have accomplished two things. Not only would they have to do their job in evaluating the changes but the ones that are substantial, they would bring to -- to the body for a public hearing.

REP. VAIL (52ND): But here's my reservation about that. What if people were to look at that and say, "Well, that minor change in the collapsed condition wasn't major" and you were leaving that decision up to one individual, which is again what might have got us into this situation in the first place.

So I just thought having a few more sets of eyes to at least look at it, not necessarily have to approve it but to be able to ask questions about all those changes, you know, periodically.

So, I appreciate your testimony, thank you.

KEITH YAGALOFF: Thank you.

REP. MCCARTHY-VAHEY (133RD): Thank you, Representative Vail. And for the second time, Representative Delnicki.

REP. DELNICKI (14TH): And I'll try to keep this brief and I -- I thank you for the second
opportunity.

You know, listening to all this -- I'm gonna say it. Do you see that this could conceivably be a situation where there was collusion?

KEITH YAGALOFF: You know, I try to be fair.

REP. DELNICKI (14TH): And so am I. And so am I. [Crosstalk] And that's why I was hesitant to even say --

KEITH YAGALOFF: Representative Delnicki, let me get you the deposition testimony. Take a look at the -- of the insurance company's own expert. And review it. And take a look at it and then you'll see what you think about the comments about the fact that this condition doesn't occur.

And I think that we don't wanna lose sight of the responsibility of the insurance company. That's the reason why I'm here. I wanna emphasize that even though you have plans going forward, don't forget about the past. Don't give up on the insurance piece because we're learning new information and it's important that everyone that has some responsibility here participate. Because unless you get that, you're not gonna have a solution for these people.

And so let's -- let's look at it from all avenues to find -- to do the right thing for these homeowners that have been profoundly affected. Their lives have been crushed and they need some relief.

REP. DELNICKI (14TH): Thank you for coming today. Thank you for your testimony. We await your transmission of whatever you can to us so we can
forward that on with our request to the Attorney General and the Insurance Commissioner.

KEITH YAGALOFF: Thank you.

REP. DELNICKI (14TH): Thank you, Madam Chair.

REP. MCCARTHY-VAHEY (133RD): Thank you Representative Delnicki. Senator Anwar for the second time.

SENATOR ANWAR (3RD): Thank you, Madam Chair. So Keith, and then again I'm glad we have member -- I'm part of the Crumbling Foundation Caucus as well.

So maybe there's an opportunity to send a letter and I think Representative Luxenberg -- there's theoretically an opportunity to send a letter to the Insurance Commissioner to identify exactly when that language was changed.

And then another letter to the Attorney General identifying the situation and circumstances around that. Maybe that's one way to at least start and this can come from the Caucus or it can come from this Committee. Either way but again, just a suggestion so we can get more data to understand what had happened because while we are looking forward, it's important to look backwards otherwise we can make similar challenges for other community members.

Arguably, if things happen the right way, all of us wouldn't be sitting here in this room having this conversation. So if it's worthwhile, just a comment for us to follow up on.

Thank you, Madam Chair.
REP. McCARTHY-VAHEY (133RD): Thank you, Senator Anwar. Are there any further questions?

I'd like to thank you for being here as well and I appreciate that you were attempting to answer Representative Vail's questions about changes in policies which you were speculating and you had said you're not -- you're not certain.

KEITH YAGALOFF: Right.

REP. McCARTHY-VAHEY (133RD): And I also appreciate that this is an issue which clearly needs ongoing conversation. Some investigations which were -- have been requested and that we hope to hear from various parties.

So thank you very much for your testimony.

KEITH YAGALOFF: Thank you for your good work, appreciate it.

REP. McCARTHY-VAHEY (133RD): Next today we have Christina Mailos [phonetic] and forgive me if I'm not pronouncing it correctly. No? Okay, Deborah MacGlaflin. Welcome.

DEBORAH MACGILAFLIN: Good afternoon, Madam Chair and members of the Joint Committee.

My name is Deborah MacGlaflin and I live in Manchester. I am speaking today in support of bill number 7179 and -- which is AN ACT CONCERNING CRUMBLING FOUNDATIONS.

I'm particularly interested in the innovation and the new technology that is being talked about -- asked for -- in this bill.
In order to let you see the situation in my neighborhood, do you all have this? I'm gonna take you on a tour of my neighborhood.

My neighborhood is Lydall Woods, there's 168 units. It's comprised of different housing types. There are single family, two-family, three-family and four-family homes all mixed in.

If you look at the map, you can see probably how beautiful it is. We're surrounded by fields, forests. We have blackberry bushes that we can pick berries from. We have dogs and babies who we walk on our sidewalks. We're surrounded by Manchester Land Trust. Very beautiful. Very beautiful.

Now also, if you can imagine on this map, there's a dark cloud over this whole area. There's a deep pervasive gloom. The pyrrhotite plague sickens us literally.

Our home values have tanked. We feel insecure, angry and disappointed. Our retirements are postponed. Our nest eggs, emergency savings and college funds are threatened. The solution of foreclosure has crossed many of our minds.

Now what's different about Lydall Woods is we are a PUD. And this is why we need the new technology and innovation that this bill speaks of. A PUD is different from a condo in several ways but the one that I will mention today is we all own our own foundations.

Take a quad and you'll see -- you can tell which ones of these are quads. Every -- of the four sections in the quad, each owner owns their own
basement. The dilemma here is that there's a shared wall between each. It's a big problem. Ha!

Let's see. And as you can see with the color coding here very quickly, the people who are -- the units that are red, we know they have the problem. The units that are yellow, we don't know if they have the problem.

The units that are green were apparently fixed. The units that are blue apparently don't have the situation according to a structural engineer.

Those of us who are red, who know we have the problem, would like to be fixed. We are thrilled that CSFIC is up and running. It's such an exciting time. But --

REP. MCCARTHY-VAHEY (133RD): If you can do me a favor and sum up, that would be wonderful.

DEBORAH MACGLAFLIN: Yes. If we are connected to people who don't think they have the problem or don't want -- this is where we need innovation. That is why I love bill 7179. It asks for new technology, for innovation. We need it badly. It asks for affordability. We all need that badly. CSFIC can't help us enough.

So I feel not only if this bill passes will it help my beautiful neighborhood, it will also help thousands of other people in Northeast Connecticut. Thank you.

REP. MCCARTHY-VAHEY (133RD): Thank you very much for your testimony today and also for the very helpful maps. Sometimes those visual images are very powerful. So I appreciate you providing that
as well.

Are there questions from members of the committee? Representative Haines.

REP. HAINES (34TH): So thank you so much for coming and thank you, Madam Chair. Thanks for coming in and as she said, the map is amazing. For those of you that don't see this map, what's interesting is that there's certain quads that are filled in green which means they're fixed. Or no -- yes, they're fixed by the -- per the owner -- and then they're right next to ones that are red that are not fixed.

DEBORAH MACGLAFLIN: Right.

REP. HAINES (34TH): And if they share a wall, who's buying a who in this situation. So anyway, my question is -- and then there's yellow and red next to each other, too, and I can understand how that can be difficult as well.

DEBORAH MACGLAFLIN: Yes.

REP. HAINES (34TH): Sometimes if, you know, you put your head in the sand, you know, it's a problem you don't have because you don't know. And that's terrible that you're in that position or people are in that position.

My question is this. The bill, okay, what is the technology gonna do? What is this bill gonna do for a situation like this?

DEBORAH MACGLAFLIN: Okay. Well, a while back Mr. Ackert was talking about the epitome panels that some of the -- that some of the contractors are using. Epitome panels are the space age material
that can be -- that can replace a foundation without lifting a house. Therefore it's cheaper.

But that doesn't even work in our neighborhood because of the shared wall. And the man -- one of the men who does this will not even give a connected building a proposal unless all four are willing to do it because he -- if he cannot fix that shared wall, his license and his reputation is at stake.

So we need innovation to come up with something even better than the epitome panels. And as far as the epitome panels, they only have a 15-year warranty which kinda takes me aback. When we got a proposal for that -- so we need more -- in our neighborhood, we need technology and innovation that will help with our shared walls so that we can -- some of us who want to can be fixed.

REP. HAINES (34TH): Thank you very much.

DEBORAH MACGLAFLIN: You're welcome.

REP. MCCARTHY-VAHEY (133RD): Thank you, Representative Haines. Are there further questions from members of the committee?

If not, thank you so much for being here with us today and staying.

DEBORAH MACGLAFLIN: Thank you.

REP. MCCARTHY-VAHEY (133RD): Next we have Debra Macley? I'm not sure about that. Oh, I think it's someone else. Okay, if not, Blake Will. Is Mr. Will here? Welcome. If you can push the button and turn on the microphone that would be wonderful. Thanks.
BLAKE WILL: There, am I live now? My name is Blake Will. I'm a resident of Ashford, Connecticut and we have learned recently that we have, you know, the doomed crumbling foundation.

During the process, you know, we've -- we've learned a lot and are concerned about a number of different things.

One of them is that -- and I do appreciate all the great work that people have done -- done to date here. One of the first issues is -- has to do with our insurance rates. We know that people are looking at many different areas but I'm greatly concerned that the insurance companies are going to be able to use the rates that they have filed in place to effectively raise rates in certain geographical areas.

I have a background in insurance. For a few years I served as a Vice President of Claims for Travelers' Insurance and I've been involved in, you know, complex issues including catastrophe damage and I've seen what works and doesn't work.

The Insurance Commissioner sent out a letter a few years ago telling the insurance companies that they did not want them to cancel policies but then in the next paragraph down they said that but if according to their policy terms, you know, they had to cancel somebody, you know, they could go ahead and do it.

Where this information comes from is whenever you file a homeowners claim, the insurance company reports it to a rating bureau. The rating bureau is owned and operated by LexisNexis -- I can't even pronounce that -- and it's a system called CLUE the
Comprehensive Loss Underwriting Exchange.

Like a credit report for, you know, individuals, your CLUE report contains claims that you had filed in two areas -- one on your home and two personally.

So in my case, I've actually had to file two claims; one with Travelers' Insurance and one with AMICA.

First of all, they didn't send out junior adjustors, they sent out some of their most senior adjustors to work on my house. I have seven core holes in my basement, two test pits in my yard and I've had three different engineers come through my house thus far.

Anyway, as a result of those two claims being filed, I will be penalized according to the insurance company's rating bureau for filing claims that I expect I'll never get reimbursed for.

So I would like to ask the, you know, the group that this is something you might take a look at in the future. And that, you know, I think it will affect -- affect everybody in town.

If I could, one other thing, I do support bill 7179 on the innovation. What -- what I might propose is something that is more along the lines of a pilot program where companies or individuals can get grants to prove technology. And the technology might be a product but it also might be a process that would improve the results and drive down the cost of the replacements as well as maybe improve, you know, the delivery of service to everybody.

So with that said, I appreciate everybody and thank you for all the work that you've done. You've made
it easier for me and my wife because we stepped into a process that already existed. And I know people have gone through tremendous pain to get to this point.

REP. MCCARTHY-VAHEY (133RD): Thank you, Mr. Will, for your testimony today. Are there members of the committee with questions? Representative Vail.

REPRESENTATIVE VAIL (52ND): Thank you, Madam Chair. Good afternoon, Mr. Will.

Regarding the CLUE report, I'm an insurance agent by profession and CLUE reports can be very valuable to keeping insurance rates down by making the most accurate underwriting judgements that they can.

So what would your suggestion be to eliminate CLUE reports altogether or just to have -- if you make a claim regarding this. Do you have something specific in mind for a recommendation?

BLAKE WILL: Yeah. Thank you for your question. My recommendation would be that the -- don't penalize the individuals or the consumers for making claims.

I have been forced to make claims by the Captive Insurance -- told me that I had to make claims as a result to participate in their fund. I just happened to be in the industry for a while so I knew that that was gonna impact me.

So my recommendation would be to look at legislation that might preclude the insurance companies from reporting those claims. Specifically they've had to do with basement damage of pyrrhotite damage or whatever you might be.
Because those claims will not only follow the individual, so even if I sell my house or walk away and I move to another state or town, I'm still gonna have two property claims filed against me.

And when somebody comes to buy my house, the house will have two claims and that will affect not just the underwriting of the insurance on the property but banks look that as far as mortgage rates, too. So banks participate in the claims.

So the simple answer is frequency leads to severity. The more claims you have, it's like a dartboard. You're eventually gonna hit target zero. I would compel the companies to not report those claims and not penalize people.

REP. VAIL (52ND): So you know, so to participate in CSFIC, you have to make a claim. Which isn't gonna be paid. Then you're gonna be punished for having made the claim.

BLAKE WILL: Yes.

REP. VAIL (52ND): Then you need to make that claim, then, to be eligible for CFSIC.

BLAKE WILL: Correct.

REP. VAIL (52ND): So I know in the past we've had -- we had a rough year, I think it was 2011. We had multiple claims. We had a hurricane -- I think that was Sandy. And we had that early snowstorm in October where the leaves were still on the trees and we lost more power and -- there have been times where they didn't allow claims under certain catastrophes to count against insurance premiums.
Is that kind of the idea that you're thinking about with this? Not to get rid of CLUE reports altogether but to have some type of forgiveness when it comes to CLUE reports in regards specifically to the pyrrhotite problem. Is that where you're going?

BLAKE WILL: Yes, Representative Vail, I think you have it correct. It's that, you know, some type of exclusion or forgiveness from people that have filed claims as a result of basement damaged concrete, pyrrhotite, whatever you wanna call it.

Because on the one side they're not -- they're not paying the claims but on the other side, you know, if you have claims, they'll raise your rates. So they have, you know, preferred rates for no claims, standard rates if you're okay, nonstandard rates if you have a lot of claims or a couple claims.

And then non renewals. So those are -- those are just fixed buckets. I'm -- [crosstalk].

REP. VAIL (52ND): I'm sorry, it's -- I'm seeing where you're going with this and I think it definitely deserves us to look into it. I don't know if legislation is always the best avenue. We have a new Insurance Commissioner. I think they may be able to make that the -- I certainly plan on sitting down with the new Insurance Commissioner, talking about a CUIPA investigation, talking about, you know, possible forgiveness for this.

But I'm not always sure that legislation is always the best approach. If maybe some way we can do this without legislation but I certainly appreciate your expertise and your testimony and thank you for coming out.
BLAKE WILL: Thank you.

REP. MCCARTHY-VAHEY (133RD): Thank you, Representative Vail, are there other questions from members of the committee? Representative Delnicki.

REP. DELNICKI (14TH): Thank you, Madam Chair and thank you for coming out. I wanna ask you a couple more questions about CLUE.

BLAKE WILL: Yes.

REP. DELNICKI (14TH): Because this is one of those things that we never hear about. So this is like a credit rating system where there's different criteria?

BLAKE WILL: Yeah, it -- it -- it's very similar to, you know, a credit rating in that you know, LexisNexis also happens to be in that same business. So what they do is they get claims reports from all companies, about 90 percent of the US.

So let's say today I have Travelers' Insurance but I wanna get a quote from Allstate. Allstate, when they underwrite the policy, they -- you know, they have automation that does all this so it looks at your credit report and you know, the property and different demographic stuff.

But then it looks at your CLUE report. And if I have claims, for that Allstate quote, it's going to rate it accordingly. So I'm gonna either get a higher rate or no rate from them.

And it is kind of a dirty little secret because, you know, unless you're in the industry or, you know, real estate or something, it's something you're
never aware of.

So people will end up getting higher premiums but they won't know why. And these rates are filed, they're approved by the Insurance Commissioner and they're justified in charging higher rates if you have a claim.

So yes, your CLUE report plus your credit score equals what you paid for insurance.

REP. DELNICKI (14TH): So if I understand it correctly, there's no regulations whatsoever on what they can decide that they want to have in the CLUE report.

BLAKE WILL: Well, the CLUE report is --

REP. DELNICKI (14TH): Well, let me rephrase that. There's no -- like with a fair credit report, there's a criteria that's listed by state and by federal government, by legislation.

BLAKE WILL: Yeah but the clue --

REP. DELNICKI (14TH): But there's no guidelines --

BLAKE WILL: -- report's --

REP. DELNICKI (14TH): -- like that at all for CLUE.

BLAKE WILL: No, my understanding is that the CLUE reports are regulated under the Fair Credit Reporting Trade Practices of the federal government.

REP. DELNICKI (14TH): So there are guidelines.

BLAKE WILL: Yes, but there's no, you know, it just says that, you know, they can only keep the stuff for seven years and that, you know, they can't
disclose it to people that don't have a, you know, some agreement or some purpose for it.

But you know, they can keep the information and if you don't have claims, great. But if you do they're gonna use it against you.

REP. DELNICKI (14TH): So even if you have a claim that you have to file, you've got no choice in it to seek restitution from another source, you're penalized.

BLAKE WILL: Yes. And there's some other attributes that go with the claim. You know, that -- you know, would potentially say that it, you know, the type of claim and the potential severity for it and other things.

So it's not just like a, you know -- you know, one check box. But the point is it's going to be used and it will be used in those geographical areas where people have claims. Specifically, you know, people that are already being hurt by this issue, they're gonna become further burdened by increased insurance premiums.

REP. DELNICKI (14TH): So they're gonna get penalized not only on the front end with the problem with the crumbling foundation but on the back end with the CLUE report --

BLAKE WILL: Yes.

REP. DELNICKI (14TH): -- that reflects it even though [crosstalk] had no choice.

BLAKE WILL: Correct. Correct. And each insurance company can apply whatever rules they have for
underwriting however they want. So the Hartford might have one set of rules for claims and Travelers' could have a different set of rules but the bottom line is your CLUE report plus your credit score equals what you pay for insurance.

And so in my case, I'll have two claims against me and I can guarantee I'll end up paying, you know, getting a quote for higher rates. And I'll know why.

REP. DELNICKI (14TH): Well, I certainly see what you're talking about. It makes a lot of sense to have some kind of guidelines if -- if they're not going to have them themselves and hopefully we can ask somebody from the industry about CLUE. And about guidelines and about how it's handled. [Crosstalk] back of the room.

BLAKE WILL: Yeah, it's supposed to represent as Representative Vail said, a reflection of the risk. And it's a very fair thing to have and I don't think most people would object to it meaning the more claims you have, the probability that you're gonna have a larger claim. It's just statistically factually correct.

But in this case, you know, it's not. And so unless there's some discussion about it, some compromises made or legislation. People who have filed claims for crumbling basements are going to end up with higher insurance rates. And the insurance companies will collect more premium but they're not paying the claims and technically they don't have the risk according to them.

So it's, you know, it's kind of an obscure thing but
it gets to the cost. Is that this is gonna affect people that they don't -- you know, they don't even know it's gonna be coming towards them.

REP. DELNICKI (14TH): Well, it strikes me as one more cut at the victims of the situation there. Thank you for coming and thank you for testifying on that and thank you for making us all aware of CLUE.

BLAKE WILL: Mm-hmm. Yes.

REP. MCCARTHY-VAHEY (133RD): Thank you, Representative Delnicki. Representative Haines.

REP. HAINES (34TH): Hi, how are you? Thank you again for coming in. In regards to CLUE, just to make it a little bit simpler, when you drive your car, you're driving record, your license when you get a ticket for speeding or not stopping at a stop sign, a police officer gives you a ticket and it goes on your record. It's on your record for five years.

BLAKE WILL: Yes. Yes.

REP. HAINES (34TH): When you have an accident in a parking lot, you do not get charged for that accident because it's on private property. But if there's property damage that happens, then it goes on the CLUE report because a claim has been paid.

BLAKE WILL: Yes.

REP. HAINES (34TH): So the CLUE report, my understanding, is that it's more of a report card, okay? As an insured, okay, your report card has one claim, two claims, whatever.

On the homeowner's side, it's the same thing, it's
really just a report card as far as how many claims that you have had on your homeowners.

And the insurance company that I work for, we get a claim-free discount. We give a claim-free discount. We give payment plan discounts. We give -- there's all kinds of different discounts you can qualify for. Good student discount. Resident student discount. So there's all kinds of discounts that you can qualify for.

If you have a claim, yes you don't get the discounted rate. And I know it sounds like a little bit like I'm talking out of both sides of my mouth but they give added incentive if you're the best driver in the world. And if you're not, you pay a little bit more.

In the situation where you're talking about with this crumbling foundation, one of the things that Representative Vail was talking about was when we have these big storms we call them catastrophic. This particular crumbling foundation probably could be talked to the Insurance Commissioner about turning that into a particular CAT.

And the reason CATS happen are because they affect a lot of people. And there's subsequent amount of damage whatever it is. What that dollar value is or what -- how many people it represents, I'm not sure of that. But I think that that is something that we can go to the commissioner on and help this scenario in particular.

So it's not necessarily the CLUE and all that kind of stuff because if we can turn it into a CAT, then again, I can speak for my insurance company, we
don't charge for CATS. They don't -- they don't -- it doesn't matter. Doesn't matter that you had that loss.

BLAKE HANES: Yeah, you're correct. And again, all insurance companies use this information a little differently. They all have their crystal balls and analytics and software. And for the record, there's actually two companies that do this. One is LexisNexis, their product is called A-Plus that does the same thing.

But if you go to their websites and look, they're talking about, you know, providing information to help the insurance company, you know, make better decisions and get more premium. And that, you know, that's not a consumer protection, that's an insurance company protection.

And again, it's for seven years. So in my case, let's say they charge me an extra $300 dollars a month and it could be, you know, an extra couple grand. Times that times 10,000 houses, you know, or more. You know, it adds up. So.

REP. HAINES (34TH): Yeah, and every company is a little different as far as how they use those reports. Some of them look at seven maybe, some of them look at five, some of them look at three.

So it really is, as you said, dependent on the insurance company and how they --

BLAKE HILL: Yeah, given the choice, I would not have probably filed claims with my insurance companies if the Captive didn't require me to.

And yeah, so.
REP. MCCARTHY-VAHEY (133RD): Thank you, Representative Haines. Are there any further questions? I would like to thank you for being here today and for raising what is really a catch-22 issue and I'm sure this will involve further discussion among the members. Thank you very much.

Next up is Eric George. Welcome.

ERIC GEORGE: Thank you very much and I'm joined by my general counsel, Joy Avallone.

I want to thank everybody on the committee for what you're doing today. The situation is absolutely devastating and as people have said today that the scope is still not pulling out.

This is a state problem and we do have to find a solution and we are committed to that. The state should be commended, and I wanna talk about commonality.

Yes, we're probably gonna have points that we might not totally agree on. But I wanna talk about points of commonality and really say what the state did that was great.

When you created the Captive Insurance Company, you did create a mechanism that does already excellent work. And you -- yes, you've not funded it completely and it has not been funded completely but it is partially funded. And I understand that $100 million dollars is not going to take care of the scope of this problem.

But there's other things that the state has done that should be commended, too. You have extended the period of time that people can bring lawsuit
against their insurance company. You have also prohibited the use of recycled material that contains pyrrhotite. You did create the surcharge, I do wanna speak to that.

And then the Insurance Department who was just referred to did issue a notice telling all insurance companies not to cancel or non-renew based on crumbling foundations.

The surcharge language, I am going to add my voice to those who have said it does need to be fixed, it needs to be clarified. I have looked at the Department of Insurance's initial take and I've sent that out to my members and I've had good responses back in terms of it being clear.

But to get to, you know, if you wanna say the gorilla or the elephant in the room, if a mandatory coverage is put in place, we are very concerned that premiums are gonna go up.

We are concerned that -- and this could happen -- this sounds hyperbolic and I apologize. But companies could choose not to write and that would not be good. I also have to preface that I know you're gonna ask me a good deal of questions. But when they come into the area of the open litigation, I'm gonna apologize now. I can't refer to -- I can't comment on issues that are part of open litigation. I would get into a lot of trouble if I did that and I prefer not to do that.

Also, a couple of other points. I heard -- I was listening very intently when Tim Heim spoke. He did a very good job. I'm sorry, I just wanna bring up this last point. He talked about how an insurance
company was in possession of the test results of a core sample and was not extending that information or not providing it?

I've never heard of that before. And when I thought about it, I didn't see how it was in the best interest of anyone, including the insurance company.

So with your indulgence, I would like to investigate that. Right now that's all the information I have. We're here to answer any questions that you have.

REP. MCCARTHY-VAHEY (133RD): Thank you very much for being here for both of you today. Are there questions from members of the committee? Representative Delnicki.

REP. DELNICKI (14TH): I'm trying to figure out where to start.

ERIC GEORGE: Yes.

REP. DELNICKI (14TH): I've got a couple of questions. I'll start with the -- start with the easy stuff. The innovation proposal.

ERIC GEORGE: I think it's great.

REP. DELNICKI (14TH): Think it's great.

ERIC GEORGE: Yep.

REP. DELNICKI (14TH): So how much are you gonna pledge? What's the insurance company's -- what are they gonna pledge to [crosstalk].

ERIC GEORGE: So I guess I think that as [crosstalk] -- that is definitely a conversation that we can engage in. I know how the funding mechanism is currently envisioned under the bill.
I've actually had conversations with Representative Luxenberg. I really think it's an innovative idea. I hope that there's somebody who's willing to give up the rights to their intellectual [phonetic] property to take as -- I know the term has been called a prize.

I mean that's a query whether somebody's willing to do that. But I think it's a great idea and happy to engage in the conversation.

REP. DELNICKI (14TH): So again, I realize you can't make a monetary pledge because you probably will get in trouble for it but yes, you wanna do it if it you can possibly do it. You wanna sit down, have the conversation and get it done conceivably.

ERIC GEORGE: I happen -- I mean just in the interests of our members, I cannot commit anything to you on that.

REP. DELNICKI (14TH): I realize that. That's understandable.

ERIC GEORGE: And I mean I'm the association. I cannot make a commitment on behalf of a company. So I will say that I will definitely engage in the conversation with you and if you're looking for further commitment from me, I am sorry to say I cannot give you that.

REP. DELNICKI (14TH): Okay. I wanna just go back in time a year when I listened to you on WTIC one morning. And you made a statement about rate increases that would result from covering the crumbling foundation issue.

And I think if I remember this correctly, your
statement was, "If we were to cover crumbling foundations, it would cause the rate to go up 194 percent." And an investigative reporter actually did a calculation of how many dollars in homeowner premiums you collect a year in Connecticut and it was about $1.5 billion -- with a B -- dollars in homeowner premiums.

Now quick math, that means you'd have $3 billion dollars in new cash if you went up 194 percent. Which would basically solve the problem in perpetuity. How in the world did you come up with 194 percent? Did an actuary come up with that or how was that determined?

ERIC GEORGE: So if you look to the bill that we reviewed last year that you considered. That was the bill before the Judiciary Committee.

The bill before the Judiciary Committee was not limited to crumbling foundations. The bill before the Judiciary was much more expansive than that. If memory serves, Representative Delnicki, it dealt with defective -- it had similarities to this year's consideration but it had to do with defective material in mitigation.

And presumably -- well, not presumably -- under the bill's black letter of the law -- or black letter of its language -- it would apply statewide. So when I absolutely went out to my membership to ask them, I got varied results. It is by no means scientific. I am not a survey.

But I -- I like to say, when I -- I don't like to say it. I hate to say it. But I will say that rates premium would go up potentially significantly.
I've not done any analysis of this year's bills with my members. But I am comfortable in saying that in a mandate of this nature which has never been enacted in the United States yet, that the cost increase would be significant.

REP. DELNICKI (14TH): But there's been no actuary, no calculations.

ERIC GEORGE: I have not done that. I have not done that, no.

REP. DELNICKI (14TH): And we're just kind of sticking our finger in the air and --

ERIC GEORGE: If you wanna say that, my statement now is anecdotal. Sure, that's not incorrect. That's not incorrect. It's based on reason but I've not done an actuary analysis.

REP. DELNICKI (14TH): And I go back to the 194 percent and that was S.B. 518 as I recall.

ERIC GEORGE: That sounds right.

REP. DELNICKI (14TH): And what we're talking about now is far different from what 518 is. So that 194 percent, that's totally debunked at this point. Based on what we're looking at here.

ERIC GEORGE: I would -- well, I would say that it's irrelevant --

REP. DELNICKI (14TH): Irrelevant, good term.

ERIC GEORGE: -- considering that it is a different bill this year. I also have no -- I don't have a secret plan to do on this. I mean quite honestly, I think that there is a -- there's so much, and I'll
say it and I know what I'm about to say -- uncertainty when it comes to this because we're facing an issue and everybody in the room knows this better than I.

We're facing an issue that has not been experienced in the United States of America. Yes, it's been experienced in Canada. At least as far as we know. Hasn't come to light.

It's been experienced in Canada, it's been experienced in Europe. So when we're looking at history and experience, there's very little to go back on. All we know is what the cost would be -- general cost of replacing a foundation which is devastating. Absolutely devastating.

And the potential scope to which I think everybody agrees, we don't know what it is. We know that it's more than 790. And the upper limit that everybody seems to end on is 34,000 and that would presume that Becker's Quarry poured every single one of those foundations.

REP. DELNICKI (14TH): Right.

ERIC GEORGE: That would be 100 percent poured by Becker's Quarry. Is that number really what it is? I don't know, it's probably not likely. It's somewhere in between. But I am in no position to tell you where it is because I don't know the scope.

REP. DELNICKI (14TH): Now I wanna backtrack to the testimony of somebody prior to you, Attorney Yagaloff, where he brought forward the concept of illusionary coverage. A condition not likely or virtually impossible to occur.
And how it's basically a red herring in a policy. So the language was changed to abrupt collapse which by the dialog there sounds like it's virtually impossible unless somebody dropped a bomb on your house.

So how do you address the concept of illusionary coverage and the fact that it could be a keystone to actually causing coverage to be there?

ERIC GEORGE: So I have to be careful in this answer. I'm wondering if my -- if my attorney is gonna pull the hook on me right now because this is directly at issue in the litigation.

REP. DELNICKI (14TH): Okay.

ERIC GEORGE: And I don't want to say that and -- but if we're gonna get close to the issues of the litigation, I have to say that I must be careful. And I -- so I -- I'm not going to comment on that.

REP. DELNICKI (14TH): So that being a key part of the litigation you're unable to [crosstalk].

ERIC GEORGE: Well, because think about it, you know, the federal class action lawsuit that's out there deals exactly with the ISO form. I mean I know the timing of the ISO form. I can speak to that.

I can -- I can speak to -- and by the way, I don't represent ISO. I know that ISO does provide forms and create form policies nationwide. I know that it takes years in terms of promulgating new forms if that is the correct word.

And that the ISO forms which are, I guess, commonly
referred to as the ISO 2000's really did start to be approved by the individual departments of insurance in about 2000. That would've meant that they were working on these since the mid '90's. It takes about five-plus years to get to where they are.

And they -- and again, as I understand it, what they do is they do look at court cases and they see how the courts were interpreting what they intended language to be. And if courts were interpreting it in a way that they did not intend it, they make the change. Then they take that change, that ISO 2000 and they go to 50 different departments of insurance and they hand it to them. And the departments of insurance either approve it or they don't. That's not the only step, though.

Then the insurance companies have the opportunity to adopt an ISO form. Not required but if they do adopt an ISO form, they then have to submit that back to the Department of Insurance.

REP. DELNICKI (14TH): And again, who initiates the request to the ISO for policy changes?

ERIC GEORGE: I think it's ISO. But I have to tell you, Representative Delnicki, without representing them, I will have to -- I'm gonna have to say I need to look into that because I don't represent ISO.

REP. DELNICKI (14TH): I wish you would because I've had executives off the record tell me that they went to ISO. And they requested the policy language changes based on certain events.

One of them actually shared with me, confidentially, based on that Beech case, matter of fact.
ERIC GEORGE: Joy can actually speak a little bit to Beech.

JOY AVALONNE: Yeah, I would like to speak to that because I think that the earlier testimony implied that the changes in the ISO language were in direct response to the insurance industry's awareness of the pyrrhotite and the crumbling foundation crisis, if you will.

And he noted specifically that it was in response to the Beech case. The Beech case is a 1987 case, that's when the decision came down and it had absolutely nothing to do with pyrrhotite or crumbling foundations. It was a case that involved the home where the foundation, one of the walls in the foundation had actually caved in and it was deemed no longer structurally sound.

And as I said, had absolutely nothing to do with pyrrhotite. So the response that the change in the language as alleged by this individual is questionable at best.

REP. DELNICKI (14TH): Do you know of any insurance companies -- and I realize it's not a fair question to you because you made the statement that you don't know of any insurance companies whether they have or not gone to ISO.

ERIC GEORGE: Whether they have or not.

REP. DELNICKI (14TH): To request language change.

ERIC GEORGE: No, I don't know. That's why I wrote down your question and I'm gonna follow up on that.

REP. DELNICKI (14TH): To the legal counsel, do you
know that one way or the other?

JOY AVALLONE: I sure do not, Representative.

REP. DELNICKI (14TH): Okay, good. Thank you.
Getting back to the concept of the fact that we actually have insurance companies voluntarily offering monies to a fund based on -- a fund that they're administering individually to actually help out some of the victims.

If I had a policy with, I wanna say the Hartford. And had crumbling foundation. And I applied for the Captive. They've actually created a fund for people with that criteria to give them $25,000 dollars, depending. I heard $45,000 dollars was like a max because I think if you had two different companies in there, you could get additional monies.

Where are you folks on that?

ERIC GEORGE: Well, I wasn't consulted by any of the three on it. These were agreements that they entered into and negotiated with the state individually.

If what you're asking is it a good idea from my perspective? I do. I think that when folks voluntarily decide to take on an obligation like that that I'm happy that they did that.

But in terms of the actual requirements and all of the other pieces, it's hard for me to comment on that. I truly believe that this is a state issue. I mean a statewide issue. And I know that we're focused in your neck of the woods and the surrounding localities.
But I've heard the analogy that it is like a slow moving earthquake or hurricane and that's not lost on me. I -- this is beyond the purview of this committee or the legislature. Well, to some extent. But have I been disappointed? While folks have been disappointed in our industry and I understand. I understand. Have I been disappointed in the federal government?

Listen, I think we have one of the best congress -- we have many good congress people but Congressman Courtney has been absolutely amazing in terms of being an advocate.

But he's one. And there has not been an appetite to -- to help. And in other situations where you have whether it be storm-related damage or other type of natural disasters, there has been. Is it political? I don't know if it's political. You know, we're a blue state. Am I gonna make an assumption that we're being penalized? I'd like to think that that's not true.

I'd like to think that eventually it -- with enough stakeholders, you know, I know that we've been a very haunted stakeholder in this area. And I get it, I do.

There are other stakeholders. You've already identified them. Maybe not all of them but you've already identified a bunch of them. I think the federal government's a stakeholder, too.

REP. DELNICKI (14TH): Well, that all sounds well and good but we're back to the gorilla in the room and the fact the language was changed virtually -- matter of fact, I think we had a company maybe a
year-and-a-half ago actually adopt the ISO language to basically write it out of their policies.

My comment to you us a couple -- couple points. And I'm wondering out loud if we've come to the point where there -- like an automobile policy has standard coverage. You know, certain things that you are covered for at a bare minimum in an auto policy.

Have we reached that point where we need some standard coverage in a homeowner's policy that certain things will be covered? That's number one.

Number two, based on what I've heard here today, Connecticut Unfair Insurance Practice Act complaint is called for. And I know my colleagues on the Crumbling Foundation Caucus -- we discussed it, the co-chairs have discussed it -- and we're gonna be going forward to request that.

You know, businesses, if they're gonna be good corporate neighbors have a moral obligation to the people. Especially in the state that they're located. And we've got a situation here where language was there whether you agree or not, interpreted as covering it, covering the foundations up to the point that people instituted the ISO changes.

And we have a situation where this concept, and I'd never heard of it before, of illusionary coverage and I know you can't respond to that because that's part of your court case, right? Illusionary coverage. The concept of it. I think that was your counsel that made that comment.
You've got a situation here where the insurance industry has to come to the table here one way or the other. Either voluntarily or by legislative fiat. And I'd like to see you guys come voluntarily but quite frankly if it doesn't happen, if there's no way to get you to the table, you have to be part of the solution. And I would want you to come to the table and be part of the solution.

But based on what I'm seeing, what I've heard today, what I've heard in the past, you have a responsibility and I reserve the right to ask for a second question. Because that's what I hear [crosstalk].

UNKNOWN: I had no illusions that you wouldn't.

REP. DELNICKI (14TH): I ask Madam Chair for that right.

REP. MCCARTHY-VAHEY (133RD): Thank you, Representative Delnicki. Senator Anwar followed by Representative Vail.

SENATOR ANWAR (3RD): Thank you, Madam Chair. Mr. George, thank you for being here. I know it's not an easy environment to be in right now but I appreciate your coming in and I appreciate you starting by recognizing the challenges that the community is facing.

I missed part of it and I'm new here. Who do you represent?

ERIC GEORGE: So I represent the Insurance Association of Connecticut. Thank you for asking the question, Doctor -- Senator Anwar. I represent the Insurance Association of Connecticut so my
members are the insurance carriers in the property and casualty, home, auto, life, workers compensation and some financial institutions.

Where I don't represent the insurance community is on the purely healthcare side. They have their own association.

SENATOR ANWAR (3RD): Can you name some of the insurance companies?

ERIC GEORGE: I can. Or could I -- if I can say if you see them on TV with commercials, they're my member.

SENATOR ANWAR (3RD): Okay, so literally you are representing most of the significant or larger ones.

ERIC GEORGE: I would say yes.

SENATOR ANWAR (3RD): Okay, can you share with me the market share of them in the disaster area.

ERIC GEORGE: I'd have to get back to you.

SENATOR ANWAR (3RD): Okay, but that data is available.

ERIC GEORGE: That's identifiable.

SENATOR ANWAR (3RD): Yes.

ERIC GEORGE: That is identifiable. Can you write that down? Thank you.

SENATOR ANWAR (3RD): If you could share that with us because it's important to know -- and I've had offline people give me numbers but I have not had any meaningful information but I would really appreciate if there was a data of saying that 50
percent of the disaster area is covered by X and 22 percent is by Y and then that would help us out quite a bit.

ERIC GEORGE: Okay, so let me -- I don't wanna scale back my promise to you because I'm gonna promise to do it but I'm recently certain that that information is obtainable and I absolutely will provide it to the entire committee when we receive it.

SENATOR ANWAR (3RD): That would be very helpful.

ERIC GEORGE: Yes, sir.

SENATOR ANWAR (3RD): The other thing is have you, representing your clients, been in communication with the banks?

ERIC GEORGE: In terms of their lobbyists, yes.

SENATOR ANWAR (3RD): About this disaster specifically?

ERIC GEORGE: Yes, in general. I've definitely had conversations with the banking association on the crumbling foundation issue. Absolutely.

SENATOR ANWAR (3RD): Okay and now I know you had said that well, this is a federal issue and that's another component. But when, in an earthquake or God forbid a hurricane or anything like that, when people are losing their homes, if somebody in a position of responsibility says, "Well, I'm not gonna take care of this, I'm gonna have somebody else do it because I think it's crossing this boundary and it's somebody else's responsibility." I think that's not fair.

ERIC GEORGE: I appreciate what you're saying,
Senator. Maybe I can give a little -- little light to why homeowners insurance covers what it covers and doesn't cover what it doesn't cover.

Homeowners insurance has evolved over the years. It started off as the standard fire policy, that's what it covered. It covered fires. And over the years, that was expanded to deal with damage from issues like hail, wind, etcetera.

But not all contingencies are covered. And the reason why is that -- why there are, I guess you could call theme exemptions or exceptions -- is to keep premiums affordable.

I think Representative Delnicki talked about earlier if there was even an endorsement or anything else that somebody could provide over and above that would cover crumbling foundations.

I have to say that the fact that the market hasn't created it yet, there has been some reluctance in terms of creating such a thing. But to a point, which I appreciate and am very sensitive to, I just want you to understand why there are certain pieces of life that are not included under the standard homeowners contract.

SENATOR ANWAR (3RD): I have this plan about how to address this whole disaster. And part of that plan states that if the insurance companies do not come to the table and some come and some do not. I will figure out a way to let the entire state of Connecticut know who's a good neighbor, who's reliable and who's gonna walk away from you.

Because you depend -- the insurance industry depends
on the goodwill and trust of the general population. It's a risk management, right?

ERIC GEORGE: Mm-hmm.

SENATOR ANWAR (3RD): But if you don't manage the responsibility, then your risk management is so strong that you're not worth placing the trust of the general population.

I think there would be -- in my mind -- a sliding scale of efforts that I would, as an individual and not as a victim directly. My home is not impacted but I know enough people whose homes are impacted that I personally feel I am impacted. That I feel that the fact that the insurance company has not come to the table for the individuals and the community is irresponsible of them.

And I am been asking our Governor to use his authority to get you to the table. And then have meaningful conversations. Meaningful conversations mean that we need to have the dollar amount in our Captive Insurance that we are going to not have enough of to figure out a way to actually put that based on the market shares.

I feel that if it's not taken care of we identify, list-by-list, all the individuals companies and then we reach out and then tell everybody else that these are the good neighbors and these are not. And then let the people decide if they would actually work with their feet if you will, by moving to another insurance company.

That's how I'm seeing this because you're not showing us the responsibility. And again, you can
always hide behind a technicality, that's how the industry survives. But again, I want to thank you for being here but I also want to share my frustration and sadness about this.

ERIC GEORGE: I appreciate the comments that you just made. And as a policy-maker, that is your purview to do and I appreciate the comments that you made.

SENATOR ANWAR (3RD): Now I'm gonna talk to the Eric George, you as a person.

ERIC GEORGE: You think there's a person in here?

SENATOR ANWAR (3RD): Yes, absolutely. You are representing people. You don't have to answer this though. But you're representing people who have failed thousands of people who are losing homes. And you have to stand and defend them. How do you feel with that?

ERIC GEORGE: Being the President of the IOC has been the best job I've ever had in my entire life for so many different reasons.

I have been involved in issues that -- and not all of them are easy. Not all of them. This is a particularly probably the most difficult issue. This is a -- as somebody told me, this is a generational issue and I do believe that.

I'm proud to be the President of the Insurance Association of Connecticut.

SENATOR ANWAR (3RD): Okay. Thank you so much for being here and I'm sure we'll have a lot more conversations. Thank you for your thoughts. Thank
you for coming today.

ERIC GEORGE: Thank you.


REP. VAIL (52ND): Thank you, Madam Chair. Good evening. So to follow up on some of Senator Anwar's questions, number one you mentioned you represent the Insurance Association of Connecticut and he asked you who you represent. I'd like to kind of dig into that a little bit.

How many -- do you know how many insurance property and casualty insurance companies there are in the state of Connecticut that offer homeowners policies? Do you have a rough estimate?

ERIC GEORGE: I know who knows exactly the answer is the Department of Insurance knows that. But I will have to tell you if I have to look that up, I’m going to the Department of Insurance to get the information.

REP. VAIL (52ND): And I'd, too would like the information on market share with, you know, the people you represent and others.

But there are companies that do offer insurance in the state that you don't represent, is that correct?

ERIC GEORGE: Absolutely.

REP. VAIL (52ND): Are there any major companies that you don't represent or are they all pretty much, you know, like a New London County, things like that.
ERIC GEORGE: New London?

REP. VAIL (52ND): You actually represent -- okay. But I probably shouldn't use specific examples but there are smaller companies out there that offer -- you don't represent every single company that offers homeowners insurance in the state.

ERIC GEORGE: I do not.

REP. VAIL (52ND): Do you know the percentage of carriers you represent that offer insurance in the state?

ERIC GEORGE: No, I'd have to figure that out.

REP. VAIL (52ND): Would you -- okay, but it's a large percentage, you would say.

ERIC GEORGE: I'd like to think so.

REP. VAIL (52ND): Of the ones that you represent, do you know how many use the ISO language for their policies?

ERIC GEORGE: No, I do not.

REP. VAIL (52ND): Is there any way to find out who used the ISO language in 2002 and then subsequently which one of the people you represent had changed their language through the insurance department since that time?

ERIC GEORGE: I'd have to presume all of that is public information.

REP. VAIL (52ND): Okay, is there any way that you could --

ERIC GEORGE: I mean we're gonna have to --
REP. VAIL (52ND): Where would I get that information?

ERIC GEORGE: [Crosstalk] insurance.

REP. VAIL (52ND): Okay. But it might behoove you to help me get that information. [Laughter]

ERIC GEORGE: I am at your service, sir.

REP. VAIL (52ND): Okay, I can certainly look into that but -- all right.

So the Beech case. I thought it was earlier than the late '90s so it was 1987 and it did regard something else. But -- but it wasn't a pyrrhotite foundation but it was a foundation nonetheless, is that correct?

JOY AVALLONE: Correct.

REP. VAIL (52ND): So between 1987 and 2002 when that -- when that change was made with the ISO language, are you familiar with how many cases there were regarding foundations in Connecticut or anywhere?

JOY AVALLONE: Pending litigation?

REP. VAIL (52ND): Litigation that happened between 1987 and 2001 or 2002 when that -- when the language.

So there was previous language that when it went to court case, the Beech case in particular, that the Judge ruled in favor of the insurance -- policy holder, correct?

JOY AVALLONE: Correct. I don't know the date of the first case in which this issue was under
litigation.

REP. VAIL (52ND): Okay, so there's a 15-year gap in between 1987 and 2002 when ISO put in for the original language change in the state of Connecticut. That was the year, correct, 2002?

JOY AVALLONE: I don't -- I'm just uncertain by what you mean by [crosstalk].

REP. VAIL (52ND): I wanna know if they paid claims between 1987 and 2002 when the language was changed to its current form.

There's a bill here to change the definition of collapse and remove that abrupt piece which we've heard earlier is the biggest part of the, you know, and I know that has to do with current litigation. I wanna know what the policy holders or people receiving -- the people -- if people filled out a claim between 1987 and 2001, were they being approved for their foundation claims. Or were those also being litigated?

ERIC GEORGE: So I think I understand the question that you're asking but I don't think there's any way for us to know that.

REP. VAIL (52ND): There's no data regarding that.

ERIC GEORGE: Not -- I mean not that I am familiar with. I don't even believe the Department of Insurance would capture anything like that. I'm not saying that that information is not valuable. Please don't take that as me not saying that it's not valuable.

But we would not have access to that information.
REP. VAIL (52ND): I'm having a hard time getting information here. From anybody.

So -- so when the language change is made in 2002, that made it -- people have not been winning cases -- has any case since 2002 that's gone the distance ruled in favor of the policyholder?

ERIC GEORGE: And I'm sorry to be --

REP. VAIL (52ND): Does that have to do with that pending --

ERIC GEORGE: No, no, no, no, no, no, no, no. We'd have to look into it. I mean so you're asking us that question and there's probably numerous cases that have occurred, I am very safe to say since 2002, over the last 17 years on this issue.

For us to be able to make an affirmative statement whether there was at least one, I'm not gonna say it's a little unfair, but it's a little unfair. Because we -- we'd have to look at all of the cases is my point.

REP. VAIL (52ND): Okay.

ERIC GEORGE: I'm sorry.

REP. VAIL (52ND): That's fine. So you can recognize that when the language change was made in 2002, that there was a decrease in risk because --

ERIC GEORGE: I don't know -- I don't know if that was -- I don't mean to interrupt, sorry.

REP. VAIL (52ND): That's fine, go ahead.

ERIC GEORGE: No, see I don't -- the language change that ISO performed that was adopted by most
insurance companies followed was a clarification because of -- and this is as I understand it -- court cases around the country that were interpreting various pieces of reform in ways that ISO did not intend. Recognize that the portion of the ISO form we're talking about is this -- and there were numerous changes made throughout.

By the way, ISO forms, I'm not trying to plug ISO right now. They're consumer-friendly. And I'll tell you why they're consumer-friendly. What they allow is an individual who is trying to shop for insurance to have similar things that they can compare. Because if you had five, ten, 15 different insurance companies all drafting their own form policies or their own policies, you would have 15 different versions.

And for -- not even a lay person, an attorney -- that would be a daunting task to try and weight and balance what are the coverages? What am I getting in this policy, what am I getting in that policy? That is why actually the federal government encouraged the use of ISO forms so that consumers could have a better apples-to-apples comparison.

The changes that you were referring to -- one of many changes that happen across the country, the ISO changes are done throughout the entire country. So I just want -- I apologize to belabor the point but it was for clarity, as I understand it, that these -- that these, if you will, amendments were made.

REP. VAIL (52ND): So clarity's a big word there. So anything that's ambiguous in insurance is tougher to quantify as far as potential claims, underwriting criteria, etcetera.
So by -- by defining -- by making this definition about collapse and making it more defined, with the abruptness, I'm pretty sure that that decreased risk for insurance companies.

ERIC GEORGE: You made that assumption, that might be a valid assumption to make. I can't quantify it, as you just said, so -- [crosstalk].

REP. VAIL (52ND): So and again to bring back the numbers Representative Delnicki talked about, about the potential increase in premiums, if we adopted language that would do this that gets rid of the abrupt piece, then by that same math that the risk should have decreased by a similar amount in 2002, thus equating to big insurance premium, you know, decreases.

Because you can't have it both ways. If you're talking about the potential of, you know, the peril of collapse language and taking the abrupt piece out and that it's gonna multiply premiums by however -- some exorbitant amount. Whatever, it's kind of hard to quantify that.

But then by then going back in that period of time then that should have decreased premiums because you're decreasing that same exact risk. You can't play it on both sides of the thing and that's -- that's what I've always had a hard time wrapping my -- like you know, I'm from this industry. I'm decently versed in it and I'm a math guy.

And I've had no one being able to explain that math to me since I've been doing this.

ERIC GEORGE: Well, so I'm gonna take a crack at it
and I know I'm gonna fail miserably but I'm gonna try. Because I was an English major and I became a lawyer because there was no math. But you know -- so.

You are presupposing coverage for defective material. You are presupposing that pre-ISO that there was coverage for detect -- these situations.

And it has been -- everything I've heard from my industry that there was not coverage prior to and there was not post and that the changes that ISO made were clarification.

But when you say a reduction in premium, there was no premium collected for a coverage like that because it was never intended to be covered.

And I understand that that is a point of controversy. I am very sensitive to the fact that that is a point of controversy. And I am now delving right at the border of the cases.

So I probably have to leave my statement where I -- did I go too far?

REP. VAIL (52ND): But again, you know, I'm not saying that it had to be apples to apples but there was definitely a decrease in risk there. There's no doubt in my mind. I'll let that one go. We hashed that one out good enough.

I'll briefly touch on CLUE reports that was brought up earlier. I certainly understand how CLUE reports work and I think they're an effective tool to narrow down premiums. And in your familiar, Representative Haines mentioned different catastrophes that are counted in CLUE reports. Are you familiar with
that?

ERIC GEORGE: I'm familiar with CAT claims. I will be honest, you know, as representing the carriers, I think that the CLUE reports, probably you're dealing with them much more on a day-to-day basis as a producer. As somebody who is selling the product.

I think that -- because what I saw is two people who knew a lot about the CLUE reports in you, Representative Vail and in Representative Haines.

I will say as the representatives for the carriers, I understand how CAT claims work as Representative Haines was referring to. I understand how the insurance score, which commonly was referred to as a credit score because it does involve credit history is included. But I was learning as I -- from you guys on CLUE. So I, if --

REP. VAIL (52ND): So again, and I use the reference of the 2011 storm where they had [crosstalk]. Would you be willing to entertain what a previous thing said that you know, as part of them applying for, to get part of CSFIC, they have to file a claim. Which they're gonna be denied and then they're gonna then be punished for having made the claim.

Would you be open to the concept of addressing that as a, you know, putting that in that same category?

ERIC GEORGE: I would be open to the concept of having this conversation but if you -- and I'm gonna have to refer back to what I said to Representative Delnicki, I can't commit a company.

REP. VAIL (52ND): I understand that.
ERIC GEORGE: But I can -- what I can commit to you as somebody who you know and you're an honest broker. Every single person up on right now here is an honest broker. I am an honest broker. I can commit to you to working with you on this but I cannot commit to my companies, my members.

REP. VAIL (52ND): I understand that but I sat on this committee for some time trying to find answers with the industry and I don't think the industry's going anywhere near as far as you have to go. I certainly understand some of the hurdles that the industry faces with scope, understanding that. Some companies may wanna do more than others, etcetera.

But I definitely think it's in the industry's best interest to have that sit-down with certain people to discuss that. Because if they don't, then we have no choice but -- I -- I always preferred to do things non-legislatively. I think when the government gets involved, you know, it doesn't always do things perfectly or we overdo it and there's unintended consequences.

But I would like to see a better effort from the industry to be proactive in doing things with us so that we don't have to use legislative means to get stuff done.

So that's something hopefully we can talk about, the CLUE report and some of the other stuff.

ERIC GEORGE: Your point is well taken.

REP. VAIL (52ND): Okay and my door is always open. And I know yours is as well.

ERIC GEORGE: Thank you.
REP. MCCARTHY-VAHEY (133RD): Thank you, Representative Vail. Senator Lesser followed by Representative Hughes.

SENATOR LESSER (9TH): Thank you, Madam Chair and good evening to you both.

I am the Chair of the Insurance Committee, or the Co-Chair but I'm also new to this issue. I've only been the Chair for a little over a month and so I'm learning a lot today about what's going on.

I was interested, there's a lot of questioning about how insurance companies share information. We're talking about CLUE, talking about ISO. Are there -- and I guess -- I guess potentially the IAC, I guess, or other trade associations.

Are there -- what other mechanisms are there for sharing statistical claims, policy, underwriting liability or actuarial information between insurance companies?

ERIC GEORGE: So there are -- there are warehouses, think tanks, if you will. One that comes to mind is III, the Insurance Information Institute. They are a wealth of information and often we go to them for their grandiose amount of information and data that they have.

They do it on the national scale but they also do, you know, state specific. They know Connecticut.

We have sister trade associations that are on a national level that have just more resources than we do. I mean you -- you're looking at the resources of the Insurance Association of Connecticut. We -- we are leaner than a lot of the other national trade
associations so in terms of information that we --
we work with our sister trades all the time.

So III and our sister trades, yes.

SENATOR LESSER (9TH): And I don't hear both lawyers
and I am not a lawyer but how does -- how does one
company share proprietary information about their --
about their products with another without violating
some sort of -- law.

ERIC GEORGE: You're talking about -- I'm talking
about clearing houses or what I was just talking
about is clearing houses. In terms of sharing
proprietary information, that would violate
antitrust laws. And it's something that we're
highly sensitive to.

So you know, sometimes when -- even if it's not
exactly squarely in an antitrust area, if somebody
asks me for specific information about a company,
you're gonna have to get that information directly
from the company, I'm not gonna be involved in that
because I don't, quite honestly, want to know the
information.

I'd like to stay as far away from antitrust
violations as possible.

SENATOR LESSER (9TH): And so the clearing house is
sort of the mechanism.

ERIC GEORGE: Yeah, so what they'll do is often
aggregate it out. De-identify it. I mean and also,
I will tell you that you have a great resource right
here in the state of Connecticut with the Department
of Insurance. Because the Department of Insurance
will often do these requests for information to
which we comply. When I say we, I mean my member companies, not the association -- about data. And the department will aggregate it out and de-identify it.

SENATOR LESSER (9TH): You spoke in the -- in your opening testimony in response to the issue about core testing and why would an insurance company perform core testing?

ERIC GEORGE: Why would we?

SENATOR LESSER (9TH): Yeah.

ERIC GEORGE: We don't perform a core test as far as I know. You have a company that does that. I think the question was, Senator Lesser, was if a company was in possession of information about the results of a core test why they wouldn't share it.

And my answer was I have no idea. I don't know if that has happened once or twice or more but I will tell you I do not challenge the veracity of -- of the assertion. I just am not aware of not sharing the core testing.

SENATOR LESSER (9TH): But I guess -- you know, I don't represent a district that's been, as far as I know, affected. Hopefully.

ERIC GEORGE: It's close.

SENATOR LESSER (9TH): It's not too far but hopefully not affected. But so I don't -- I don't have reason to know this but how would -- how would -- I mean you can't think of the circumstances in which an insurance company would obtain a core test outside of the permission of the home owner. How
would they -- how would they get that?

ERIC GEORGE:  There's no -- I can't think of any way an insurance company would have the results of a core test without receiving it from the homeowner.

I cannot think of any situation where an insurance company would have the authority, the permission to go. There's -- that does not -- rationale, just thinking about this rationally, that does not hold water.

SENATOR LESSER (9TH):  Okay. Well, I think we might -- we might wanna do some research and see what [crosstalk].

ERIC GEORGE:  I was gonna say, I think that that's right for researching and discussion but -- and by the way, I'm getting here through rationale. I'm not -- because I don't have the -- I'm trying to prove a negative here in a way, if you know what I mean. So.

SENATOR LESSER (9TH):  So I was just curious so obviously the purpose of insurance is to provide a financial safeguard against an unlikely event and that's what -- what it's there for.

And it's my understanding that as a matter of core, insurance companies themselves buy insurance called re-insurance.

Can you talk about the steps to -- the steps that you know that insurers in the affected area have deleveraged or shared risk with the re-insurers and how that sort of -- how that process has unfolded in response to the issues in defective region?
ERIC GEORGE: I think it's an excellent question but I don't have the information. I don't know how they've entered into the relationships with other companies getting into a re-insurance arrangement.

SENATOR LESSER (9TH): And as far as you know, are re-insurers providing re-insurance to companies for policies for homes that either are affected or are within 30 miles of the quarry in question.

Is that something that is -- have there been any issues on the secondary arrangement.

ERIC GEORGE: So I have to admit that I have not asked the question.

SENATOR LESSER (9TH): Thank you.


REP. HUGHES (135TH): Thank you, Madam Chair and thank you, Eric for coming today. So would you say there's about 200 insurance companies that are involved in these homeowners with defective foundations? Roughly.

ERIC GEORGE: If you've done that research, I'm gonna rely on what you've researched. Because quite honestly, I'm gonna have to look it up.

REP. HUGHES (135TH): It's about 200, okay. So if these are all pretty much competing with each other, right, they're separate companies.

Then tell me, explain to me how if they did cover losses for the crumbling foundations, how the premiums would all go up if they were competing for those homeowners policies.
ERIC GEORGE: So it goes to one of the truths of insurance which means that we have to have our premiums actuarially sound as determined by the Department of Insurance.

So if there is a new coverage that has to be included in all policies, the Department of Insurance needs to make sure -- I was gonna say ensure but make sure -- that we are collecting enough premiums to have enough capital set aside to pay for those claims.

So what this avoids is a company undercutting others, not charging enough premium but then not being in any position later on to pay the claims.

And then want to talk about a loose recovery, that's a loose recovery. If you are dealing with not charging for premium, for coverage that you are obligated to make, you won't be in business, you will be out of business quickly and all of the policy holders will be not in a good spot and relying upon our guarantee association to pay that out.

Which if you wanna talk about the guarantee association we can talk about that but I don't think you will.

REP HUGHES (135TH): So if -- if they were to pay out and cover, you're saying they would have to all raise premiums to satisfy that insurance -- the Insurance Commissioners approval.

ERIC GEORGE: They would have to have an actuarially based -- report is the wrong word -- but they would have to have an actuarial basis for how much money
they're taking in which will satisfy the contracted obligations to pay out.

REP. HUGHES (135TH): And where does the reinsurance market come in there then if they are getting reinsured to cover those unlikely events.

ERIC GEORGE: I'm gonna have to tell you that I'm not an expert in that area.

REP. HUGHES (135TH): Okay, so apparently six executives at one of those 200 insurance companies made nearly $160 million in executive compensation. Are there equal mandates to retain enough capital to pay the insurance executives that kind of compensation?

ERIC GEORGE: I can't comment upon the executives' compensation. I'm sorry, Representative Hughes.

REP. HUGHES (135TH): Well, that actually is more in one year than all the relief that has been provided to the victims of these homeowners insurance. So it seems like that is reserved very much and that the premiums did not go down even when they're not covering the current victims.

So the premiums didn't go down even though this is part of the unlikely events that insurance, like Senator Lesser is stating, is there to cover.

ERIC GEORGE: Well, I was gonna say, this is just -- there's a lot of commonality between -- between us there are points of difference and this might be a point of difference.

REP. HUGHES (135TH): Okay.

ERIC GEORGE: And the point of difference is that
there was no coverage prior to. So the premiums would not be going down.

You might disagree with that but that is --

REP. HUGHES (135TH): In my experience, anecdotally, that I find that the purpose of insurance is actually there to deny a lot of claims before they're forced to pay them out regardless of the unlikely occurrence.

So I think we're going to have to legislate a willingness on the part of the industry to do their job. That's the end of my comments.

REP. MCCARTHY-VAHEY (133RD): Thank you. Representative Hughes. Before we continue, as it's getting late and if I come back to folks for the second time, I'm gonna ask for questions as opposed to comments, if I may.

So for the second time, Representative Delnicki.

REP. DELNICKI (14TH): Thank you, Madam Chair. Do you consider crumbling foundations a warranty issue as opposed to an insurance issue?

ERIC GEORGE: So I would say that defective product is more kin to be covered by warranty. The question of crumbling foundations being more applicable to a warranty. I know that -- I know homeowners insurance is not a warranty. I know that warranty contracts, home warranty contracts, do exist. And they often cover a myriad of things that homeowners insurance does not. One of those things can be defective product.

I think that's the only way I can answer the
question.

REP. DELNICKI (14TH): Reason why I asked that question is it's reasonable to say that shingles on the roof of a house is a warranty issue. It's reasonable to say the siding on the wall of the house is a warranty issue.

It's not reasonable to say when you can go down Main Street in South Windsor and you've got foundations on homes that were built in the 1600's and they haven't failed. That's why I pose that question because it shouldn't be looked at as a warranty issue.

ERIC GEORGE: So -- testifiers are not supposed to ask questions, may I ask you a question?

REP. DELNICKI (14TH): I'd be happy to answer it if I can. I don't have a court case and -- [crosstalk].

ERIC GEORGE: Is the reason that the -- is the reason that the foundation is not a warranty issue is because of its -- its cost?

Because let me just pause at this. If you purchase shingles for your -- for your roof -- and let's say they were supposed to last 30 years. And they were made of a product that deteriorated far quicker, let's say ten years, five years. I think you and I would both agree that if there was a home warranty, that would be applicable.

Are we saying that it's not applicable to foundations because we're talking about a $175,000 dollar plus fix? And that it's a much longer time if it ever -- if a proper foundation were ever
poured. Arguably I don't know and that's structural engineering but it could last thousands of years, correct?

REP. DELNICKI (14TH): My answer to that is simple. You expect to replace your roof at some point in time.

ERIC GEORGE: Okay. Okay [crosstalk].

REP. DELNICKI (14TH): You expect to replace your siding at some point in time. You expect that you are going to have a pipe burst and you're gonna fix that at some time and you're expecting that you could have an electrical outlet go bad in your house at some time.

So if you're relying on the concept of a warranty issue here, it's -- to me it's the same thing as the -- the insurance issue that Attorney Yagaloff brought up. It's a straw dog.

ERIC GEORGE: Now I understand where you're going. It was the expectation piece so now I follow -- I follow your train of thought, thank you.

REP. DELNICKI (14TH): Because you are literally -- your basement walls, your basement floor is the base of your entire home. And I wanna say, I think my last question is you made the statement claim of not intending to cover the abrupt collapse of a foundation.

And that was a reason why changes were made in language for a clarification [crosstalk].

ERIC GEORGE: I don't think I ever used the words abrupt collapse of a foundation tonight.
REP. DELNICKI (14TH): Okay. You did use the -- you did say claim of not intending to cover that.

ERIC GEORGE: Mm-hmm.

REP. DELNICKI (14TH): So if we take that to a conclusion, is it true that you could make -- you could literally make the claim on almost anything that you didn't intend to cover it?

ERIC GEORGE: No, I think that would be stretching the words farther than at least they were intended.

REP. DELNICKI (14TH): And -- oh, my last comment and this is for your benefit, Senator. The Concrete Crumbling Foundation Caucus has reached out to the administration and we are already discussing the issue. And we'd love to have you involved in the commentary there. And we have reached out to the administration on this issue already.

ERIC GEORGE: Okay.

REP. DELNICKI (14TH): And again, thank you for the second opportunity and again thank you for coming here because I'm sure it wasn't -- it was kind of tough on you. But it's even tougher on the victims.

ERIC GEORGE: I agree. I was going to say --

REP. DELNICKI (14TH): You leave here --

ERIC GEORGE: -- whatever I'm experiencing right now.

REP. DELNICKI (14TH): When you leave here, you're whole and you're going home and they're not.

ERIC GEORGE: Well, whatever I'm experiencing right now -- and please don't take these words that I'm
about to say as anything more than genuine. What I'm experiencing right now is nothing compared to what people have experienced in the affected area who own these homes.

And if you think that I don't -- that's not -- that I'm not sensitive to that, then you're incorrect. I'm extremely sensitive to that.

SENATOR LESSER (9TH): Thank you, Representative and before I turn it over to Senator Anwar, one quick -- just one quick question. We heard earlier that the pending change, I guess, in federal law regarding the Captive Insurance Company, to allow it to have tax-exempt status would remove one of the obstacles for insurers making voluntary payments to the Captive.

Are you -- is that the reason why insurance -- those three -- the three companies that have made voluntary payments have not made payments to the Captive?

ERIC GEORGE: So they did not consult me when they made the three agreements. I don't anticipate that they're gonna consult me going further.

SENATOR LESSER (9TH): So you don't -- so if you have --

ERIC GEORGE: I have not [crosstalk].

SENATOR LESSER (9TH): So you have no knowledge of forthcoming --

ERIC GEORGE: I have no way of knowing why they made their decision or chose not to. I don't know that. They did not include me in their thought process,
their negotiations or their action.

SENATOR LESSER (9TH): Are you aware of any obstacles that would conclude a future settlement from involving a payment to the Captive as opposed to a stand-alone product administered by the --

ERIC GEORGE: I'm not aware of any but I don't believe that I'm fully educated to be able to make a statement as an expert in that area.

SENATOR LESSER (9TH): Okay, thank you. Senator Anwar.

SENATOR ANWAR (3RD): Thank you so much, Mr. Chair. Quick clarifying questions. Every organization and entities has their own calculation and understanding. I know you aren't going to be accurate, everybody is inaccurate in what they're going to say but what number of the scope of the problem in the state of Connecticut are you working with?

ERIC GEORGE: What -- can I ask a clarifying question?

SENATOR ANWAR (3RD): Sure, let me rephrase this.

ERIC GEORGE: Okay.

SENATOR ANWAR (3RD): How many homes do you think are impacted in your understanding?

ERIC GEORGE: I literally have no idea. Somewhere and now if you were gonna ask me what is my best guestimate?

SENATOR ANWAR (3RD): Yes.

ERIC GEORGE: North of 790, south of 34,000.
SENATOR ANWAR (3RD): Okay, that's -- okay.

ERIC GEORGE: And I'm not --

SENATOR ANWAR (3RD): That's fine. That's fine.

ERIC GEORGE: -- that's not meant to be flip. I'm not in --

SENATOR ANWAR (3RD): That's fine. That's fine. In the interest of time I'm gonna go to the next question. What, in your reporting to your clients, what level are you communicating at? Are you talking to the CEOs, are you talking to --

ERIC GEORGE: So various folks. Sometimes I communicate to CEOs. Oftentimes I'm speaking to VP-level folks who are in the government affairs.

SENATOR ANWAR (3RD): Okay, top executives, basically.

ERIC GEORGE: Or just some -- yeah, I mean back in the day -- the answer is yes. I mean my communications would get to them eventually.

I'd like to think that they all open my emails immediately but I'm not sure about that, Senator.

SENATOR ANWAR (3RD): Okay, so basically you have the connection to the top executives within the -- the various clients that you are --

ERIC GEORGE: Eventually it would get there down the road.

SENATOR ANWAR (3RD): Good. Have you been in communication with anybody who's a counterpart for you in Massachusetts, Rhode Island?
ERIC GEORGE: Yes.

SENATOR ANWAR (3RD): Okay, tell me what you are hearing from them.

ERIC GEORGE: So I've not been -- Rhode Island, I don't believe has a [crosstalk].

SENATOR ANWAR (3RD): I know. Just checking. [Laughter] 

ERIC GEORGE: That's fantastic. And I got it right which is even better.

So Massachusetts, yes. My counterpart in Massachusetts, obviously he's dealing with this on a much more -- a newer basis. Because it's only come to the spotlight more recently than us.

So the conversations were really, "Eric, how has this progressed?" Because we were in the position of having to have -- we were dealing with it for more years than he was.

SENATOR ANWAR (3RD): Okay. And Canada.

ERIC GEORGE: So I have not had any contact with Canada.

SENATOR ANWAR (3RD): Ireland.

ERIC GEORGE: I have not had any contact with Ireland.

SENATOR ANWAR (3RD): Okay. So basically you're communicating with the US-based insurance industry between Massachusetts and Connecticut right now.

ERIC GEORGE: And with -- the lion's share of my communication is in Connecticut.
SENATOR ANWAR (3RD): Connecticut. Okay and do you know the answer to this, that I know it's a government-to-government communication about getting FEMA involved. But the insurance industry has internal triggers to actually be able to qualify. To call FEMA. Do you know much about that?

ERIC GEORGE: I've had conver -- this is limited. I've had conversations. One point factor if we're gonna talk about FEMA, FEMA, one of their first triggers to give money is that there is no insurance coverage. That's one of the first boxes that you have to check in order to get FEMA.

SENATOR ANWAR (3RD): Property insurance or when the insurance refuses to pay.

ERIC GEORGE: No, that there is no insurance coverage.

SENATOR ANWAR (3RD): That's why it's a trick question.

ERIC GEORGE: And I saw that. That's why you same my head going like this back and forth. [Laughter]

SENATOR ANWAR (3RD): Here's what I'm -- let's say in this disaster there's multiple ways of addressing this and one of them is going to be federal. Small part, not a major part but it will be a part of it.

What can your industry do to help us get FEMA in there? I know what we need to do from the state point of view but what can your --

ERIC GEORGE: Work with you with talking to them. Work with you with talking to -- I think our delegation is extremely well educated but really
talking to -- and we'd be willing to help to the extent that we can.

SENATOR ANWAR (3RD): Okay, so at some point we will ask you to use your connections with the CEOs of these 200 entities.

ERIC GEORGE: Oh, so I don't have a 200 -- not all 200 are my members.

SENATOR ANWAR (3RD): How many are?

ERIC GEORGE: Currently like three dozen-ish.

SENATOR ANWAR (3RD): Okay, I got that. You were answering that earlier. So okay, so of the three dozen people --

ERIC GEORGE: I finally acquiesced.

SENATOR ANWAR (3RD): So of your three dozen people, we will ask your help at some point to work from the private industry end to help us with the other part.

ERIC GEORGE: And I will comply.

SENATOR ANWAR (3RD): Okay. Thank you, Madam Chair.

REP. MCCARTHY-VAHEY (133RD): Thank you. Thank you, Senator Anwar. I believe that that's it. I would like to say thank you for being here.

ERIC GEORGE: Thank you for having me.

REP. MCCARTHY-VAHEY (133RD): And I know that there is -- as I've said before with others, much more conversations that we've had and certainly you're hearing very clearly from the members of these committees that there is more than an open invitation for much -- much more robust involvement
from your membership and from the insurance providers here who are involved with this.

ERIC GEORGE: And please know that I am here every day. And the conversation should occur whenever and how often you want. I commit to that.

REP. MCCARTHY-VAHEY (133RD): Thank you. Our next -- I was going to say witness, but [laughter]. Next up is Timothy Percoski. Did I get that right? Mr. Percoski, welcome and thank you for staying here with us today.

TIMOTHY PERCOSKI: Good evening, Madam Chair, Vice Chair and ranking members and distinguished members of the committee.

I did feel like a witness there or witnessing something, I feel like I need something sweet like a cinnamon roll or something like that to calm me down here because I was doing real well.

REP. MCCARTHY-VAHEY (133RD): Well, you're doing great.

TIMOTHY PERCOSKI: Thank you. My name's Tim Percoski and I'm a homeowner in Summers. A chemistry and physics teacher and one of the thousands of homeowners affected by crumbling foundation.

I'm in favor of all legislation that supports homeowners and the identification, repair and protection during and after the purchase of a home with a crumbling foundation.

For many people, the greatest investment that is made in their lives is the purchase of a home. My
family finds themselves in that unfortunate situation that our investments and equity that we worked so hard for have been rendered worthless due to the presence of pyrrhotite and the limited resources, funds and non-existent insurance backing to solve this problem.

Purchasing real estate is a gamble though. It's far less than going to a casino. The gamble is a disastrous sentence to these homeowners with affected foundations. I'm imploring these committees to help homeowners find solutions.

We all place challenges. My father-in-law is battling cancer. Due to his diagnosis, disability and economic challenges in our state, he and my mother-in-law were forced to sell their home to avoid having it taken from them.

In 2016, my wife and I made the conscious decision after strong deliberation with my in-laws to buy the perfect home with a basement space that would become an in-law apartment. It would give them privacy and enable them to be close to family, my father-in-law's doctors and all the support systems.

Since that day, they have been forced to live in a spare room that is nowhere near accommodating. Their entire home is now in a ten-foot by ten-foot room.

My in-laws dealt with financial devastation due to a cancer diagnosis. Less than one week after they closed on their home and moved in with us, I uncovered the crumbling foundation in my home.

My financial ruin came about out of love for my
family and care.

I am very proud of the work that has been done to date. I strongly believe that the most important missing link is that the insurance companies need to step up. There are solutions to fixing these crumbling foundations.

Insurance carriers changed language -- we just heard about that. People are now left to their own devices to fix the issue. Immediate rejection is the most common and most likely response that we have all gotten.

My father-in-law's cancer is being treated with chemotherapy. My eight-year-old daughter has monthly IV infusions to treat her juvenile arthritis. My seven-year-old receives vision therapy for sensory motor dysfunction. The car accident that I was in was easy to navigate a solution to.

The common thread is that they're all problems that are aided through eight insurance policies. None of the challenges I presented were sought out nor did we see them coming. I simply don't see how a catastrophic situation from pyrrhotite is different.

My homeowner's policy should help. There are no strong enough words to express my gratitude for the work you've done, continue to do and for your support moving ahead.

I'm comforted and know that we homeowners are moving towards something more than distant hope. The legislature must do something to force the insurer's hands.
Thank you for allowing me to share my testimony.

REP. MCCARTHY-VAHEY (133RD): Mr. Percoski, thank you for being here and for staying. I think it was very important for us to be able to hear your story tonight as well and I would ask if there are members who have any questions. Representative Vail.

REP. VAIL (52ND): Thank you, Madam Chair. Good evening, Tim. I've had -- I'd like to call it a privilege to visit you at your home. I've seen the devastation and I'm aware of your story and I just wanna thank you for coming up and sharing it.

TIMOTHY PERCOSKI: Appreciate it, thank you. And you're all welcome to my home, too.

REP. MCCARTHY-VAHEY (133RD): Thank you, Representative Vail. Other members, Doctor -- or excuse me Senator Anwar.

SENATOR ANWAR (3RD): Senator/Doctor.


SENATOR ANWAR (3RD): Thank you. Thank you for sharing your story and you aren't alone, we are going to be with you. I can tell you the legislators -- there's no partisanship, we are one family. We are here for our community and we'll fight this and we have to do this. This is the right thing to do so thank you for staying and then reminding us why we need to stay the course. Thank you.

TIMOTHY PERCOSKI: I appreciate it, thank you.

REP. MCCARTHY-VAHEY (133RD): Representative
Delnicki.

REP. DELNICKI (14TH): I'll be brief. Thank you for coming out because you put a face on the issue that many people don't understand. And a lot of people are trying to avoid.

And as you can see, we're committed to help you. Thank you, Madam Chair.

REP. MCCARTHY-VAHEY (133RD): Thank you, Representative. And again, thank you. You're absolutely right. You've been here and you've heard the conversation and there is quite a commitment although I will recognize that sometimes in government things do not move at the same speed that you need to address the day-to-day issues in your family and in your life and your home.

So as you got through that, all of our best wishes as you continue through those struggles. Thank you for being here.

TIMOTHY PERCOSKI: Thank you and if I may, just one other thing that I wanted to add. You asked much earlier in the day about feedback about the Captive Insurance program.

You know, I'm very happy with the communication that has come out weekly with Fidelity since it opened up. To the point that I've been able to keep up with it and it's actually given me a little more confidence in the program because I am a person right now that does have pending things and I was worried about, you know, applying for this and where am I going to be in the pecking order eventually.

Just a couple of weeks ago, to hear that, you know,
there's still gonna be a spot reserved for me, it's just that my decision has sort of bumped me down the line has really given me some comfort, too, so I do think that it seems to be working.

REP. MCCARTHY-VAHEY (133RD): Thank you for being -- oops, Representative Michel.

REP. MICHEL (146TH): Thank you, Madam Chair. I'm not going to say anything to you, I just wanted to also thank you for sharing your story with us and also to confirm that there is definitely bipartisanship on this and we'll work together to -- in engaging this issue and thank you again.

TIMOTHY PERCOSKI: And in these tough political times, man it's kind of nice to be in here today and seeing everybody working together.

REP. MCCARTHY-VAHEY (133RD): Thank you. Next on our list is Mike Wright. Welcome.

MICHAEL WRIGHT: Thank you. Good evening. My name is Michael Wright. Some of you may remember I was here about a week ago testifying on this bill. I thought I'd return because Representative Delnicki requested that we all come forward and join in this conversation.

What I wanna do since many of you heard what I said last time, I just wanted to summarize and clarify what I said before.

To start, my name is Michael Wright again. I'm with North American Reserve, I'm a geologist. What my principle job is doing is acquisition of quarries for companies. My largest client is CRH America. They are the parent company of Tilcon and my company
did the acquisition work for when Tilcon was acquired back in -- it was either '95 or '98.

And what we do -- immediately when we get a job, we look at the geology based on what the USGS states in their mapping. Connecticut has all that mapping, Vermont, New Hampshire, all of New England, all of the United States.

And what we do from there is we recommend testing. We typically go right forward to abrasion testing which discusses or discovers the durability of rock. We move to absorption testing which shows how much expansion, you know, how much the rock can absorb and is gonna cause issues.

We also do soundness testing which tests the disintegration of rock and we'll do an XRF test which basically lets us look at all the different oxides components of the rock.

And with this testing, I have done quarries in the United States, the Caribbean and Canada and we have never had an issue. What I wanna say is I think the core report goes -- I think their mandate was initially what do we do about the pyrrhotite?

And I think the mandate really should be what do we do about our construction aggregate?

The construction aggregate should never have been approved and you never would've heard of pyrrhotite if all this testing had been done in the first place. And if anyone had even just looked at the subject quarry's rock which is a sulfidic shift which throws up flags right away for me. You don't want a sulfidic shift as your main rock type for an
aggregate.

I would just suspect that the durability would be suspect. I would think that the soundless wouldn’t pass. And on our XRF testing, I don't believe it would come close to the .1 percent standard. That it would have been up around 10-plus, be as high as 20 percent. And I would have recommended to any company looking at that, you don't want this rock as a construction aggregate.

So in looking at the core report, I think the good things to take out of that would be having the state geologist involved. Having a geologist possibly do a letter report on every quarry yearly and submit that to the geologist. I can't speak for the state geologists but I think they would like to be involved in that manner.

And I think possibly having some yearly testing on those standards that I mentioned to document that the quarry is functioning properly and if any deleterious material is noted or any deviations are noted by the geologist looking at the rock, that further testing should be done.

And if you do have a deleterious material such as sulfate, accelerating the testing and moving into some -- you know, the petrographic analysis and some of the other testing body of that core recommended developing for pyrrhotite may be required.

REP. MCCARTHY-VAHEY (133RD): Thank you.

MICHAEL WRIGHT: Yep.

REP. MCCARTHY-VAHEY (133RD): I have a feeling that there are some questions. Senator Anwar.
SENATOR ANWAR (3RD): Thank you, Madam Chair. The standards -- I understand that New York State came up with standards for the sulfites. It's like one percent or less is what their standards are.

MICHAEL WRIGHT: Point one, I believe. Point one percent.

SENATOR ANWAR (3RD): For sulfites, not for pyrrhotite but all sulfites.

MICHAEL WRIGHT: All sulfites, right.

SENATOR ANWAR (3RD): Just one percent?

[Crosstalk]

MICHAEL WRIGHT: Point one percent. We're even more stringent.

SENATOR ANWAR (3RD): But how did they get to that because there's no reference to their --

MICHAEL WRIGHT: There are several different standards you can go by. I've seen as high as four percent will be allowed. But when I find -- I don't wanna recommend that for a good aggregate rock. I would rather steer much lower. You could, you know, easier having a reading of the low one percent to point one percent.

SENATOR ANWAR (3RD): And do you differentiate reactive versus non-reactive?

MICHAEL WRIGHT: Not when we're going for the point one percent. If someone came to me and said, "Hey, I just tripped the XRF and I have point one percent of sulfites." I'd say, "Okay, let's do some petrographic analysis and find out what those
sulfides are."

And then we'd go at it further and all of a sudden someone would say, "Oh, we have this deleterious material of pyrrhotite", we'd say, "Well, let's go reactive, non-reactive -- what is I there?" But I think in this case, I don't think you would even have gotten towards that standard. You would've been way above.

SENATOR ANWAR (3RD): Do you know about the other quarries in the state of Connecticut? Can you speak to any number for them?

MICHAEL WRIGHT: What I did from the time, last time when I was in, we were talking about sulfides could be in all the quarries.

SENATOR ANWAR (3RD): Yes.

MICHAEL WRIGHT: I do not agree with that. I mean there -- trace amount, possible. Definitely anything could be there in trace.

If you looked at the suspect rock types, I would place about ten, possibly up to 20 quarries could be in -- in material that would contain some sulfides and I would recommend testing one. But a bulk majority, if we're looking at about 80 or more, I would think shouldn't have any problems whatsoever.

SENATOR ANWAR (3RD): Okay. And right now our challenge is we don't have a standard.

MICHAEL WRIGHT: Right.

SENATOR ANWAR (3RD): And then that's part of the reason is that even the Attorney General or anyone could not do a whole lot with respect to that even
to this day, legally we are as a state in a bit of a bind because we don't have any number to go with.

Again, the simplistic perspective that I look at is if a real estate came up with that, it's work for them. Maybe that's the way to approach it.

MICHAEL WRIGHT: You could start with the New York state standards. It is, I would say, about halfway. I've seen as high as four and I've seen even below point one percent sulfites.

SENATOR ANWAR (3RD): Okay. Okay and we've not met offline get your contact information with a lot more in-depth conversation. Thank you so much.

REP. MCCARTHY-VAHEY (133RD): Thank you, Senator. Representative Michel.

REP. MICHEL (146TH): Boy, that's twice, it feels like I just woke up or something.

Sorry about that. Thank you for coming again. I remember seeing you a week ago. Are there new methods of testing that are more -- more efficient or cheaper or both or neither that are available and not being utilized in this region?

MICHAEL WRIGHT: The testing I've mentioned -- if say if you were to take a rock sample up to a file and you were to run the abrasion, the absorption, the soundness and an XRF, it's approximately about $1,000 dollars easily. So that's not cheap. But it's -- it's a good standard. I think most of the quarries do that testing anyway.

And there isn't a good cheap test for pyrrhotite. I think when you start looking at pyrrhotite and you
accelerate to the petrographic analysis, you're making a thin section, you're sending it off to a special lab to have that done. And then you have to have a petrographer licensed to do the petrographic analysis. That's expensive quick when you're just looking for the minerology.

REP. MICHEL (146TH): What would you say was one of the factors that -- or what is one of the factors -- what are the main factors that are dissuading those making the concrete from having these quarries done.

MICHAEL WRIGHT: I cannot speak for why Becker did it. I think most of the quarries do have this testing. Just like when we originally looked at Tilcon for an acquisition, they already had testing. I can go back and pull that testing and I've seen their testing as of two years ago or this last year and it is still exactly -- flat lines the same that we saw back then.

I think most of the quarries would have it. Anyone doing DOT work in the state will have all that testing done and most of the concrete producers will go with the ACI standard as a concrete standard.

So they do that testing too.

REP. MICHEL (146TH): Makes sense. Is there any, that you know, reasons that has been expressed in public or to the public as to why quarries were not properly --

MICHAEL WRIGHT: I think last time you had speculated with me that it could be a money issue, I don't know.

REP. MICHEL (146TH): Okay. Thank you. Thank you
very much.

REP. MCCARTHY-VAHEY (133RD): Thank you, Representative Michel. Are there further questions from members of the committee? Representative Delnicki. Go ahead.

REP. DELNICKI (14TH): Mike, good to see you here. Thank you for coming today because I think we were all surprised when you were here at the previous meeting.

And I'd like to talk a little bit about the Army Corps. Just -- just their mission which is to go over vital public and military engineering services, partnering in peace and war to strengthen our nation's security, energize the economy and reduce risks from disaster and their vision -- engineering solutions for our nation's toughest challenges.

Which we've got here. Whatever we do in the way of standards, they -- they have to be across the entire state of Connecticut. We unfortunately just can't have a standard in one area and a different standard in the eastern part of the state where we're identified as having the pyrrhotite issue.

The Army Corps during their presentation, whether it's accepted by the industry or not, made a statement that -- again, pyrrhotite is present in the uplands in the eastern part of the state and they indicated it conceivably as present in the uplands of the western part of the state.

And I asked you the question, I'll put you on the spot again. If in 1981 we had the Army Corps of Engineers standards. I've got the document here.
Would we have the challenges we have today? Would we have had our taxpayers already being committed to $100 million dollars in taxpayer money through bonding to pay for the problem?

Would we have a $12 dollar surcharge on our policies, a substantial amount of that going to the issue?

MICHAEL WRIGHT: Well, as I had said last time, if they had done the testing that we recommend that was available back in the '60s and '70s. If they were doing that testing, you wouldn't have this problem.

But certainly, if you were adding on the Army Corps, they have a nuance layer that would be on top of that as well. They are going right after the pyrrhotite and -- again, but they don't have many tests. They don't -- they said a lot of research and development has to be done to specifically get the pyrrhotite exactly the way they wanted to.

With what I'm recommending, you could start tomorrow and have all these analyticals done and everyone can submit them and you shouldn't have any of your problems.

REP. DELNICKI (14TH): The Army Corps report actually where it takes a substantial amount of research is on the tail end on concrete that has been poured, that is in a foundation that presently is in occurrence and usage and all that as to whether or not what the standard should be.

But from the slideshow and I'll be more than happy to share it with you --

MICHAEL WRIGHT: Well, I have that, I even watched
it after I talked to you last time.

REP. DELNICKI (14TH): Then you see where you've got a phase one and a phase two and a toxic -- exact -- exact specifications and exact methodology for a testing paradigm that would reveal it regardless of where you are in the state of Connecticut. Can we agree on that?

MICHAEL WRIGHT: I agree on that, yeah.

REP. DELNICKI (14TH): Good. They do talk about if you have an area. And the Army Corps, when they were here, they said the Connecticut River Valley looked like it should be absolutely no problem. But again, we do a standard, we have to apply it to the entire state.

They talk about if a quarry comes up clean -- in essence clean -- I'm paraphrasing that you would go from multiple tests in a year to once a year.

MICHAEL WRIGHT: Right.

REP. DELNICKI (14Th): And I think that would address your concern because you guys are good. You know, Mike, I've gotta tell you, if we could just hire you and have you on the state payroll going from quarry to quarry checking every single one in operation, I don't think we'd have a problem.

MICHAEL WRIGHT: I'll do that for my retirement in ten years.

REP. DELNICKI (14TH): The problem is, we need to do something now. And I know there's a working group that's gonna be looking at it and going to the industry and getting everybody at the table.
My concern is in that timeframe, from now to when that working group actually reports something back and actually comes up with some kind of testing paradigm, actually comes up with something that'll work for the entire state of Connecticut -- and again we have to think the entire state. We know that Tilcon's got -- Tilcon, right?

MICHAEL WRIGHT: Yep.

REP. DELNICKI (14TH): Tilcon has no problem. You've got no problem. But we do know conceivably we could have a problem in the highlands both in the eastern and western part of the state above and beyond what we've already discovered.

Because if you went to Becker's in 1981, you got concrete from them, as far as I can tell, there was no problem whatsoever. They hit the vein of pyrrhotite and the rest is history.

So that's what I'm looking at and in the case of a good company like Tilcon, they'd probably end up with initial testing done based on the Army Corps paradigm and then after that it's be once a year.

The other folks, if they did have an indication of that .1 -- because .1 was mentioned. One percent? I'm pretty sure.

MICHAEL WRIGHT: I think he's right with New York but I'm not sure whether that was just the straight soundness test or if it was just for sulfites.

REP. DELNICKI (14TH): I believe that's in the Army Corps.

SENATOR ANWAR: Madam Chair, through you, can I
answer that?

REP. MCCARTHY-VAHEY (133RD): Representative Delnicki, would you like to yield?

REP. DELNICKI (14TH): Absolutely.


SENATOR ANWAR (3RD): 2007, May is when actually the state of Connecticut put in a one percent so that's the number I have.

MICHAEL WRIGHT: And that's just for sulfites?

SENATOR ANWAR (3RD): Sulfites all of sulfites and that includes pyrrhotite as well, so.

REP. MCCARTHY-VAHEY (133RD): Thank you, Senator Anwar.

SENATOR ANWAR (3RD): Thank you.

REP. MCCARTHY-VAHEY (133RD): Representative Delnicki.

REP. DELNICKI (14TH): Thank you, Madam Chair and thank you to the good Senator for clarifying that.

Point being, we have a test here that will work. That if we instituted it on an interim basis from now till the point at which a report back comes, everybody looks it over, we would have protection from someone conceivably having a quarry that has that deleterious material. Does that make sense?

MICHAEL WRIGHT: I believe -- as I reviewed that a couple of times, I just believe it is excessive. I don't wanna say that, you know, all concrete should be fairly uniform for sale whether it's the
homeowner to the Air Force to, you know, any commercial building.

But I think with some of the just regular testing that I'm mentioning without using their paradigm, you can just go in and I think the frequency is a little bit too much in the Army Corps. I think that you can be a little bit more practical about it because I don't like some of the larger producers like Tilcon, Suzio, OMG, they can afford to do some of this testing but I don't believe some of the mom and pop and everything are gonna be too interested about, you know, starting -- some of those testing parameters were like 25,000 yards and then test again -- 25,000 yards, test again. And that's excessive.

REP. DELNICKI (14TH): But that was only the first year. And that obviously could be adjusted to make it more palatable. But again, the point being we need to do something. We need to do something in the interim period until the report back comes.

And the last thing we need is to have six months, eight months, a year worth of bad aggregate that has the issue get into someone's home.

Because we're already on the hook in the state of Connecticut, the state itself. We've got a commitment of $100 million in bonding and God only knows where we're gonna end up going with that.

And we've got the surcharge on everyone's insurance policy for their homeowners to the tune of $12 dollars a year. And presently that's for ten years but as the problem persists, it could very well go longer than that.
And that's what that would accomplish. And again, I thank you for coming out. I know we had an interesting discussion the last time and that's why I'm not gonna get into all the nuances, I just wanted to touch the surface on this and ensure we got that out for everyone.

Again, Mike, thank you for coming out.

MICHAEL WRIGHT: Thank you.

REP. DELNICKI (14TH): Thank you, Madam Chair.

REP. MCCARTHY-VAHEY (133RD): Thank you, Representative Delnicki. Representative Michel followed -- for the second time -- followed by -- okay, Representative Michel.

REP. MICHEL (146TH): Thank you, Madam Chair. I just thought of something. First, I'm not sure if you can answer the first question but do we know if that constructor, the one in question, would still have faulty concrete? To make it a short one.

MICHAEL WRIGHT: Based on the rock type, I would believe yes. Even if they could produce a good load of concrete, I would test the next load. With that type of rock, it's just not what you would want as a construction aggregate.

REP. MICHEL (146TH): Right. And so if let's say they have stock of it now or the mix. Whatever the -- I guess it's a powder mix before it's really mixed, before construction.

MICHAEL WRIGHT: Oh, the aggregate be getting mixed in the truck with the --

REP. MICHEL (146TH): Right. So they still have
some of the mix today, chances the percentage of the mix would be more to real standards or are they stuck with it and is there something -- is there any application they can use that kind of mix for?

MICHAEL WRIGHT: I don't believe they're -- as a sulfitic rock, it's just not good. It's not even a good fill rock. It's not a good rock to --

REP. MICHEL (146TH): It defies the reason of concrete.

MICHAEL WRIGHT: Yeah, it's just not -- not very useful.

REP. MICHEL (146TH): Like concrete, concrete's [Inaudible 05:55:17].

Okay and so is there something that the industry dictates where if you have this bad mix, what do you do with this bad mix?

MICHAEL WRIGHT: You wouldn't want it. You would -- if I was --

REP. MICHEL (146TH): Well, it's mine already from that construction, for example, is there anything in the industry that says to that construction, this is what you have to do now that you have this stuff and we don't want you to use it for home construction or very -- old construction.

MICHAEL WRIGHT: Landfill cover. Even then, I wouldn't think that would be appropriate because those sulfides are gonna give you an acidic runoff and so it's not even good for that, really. So -- and it's not an idea in any way useful as an aggregate.
REP. MICHEL (146TH): So I mean if your construction ends up with this kind of aggregate, then I mean their waste.

MICHAEL WRIGHT: Yeah.

REP. MICHEL (146TH): Okay so I mean yeah, that kind of reinforces the fact that the testing or mandated testing --

MICHAEL WRIGHT: It's coming.

REP. MICHAEL (146TH): Okay, thank you very much.

MICHAEL WRIGHT: Thank you.

REP. MCCARTHY-VAHEY (133RD): Thank you, Representative Michel. Any further questions? With that, thank you very much for staying here through the long day.

MICHAEL WRIGHT: All right, thank you.

REP. MCCARTHY-VAHEY (133RD): And next, and I believe last although I may have jinxed it is Steve Stokowski?

STEVE STOKOWSKI: That's correct.


STEVEN STOKOWSKI: Madam Chairman and members of this committee, my name is Steven Stokowski, I'm from Lawrenceville, Georgia. I'm formerly from Massachusetts.

I'm a professional geologist and a concrete petrographer and an aggregate petrographer since that's part of the issue here.

I have extensive experience with Connecticut
concrete affected by pyrrhotite. The hundreds of analyses of cores.

I oppose H.B. 5702 because it would not prevent similar issues with defective concrete. The test procedures and methods outlined by the US Army Corps of Engineers presentation would, however, unnecessarily increase the cost of construction in Connecticut. It wouldn't solve anything, it'd just increase costs.

REP. MCCARTHY-VAHEY (133RD): Thank you. That was quite concise and to the point. I appreciate you being here and I have to ask one very important question. Are you originally from Georgia?

STEVEN STOKOWSKI: No.

REP. MCCARTHY-VAHEY (133RD): I didn't think so. Any questions from members of the committee? Senator Anwar.

SENATOR ANWAR (3RD): Thank you, Madam Chair. So you're saying that we should not test our quarries?

STEVEN STOKOWSKI: No, I did not say that.

SENATOR ANWAR (3RD): Okay.

STEVEN STOKOWSKI: I said that the Corps of Engineers has presented a faulty document. The Corps of Engineers has failed repeatedly throughout the years. It is not an infallible organization. They've -- they failed with ASR in multiple places across the United States. A similar issue with reactive aggregate, different kind of reaction.

They failed with oxide carbonate reactivity at the Chickamauga Dam in Tennessee. And they're just not
the organization as the gold standard or even the appropriate way to go about addressing this issue.

SENATOR ANWAR (3RD): So what do you suggest should be the quarry standard? The standards based on your assessment and your experience?

STEVEN STOKOWSKI: You should have professionals go and do the quarry inspection service report. That was done previously in New York to correct longstanding problems that they had. It worked quite well.

And that is something that would work with existing quarries.

SENATOR ANWAR (3RD): Let me rephrase my question, sorry to interrupt you. Maybe I'm asking it -- I'm looking at it from a medical point of view so there's a normal and there's an abnormal. So what would be the threshold in the testing that should be acceptable threshold from across the different parts of the country that you looked at? Acceptable amount of pyrrhotite in a quarry.

STEVEN STOKOWSKI: The pyrrhotite is not the only sulfide that's out there.

SENATOR ANWAR (3RD): Yes.

STEVEN STOKOWSKI: And -- and I've worked for companies and one of my former bosses, in the 70s, I asked about sulfites and his comment was, "You should stay away from sulfites in aggregate, period."

Now obviously you can have -- have some number out there. That number is not really known and in my
experience when I come upon sulfites, you identified where they were, if they're pervasive in an aggregate source, my company would not buy those quarries. They would not operate in those quarries.

Now here you have Becker who is apparently a really small operator and it just causes extensive problems.

SENATOR ANWAR (3RD): Okay and you're based out of Connecticut?

STEVEN STOKOWSKI: No, I'm based in Turantin [phonetic] now.

SENATOR ANWAR (3RD): So you traveled all the way for our testimony today?

STEVEN STOKOWSKI: I have.

SENATOR ANWAR (3RD): Thank you so much for being here. Now so your perspective is that we need to use petrographic way of assessing it? Is that --

STEVEN STOKOWSKI: That would help. But you know, people just need to have the authority when they inspect the quarry to -- to achieve change and apparently the only people who were inspecting Becker's quarry were Becker himself and his own people.

Far as I can tell, there's never been any reports on that operation.

SENATOR ANWAR (3RD): Okay so I -- I am interested in having some quarry standard because we don't want more victims. That's how I approach this.

Now I, again, I'm making it very simple and I -- and
so if somebody's sodium is more than 145 it's at normal. So we say okay, that's a normal -- normal test all over the world.

So in the absence of too much data, we look at what other parts of the country have done and has served them well and I would just say, "Okay, if you were to use one percent of sulfites be a threshold and anything above that is going to be abnormal", that would be a way to protect the community from having another disaster which will show itself in ten, 15, 20 years down the road.

So if there are other quarries in the state of Connecticut which have sulfite aggregate more than one percent, maybe we should actually not use that rock or mix it or have a protection in place for it.

So those are the aspects that come to my mind because we -- the status quo of not doing testing and not having standards has not served our community well.

STEVEN STOKOWSKI:  The idea of analyzing for sulfur in rock which for most concrete would be this size and unevenly distributed throughout it is one that would -- that would lead to misunderstanding and failure and -- and not solve the problem. It is just not the way to go. You're not interested in sulfur.

SENATOR ANWAR (3RD):  Sulfite.

STEVEN STOKOWSKI:  There's a lot of minerals that contain sulfur in there. They're analyzing it chemically. It's not homogenously distributed throughout the rock and you have something that's
called the negative effect. A small piece could just affect all the operation and put somebody out of business where they could avoid mining that.

And it may not even cause a problem if it was a small piece. It could be in the center of the concrete.

SENATOR ANWAR (3RD): Of course you have representative samples, you don't take one sample from about one mile area, you do multiple but -- but so what is the solution. Are you suggesting that there's no such thing as oversight? There's no such thing as quarry standards?

STEVEN STOKOWSKI: The solution has never been any research because this is such a rare occurrence with -- with pyrrhotite in concrete.

SENATOR ANWAR (3RD): Okay.

STEVEN STOKOWSKI: People just do not produce this rock type. I've known for decades that the Brimfield -- Brimfield formation is a terrible formation. It basically leads to wasteland going all the way up into Massachusetts. That's why there was not a lot of involvement there. There's acidic drainage out of this -- out of this formation.

Why this was used for aggregate is -- is something that surprised me and -- and is disturbing that there was not any control within the state, within the building inspectors or within any group that apparently Becker was claiming he had American Concrete Institute approval. And that -- I don't think that would've happened.

So you've got things that are going on that are not
as they appear and -- and that do not go on across the United States.

SENATOR ANWAR (3RD):  Are you serving as a consultant for somebody right now?

STEVEN STOKOWSKI:  I was hired by Connecticut Concrete or Connecticut Construction Industries Association.

SENATOR ANWAR (3RD):  Okay.  To represent the -- do the perspective --

STEVEN STOKOWSKI:  Oh no, I'm representing myself.

SENATOR ANWAR (3RD):  Okay.

STEVEN STOKOWSKI:  You know, they asked me for my pure and honest opinion and I wrote -- I provided written testimony on the presentation and that's been submitted.

SENATOR ANWAR (3RD):  Okay.  All right.  Thank you so much, thank you.  Thank you, Madam Chair.

REP. MCCARTHY-VAHEY (133RD):  Thank you, Senator.  Representative Hughes followed by Representative Vail.

REP. HUGHES (135TH):  Just to clarify, sir, thank you Madam Chair.  So you're being retained by the Concrete Industry of Connecticut to offer your testimony today?

STEVEN STOKOWSKI:  It's the Construction Industry.

REP. HUGHES (135TH):  The construction industries?

STEVEN STOKOWSKI:  Yes.

REP. HUGHES (135TH):  Thank you.  And -- and just to
clarify also to Senator -- your -- you don't have a solution to this because it's so rare you don't have a recommendation for any kind of solution?

STEVEN STOKOWSKI: The solution would be not to test everybody in the United States and have punitive testing on operators that have existed sometimes for over 100 years and never had a problem.

REP. HUGHES (135TH): So just to -- just to clarify, you don't have a solution.

STEVEN STOKOWSKI: I provided a solution. There's not a testing solution. I mean there's an inspection solution if you must. You know, people should do service inspection reports. But physically sampling rock in an inappropriate manner which is essentially what the Corps of Engineers is proposing and analyzing for an element that is not -- that is just a portion of the compound that's affecting this concrete and not looking for that compound which is really a pretty simple mineral to identify.

I mean it's a magnetic mineral, I learned how to identify that in 1972 in college. So it's not like it's hard to do. And it has an unusual chemical composition if you were to look at it in an SCM with chemical analysis.

And it's roughly -- you know, it doesn't have the same proportion as pyrrhotite and it just doesn't have the same -- same chemistry as celestite which occurs around the country. And I mean you're looking for the wrong thing. You're looking for a black box solution it seems to be what's going on.
REP. HUGHES (135TH): So just to clarify, it sounds like you're suggesting that the industry basically police itself for the verifiable legitimacy of it -- of its materials.

STEVEN STOKOWSKI: A lot of the industry and reputable producers have policed themselves.

REP. HUGHES (135TH): Uh-huh.

STEVEN STOKOWSKI: And for all of our 100 years and there's no problem from them. So.

REP. HUGHES (135TH): Okay, I think -- I think we've clarified all we're gonna clarify, thanks.

REP. MCCARTHY-VAHEY (133RD): Thank you, Representative Hughes. Representative Vail.

REP. VAIL (52ND): Thank you, Madam Chair. Good evening. So to come up here and testify against this without offering any reasonable solution, I find a bit perplexing.

This is a serious crisis and the problem is the pyrrhotite. Maybe sulfur oxide and all that. And to then, you know, kind of defame the Army Corps of Engineers which has always had a good reputation, and I -- I'm part of this bill because I know we have to -- we're gonna -- we're gonna create a standard. That's gonna happen.

So you can either be part of the solution or we're gonna go ahead and move ahead and do something on our own.

So to come up here and to question this without offering any reasonable solution, to just say let the industry police itself, that's not gonna happen.
You know, I'm a -- I don't like big government solutions but you got it, there's -- there was an acknowledgement of this problem in 2001. In this -- in this building. I didn't work here, I don't think anyone on this podium did at the time.

And they allowed this company continue to pour concrete until 2015 and they could've solved this problem 13 years ago. The legislators sat on their hands and nobody did anything. And we're gonna do something now.

So you either can be part of the solution and give us good advice based on your experience but to say not to do anything, that's not gonna happen.

So if you have some good advice, I'd be happy to listen to it. And we'll leave it at that.

STEVEN STOKOWSKI: My good advice was to perform source inspection reports. And to -- and to identify if they have any kind of reactive sulfides in the operations.

And then for the operators to deal with it. So that's basically what I'm recommending.

REP. VAIL (52ND): Self-policing. And it's very self-serving for the concrete and construction industry to make that suggestion. And that's where my concern is. That's not being part of the solution. The same as the insurance companies haven't been part of the solution.

We're here trying to figure that out. I don't want to make it difficult for -- for that industry.

Yeah, I know there's a lot of good players. I don't know that there's a problem in any other quarry in
the state but there's a problem at Becker's and there's thousands of houses affected by that.

If we can do -- if somebody did something 15 years ago we'd have a thousand more houses that wouldn't have been affected. But we're doing something now and we need people to come up here with good advice, especially people with your expertise. Not just tell us now.

If we don't like this standard maybe it's not the perfect standard. It's a standard from an organization that I trust but we can certainly have that debate. But to just do nothing is not an option for us.

So I hope your industry and the people you represent or if it's yourself can come up with a more positive approach to addressing this issue and to say, "Hey, just kind of leave us alone and let us continue to do business the way we're doing it." That's not how it's gonna work this time.

So thank you.

STEVEN STOKOWSKI: I'm completely sympathetic with the homeowners. I feel that this is a terrible problem and that it's good that people are addressing it.

I don't know who has the money or the wherewithal to solve the problem with the homeowners. But the -- certainly the legislature has the wherewithal to punish people who weren't involved with the problem which seems to be what House Bill 5702 is going to accomplish. It's not going to solve the problem. All it's going to do is punish people who aren't
part of the problem.

REP. MCCARTHY-VAHEY (133RD): Thank you, Representative Vail unless you have any further questions. Representative Michel.

REP. MICHEL (146TH): Thank you, Madam Chair. Well, you hit it fat on the concrete by coming from Georgia. It must be much colder here. Just a quick question, did you pay for your own trip? For the flight?

STEVEN STOKOWSKI: No.

REP. MICHEL (146TH): Okay. And then I just -- I understand what you're saying that inspections were not proper because obviously there was a problem so there's a problem in the inspection process. And reporting process.

But at the same time, again and I don't wanna repeat too much what I said before but you're coming in front of us from Georgia to let us know that, you know, 5703 is gonna be punishing the wrong people. But you're not really -- and you're saying that we shouldn't really test.

STEVEN STOKOWSKI: I said that the tests proposed are not going to solve the problem.

REP. MICHEL (146TH): Well, I mean --

STEVEN STOKOWSKI: And having a professional inspection is a test.

REP. MICHEL (146TH): With all due respect, we have residents who suffering their health. Financially and all sorts of things. And in order to stop an issue from happening, we do need to -- to find ways
with every -- every piece of the process. And we need to analyze that and we need to figure out what we can change in every step of the process in order to ensure that our residents are going to be safe and their finances as well.

So I mean you know, maybe it's more of a comment but I'm just -- I just didn't know at all that you say, you know, the testing is not gonna do anything. No more testing and there's gonna be more charges on the construction side of the -- of the fence. And I don't know, it's kind of odd. I find it odd but thank you for coming from Georgia.

REP. MCCARTHY-VAHEY (133RD): Thank you, Representative Michel. Representative Delnicki followed by Senator Anwar.

REP. DELNICKI (14TH): Thank you, Madam Chair. Steve, what -- what are your qualifications as -- you're a geologist?

STEVEN STOKOWSKI: I'm a geologist and a petrographer for -- I've been a consultant for years.

REP. DELNICKI (14TH): Okay, but what degrees do you --

STEVEN STOKOWSKI: I've been a consultant for years. I previously had managed the lab for Vulcan Materials Company, the largest producer of aggregate in the world at the time. For Martin-Marietta and for smaller companies.

REP. DELNICKI (14TH): What are your -- what is your degree in?
STEVEN STOKOWSKI:  I have a Master's Degree in geology from South Dakota School of Mines and a BS from George Washington University.

REP. DELNICKI (14TH):  Okay now I have to be blunt. You're asking us to believe that the Army Corps of Engineers who developed a standard of testing paradigm is wrong. Is that correct?

STEVEN STOKOWSKI: They did not develop that. They -- they did not develop anything in there. That is just -- that is a presentation that they've put together. They have not imaged any concrete with pyrrhotite in it. They have misstated some of the procedures that would be appropriate. And it's just not something that would be helpful with that as they presented it.

Now I don't know whether but they stated that they weren't paid to do this and I feel that [crosstalk] they had some kind of political pressure to come up with something and they did.

REP. DELNICKI (14TH): They were asked to look at a huge problem we have and to come up with standards that we could utilize and implement. And the taxpayers paid for the Army Corps of Engineers. Not an industry organization, not a consulting company. Not a lobbyist but the taxpayers.

You and me paid for them to come up with a testing standard that we could utilize and I'll be honest, I'm open to this only being utilized as an interim to something that will work better or cheaper.

But the point being we don't know what we have in our quarries. We have to take a leap of faith and
assume everything's okay as was assumed back when Becker's was in operation. I'm not casting aspersions on the companies that paid for you to come here because they probably have good quarries. But we don't know that we have to set something up for the entire state to ensure that this doesn't happen again.

So I have a tough time taking a leap of faith that the Army Corps of Engineers, again, a premier organization and I realize you have a problem with them. You don't think they're a gold standard.

REP. MCCARTHY-VAHEY (133RD): Representative Delnicki, do you have a question?

REP. DELNICKI (14TH): So my question is how can you say the Army Corps of Engineers doesn't know what they're doing?

STEVEN STOKOWSKI: I have a lot of respect for the Army Corps of Engineers. I reviewed their presentation and I feel that it was very poor. I was very disappointed.

I've also worked for the US Geological Survey and I've worked at the Turner-Fairbank Highway Research Center which is federal highways as their aggregate expert. And their topographic expert.

This report is not solving the problem. It is just making more problems and it may give everybody a warm rosy feeling in their stomach but it isn't going to help. It isn't going to help at all. And I'm very disappointed in what they did.

And I'm hoping that my professional opinion can -- can help everybody make the correct decision so that
they can move forward and solve these problems. Not just make incorrect decisions which has happened so often.

REP. DELNICKI (14TH): Well, I thank you for your testimony and thank you, Madam Chair.

REP. MCCARTHY-VAHEY (133RD): Thank you, Representative Delnicki. Senator Anwar. For a question.

SENATOR ANWAR (3RD): Thank you, Madam -- yes, thank you Madam Chair.

I think through you I'm also talking to the concrete industry or the quarry industry, if you will. We are interested to find a solution. We would love some written information if you could provide with some data and some suggestions.

We are hoping to make a decision and we need to move forward with some kind of a quarry standard and even if the standards have multiple components to it which may include direct assessment of an expert but also may require some measurements for better understanding.

And the intention of no one over here is to harm the other businesses. That's not our intention but we are fearful that that may be the unintended consequence so I recognize where you're coming from and I recognize the anxiety of somebody who is the owner of an industry in that capacity has some concerns.

I just want you to know that if you can send us data, if you can send us more information but with solutions.
Sometimes you may not have the solutions right here because it's a short amount of time and -- and it's been late. We've been sitting here for many hours.

But if you have solution and suggestions, please send it our way. Our agenda is to protect the community but at the same time not harm the industry but -- and that's what we are trying to do.

So give us information, concrete information, if you will. [Laughing] And that would help us out -- make the best choice but also we wanna protect the community. That's gonna take our priority and we can always go back and if he has more data and useful data like the Representative Delnicki has suggested, we can go back and adjust this further.

But give us information that you can have to make sure that we are protecting the community but also the industry at the same time.

I'll just leave it at that. Thank you so much.

REP. MCCARTHY-VAHEY (133RD): Thank you, Senator. Mr. Stokowski, I actually have a couple of questions for you and I'm gonna actually ask Representative Delnicki if you can slide over just a tiny little bit so I can see -- there we go, thank you so much. Thank you.

So I just wanna make sure that I'm understanding what you're saying correctly. What I'm hearing you say is that rather than an owl, rather than using a medical model, use a social work model.

You're looking at more of a prevention model than a postvention or a recovery and treatment model. In other words, what you're suggesting is that the
testing be done -- that the survey and I forget the terminology, forgive me -- be done ahead of time.

Some of us up here have suggested that it's really a self-policing. But I did hear you say something about building inspectors.

So is this -- if the method that you are suggesting were to be done, who would be doing that? And remind me of the terminology, please.

STEVE STOKOWSKI: The service inspection report would be probably the correct jargon for use and I would assume, like all testing, it would be paid for by the owner of the quarry. Or the owner's representative.

Did I answer all those questions? There were a number of them together.

REP. MCCARTHY-VAHEY (133RD): So you would have that paid for by the owner of the quarry but who would actually do that, then?

STEVE STOKOWSKI: It could be people in their employ or it could be an independent geologist or an independent consulting firm that employs professional geologists.

I imagine there would be a perceived conflict of interest if it was the employee -- direct employee of the quarry operator.

REP. MCCARTHY-VAHEY (133RD): I think you're absolutely right about that and I think that's where you heard some of the emotion coming from the members who are asking you questions because -- because of that potential conflict.
Am I also correct in understanding that this situation is unique, that you have not encountered this in your travels in other work or that you're not aware of this happening [crosstalk] in places that you have worked with.

STEVE STOKOWSKI: Oh, excuse me, Madam Chairman, I thought you were finished. The -- I've seen sulfides as a problem in various concrete applications across the country. I can't recall particularly seeing pyrrhotite as a -- as a defecting concrete in any of my work. I've read of a couple cases where there were and that -- in one the US Atomic Energy Commission attempted to use pyrrhotite as a neutron absorber and the concrete fell apart.

I've not seen that but presumably that's reliable. However in high concentrations.

But the questions often are what is the problem, is it expansion of the concrete or is it staining of the surface of the concrete? And that occurs from time to time and the -- you know, you see a stain, you do some work once you identify what the stain is and you try to figure out who provided material that caused the staining. And that issue is corrected.

The fact that this went on for so many years without any recognition of -- of the problem -- is actually quite appalling.

REP. MCCARTHY-VAHEY (133RD): I have one final question for you. Earlier, Senator Anwar was asking and discussing with you the percentages in terms of having a standard. And I'm newer to this issue and I am definitely not a geologist but I was hearing
you say that essentially if there were sulfites in any percentage present that you would suggest or recommend that they not be used for aggregate.

STEVEN STOKOWSKI: That portion of a quarry should be avoided. In the Becker case, it appears to be the entire quarry. And at high levels throughout the -- you know, throughout the aggregate. Over 90 percent of the particles have pyrrhotite in them. How did they keep producing and using that for so many years?

I can't explain that. But that is -- that is a very unusual situation. But when we've come across sulfites of some kind, the issue is usually staining and the quarry just avoids that area. It's not pervasive and saturated throughout the rock.

REP. MCCARTHY-VAHEY (133RD): Well, I would say it's true, the magnitude of this situation is certainly staggering and it's tragic, actually, is the word that I would use.

But with respect to the standards of the percentage, we -- there are some of us here who are looking at having some standard or some level of percentage. Would you -- and if I missed it, forgive me -- but is there a percentage that you would recommend if we were to establish that standard?

STEVEN STOKOWSKI: Historically ASMC-33 has limited deleterious extensive particles and they've used different numbers for that but for standard concrete that's about five percent. And that's the whole particle. So that's -- that but we're talking about -- we're comparing a lot of apples and oranges with this chemical analyses and with other things.
The five percent is not really pyrrhotite, it's five percent of the rock that has the deleterious thing in it. So it's -- that would be a standard that's been in practice for 50, 60 years.

REP. MCCARTHY-VAHEY (133RD): Okay. Well, thank you for traveling up here from Georgia and for the second time, very briefly, Representative Michel.

REP. MICHEL (146TH): Thank you, Madam Chair. Is there anywhere else in the US that a problem, maybe not to that extent, but at least that there's been other constructors involved with this kind of issue that you would --

STEVEN STOKOWSKI: Not with pyrrhotite. [Crosstalk] There was federal market site in Palestine, Texas and they keep producing it and using it in the concrete and they're happy because otherwise they'd have to ship it from 300 miles away. And they wouldn't have any construction in Palestine, Texas.

REP. MICHEL (146TH): And then what -- I mean if 5702 passed in Connecticut, how -- why would that be such a problem for you guys around the US?

STEVEN STOKOWSKI: In the rest of the United States?

REP. MICHEL (146TH): Yeah. [Crosstalk]

STEVEN STOKOWSKI: I don't know why. It would probably take them on a life of its own. But we're talking about this in Connecticut right now, we're not talking about the rest of the United States.

REP. MICHEL (146TH): Right, is only something for Connecticut, okay. No, I'm just curious if maybe you had any -- any, you know, worry that it could
set a precedence or make other states more like
instigating to why we're doing this here. I don't
know. Just -- just asking.

Thank you.

STEVEN STOKOWSKI: Welcome.

REP. MCCARTHY-VAHEY (133RD): Thank you,
Representative Michel. Any further questions?
Thank you for being here with us today.

We have exhausted our list so are there other folks
here who would like to testify before us today?

If not, I would like to actually just take this
opportunity to thank all the Senators and
Representatives who have stayed with us today as
well as all of the members of the public who are
here with us and have endured through to the end.
As you can see, there is a strong bipartisan support
to help and support these families and with that we
are going to adjourn our hearing.