

DISTRICT OF COLUMBIA

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ALCOHOLIC BEVERAGE CONTROL BOARD

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ROLL CALL HEARING

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IN THE MATTER OF: :

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Watergate Hotel Lessee, LLC:

t/a Watergate Hotel :

2650 Virginia Avenue NW :

License #ABRA-091162 :

Retailer CH :

New Application :

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FEBRUARY 25, 2013

The Alcoholic Beverage Control Board met in Alcoholic Beverage Control Hearing Room Suite 400S, at 2000 14th Street, N.W., Washington, D.C., LaVerne Fletcher, Agent, presiding.

1 P-R-O-C-E-E-D-I-N-G-S

2 10:01 a.m.

3 MS. FLETCHER: This is Case #13-
4 PRO-00005, Watergate Hotel Lessee, LLC,
5 trading as Watergate Hotel, 2650 Virginia
6 Avenue NW, License #ABRA-091162. This is a
7 Retailer CH New Application.

8 The protest issues are adverse
9 impact on peace, order and quiet, residential
10 parking and vehicular and pedestrian safety
11 and real property values.

12 My name is LaVerne Fletcher, and
13 I'll be conducting the roll call hearing as
14 the Board's agent pursuant to D.C. Official
15 Code 1601.2.

16 Introductions beginning with the
17 Applicant, please.

18 MR. O'BRIEN: Stephen O'Brien for
19 the Applicant. I'm accompanied by Mark --
20 that's M-A-R-K -- Luria -- L-U-R-I-A -- who is
21 Senior Vice President of Development for the
22 parent of the Applicant.

1 MS. FLETCHER: Mr. O'Brien, can
2 you give me that name and spelling one more
3 time, please?

4 MR. O'BRIEN: Yes. M-A-R-K L-U-R-
5 I-A.

6 MS. FLETCHER: And present on
7 behalf of the Protestants beginning with you,
8 sir.

9 MR. WALDMAN: Gerry Waldman,
10 President of Watergate West.

11 MS. FLETCHER: Mr. Waldman, would
12 you please spell your name for the court
13 reporter?

14 MR. WALDMAN: It's Gerald -- G-E-
15 R-A-L-D -- Waldman -- W-A-L-D-M-A-N.

16 MS. FLETCHER: Thank you.

17 MS. DYMOWSKI: Julie Dymowski.
18 I'm the attorney for Watergate West in the
19 petition filed by the Board Members.

20 D as in David -- Y -- M as in Mary
21 -- O-W-S-K-I.

22 MS. FLETCHER: Thank you, Ms.

1 Dymowski.

2 MR. IRIZARRY: Good morning. I'm
3 Armando Irizarry. And I am an ANC
4 Commissioner, and I'm here for the ANC as part
5 of the protest in this matter.

6 And my name is Armando -- A-M-A-N-
7 D-O. And the last name is Irizarry. That's
8 I-R-I-Z-A-R-R-Y.

9 MS. FLETCHER: Thank you.

10 MS. DYMOWSKI: Ms. Fletcher, we
11 have many, many people here who also filed
12 protests and should identify themselves for
13 the record.

14 MS. FLETCHER: Okay. Thank you.

15 If you each would line up behind
16 Ms. Dymowski and in front of the microphone on
17 the table and state your name and spell it for
18 the court reporter.

19 MR. SMITH: William Smith -- Dr.
20 William Smith. W-I-L-L-I-A-M S-M-I-T-H. And
21 accompanied today by my wife, Anne Smith -- A-
22 N-N-E S-M-I-T-H, and Pauline Newman -- P-A-U-

1 L-I-N-E N-E-W-M-A-N.

2 And we have letters of
3 representation from two of the other
4 protesters.

5 MS. FLETCHER: Okay. I'll take
6 that letter.

7 MR. SMITH: Oh, we have two more
8 of our petitioners here. Do you want to step
9 up?

10 MS. FLETCHER: Where is Anne
11 Smith? Thank you.

12 And where is Pauline Newman?
13 Okay. Thank you.

14 MR. SMITH: We have two additional
15 signatories here.

16 MS. FLETCHER: Okay. I'll take --

17 MR. SMITH: I will give you the
18 letters as well.

19 MS. FLETCHER: Okay. Thank you.

20 MS. KELLEY: Sherry Kelley.

21 MS. FLETCHER: Ms. Kelley, would
22 you spell that for the court reporter?

1 MS. KELLEY: Both names?

2 MS. FLETCHER: Yes.

3 MS. KELLEY: S-H-E-R-R-Y K-E-L-L-
4 E-Y.

5 MS. FLETCHER: Thank you.

6 MR. KELLEY: Estel Kelley -- E-S-
7 T-E-L K-E-L-L-E-Y.

8 MS. FLETCHER: Thank you.

9 MR. DEMING: Daniel Deming -- D-A-
10 N-I-E-L D-E-M-I-N-G. And I have a letter to
11 represent my wife, Madeleine Deming.

12 MS. FLETCHER: Ms. Newman,
13 actually this letter you can actually keep.

14 MS. NEWMAN: Oh, okay.

15 MS. FLETCHER: Yes. If you had a
16 letter designating you to represent someone,
17 then I would take that one. You can keep that
18 one.

19 MS. NEWMAN: Well, I'm
20 representing myself.

21 MS. FLETCHER: Okay. That's
22 perfect. Thank you.

1 MS. KAUB: I'm at 91162. Jonda
2 McFarlane -- that's not my name, but I would
3 represent. Do you want my name?

4 MS. FLETCHER: Yes, if you could
5 state your name and spell it for the court
6 reporter.

7 MS. KAUB: My name is Karen -- K-
8 A-R-E-N -- Kaub -- K-A-U-B as in boy.

9 MS. FLETCHER: Thank you.

10 MR. PHILLIPS: I'm part of the
11 Jonda McFarlane petition. And my name is
12 Robert -- R-O-B-E-R-T -- Phillips -- P-H-I-L-
13 L-I-P-S.

14 MS. FLETCHER: What's the last
15 name again?

16 MR. PHILLIPS: Phillips.

17 MS. FLETCHER: And how do you
18 spell it?

19 MR. PHILLIPS: P-H-I-L-L-I-P-S.

20 MS. FLETCHER: Thank you.

21 MR. GILSTRAP: My name is Lewey
22 Gilstrap -- L-E-W-E-Y G-I-L-S-T-R-A-P. I'm a

1 resident of Watergate West and a member of the
2 Board of Directors.

3 MS. FLETCHER: Thank you, Mr.
4 Gilstrap.

5 MR. WALSH: Michael Walsh -- W-A-
6 L-S-H, first name, M-I-C-H-A-E-L.

7 MS. FLETCHER: And the last name
8 is W-A-L-S-H?

9 MR. WALSH: Correct.

10 MS. FLETCHER: Thank you.

11 MS. RICE: I'm Joyce Rice. I'm
12 here to represent Cynthia Walker. And she
13 emailed LaVerne Fletcher.

14 MS. FLETCHER: Yes. I'm LaVerne
15 Fletcher, and I do have her email designating
16 you as her representative. Thank you.

17 MS. RICE: Okay.

18 MS. FLETCHER: Thank you very
19 much.

20 MS. RICE: Thank you.

21 MS. FLETCHER: Anybody else?

22 MS. DYMOWSKI: Ms. Fletcher, there

1 was a letter that I did file with the record
2 on February 6 representing additional
3 petitioners that are not here.

4 MS. FLETCHER: Yes.

5 MS. DYMOWSKI: I just wanted to
6 bring that to your attention.

7 MS. FLETCHER: Yes. I actually
8 have that.

9 Ms. Dymowski, I have a letter from
10 you designating a group of eight which
11 includes Mr. Waldman --

12 MS. DYMOWSKI: Correct.

13 MS. FLETCHER: -- and seven other
14 residents --

15 MS. DYMOWSKI: Correct.

16 MS. FLETCHER: -- at Watergate
17 West.

18 MS. DYMOWSKI: Correct.

19 MS. FLETCHER: Let me ask you
20 something because this would be a good time to
21 clarify something, Ms. Dymowski.

22 Mr. Waldman is also -- you're also

1 a resident -- is also a resident at Watergate
2 West. Is Watergate West, Inc. filing a
3 complaint, or is Mr. Waldman filing the
4 complaint?

5 MS. DYMOWSKI: We were doing it in
6 both capacities. Watergate West, Inc. is a
7 residential co-op which is immediately next
8 door to the property at issue. And each of
9 the individuals here were doing it as a
10 director of Watergate West.

11 MS. FLETCHER: And so, Watergate
12 West, Inc. is not the owner of the property at
13 2700 --

14 MS. DYMOWSKI: They are the owner.
15 Watergate West owns --

16 MS. FLETCHER: Watergate West,
17 Inc. is the owner of the property?

18 MS. DYMOWSKI: Yes. These are
19 individual residents who live there pursuant
20 to certain documents. But the corporate
21 entity is the owner of --

22 MS. FLETCHER: Is the owner.

1 Okay.

2 MS. DYMOWSKI: -- of that
3 property.

4 MS. FLETCHER: Okay. Thank you.

5 And so, with respect to the group
6 that you're representing, because Watergate
7 West, Inc. is an owner of the property, it is
8 a protestant --

9 MS. DYMOWSKI: Okay.

10 MS. FLETCHER: -- in addition to
11 the individuals?

12 MS. DYMOWSKI: Correct. Thank
13 you.

14 MS. FLETCHER: Okay.

15 And the other question that I have
16 is are all of the residents of 2700 going to
17 form a group of one because I have several
18 letters from different groups in 2700? So is
19 this going to be one group or do you want to
20 be treated as a separate group?

21 MR. PHILLIPS: Separate.

22 MS. FLETCHER: You want to be

1 included as a separate group?

2 MR. PHILLIPS: I have --

3 MS. FLETCHER: Okay.

4 MR. PHILLIPS: Our position is we
5 just represent ourselves as owners.

6 MS. FLETCHER: Okay. And you,
7 sir, can you step forward for a second? I
8 have a question for you.

9 MS. FLETCHER: And can I --

10 MR. PHILLIPS: I have a hearing
11 problem.

12 MS. KAUB: Yes, he has trouble
13 hearing.

14 MS. FLETCHER: Thank you.

15 Okay. You'll need to go to the
16 microphone anyway. I'll just have to talk
17 louder for the court reporter.

18 MR. PHILLIPS: Okay. Thank you.

19 MS. FLETCHER: May I get your name
20 again?

21 MR. PHILLIPS: Robert -- Robert
22 Phillips -- P-H-I-L-L-I-P-S.

1 MS. FLETCHER: So Mr. Phillips,
2 what's your address?

3 MR. PHILLIPS: 2700 Virginia
4 Avenue.

5 MS. FLETCHER: And you're
6 together?

7 MS. KAUB: Yes. I have another
8 apartment.

9 MS. FLETCHER: And what's your
10 name?

11 MS. KAUB: I'm Karen -- K-A-R-E-N
12 K-A-U-B.

13 MS. FLETCHER: And so, Mr.
14 Phillips, you do not want to be treated as a
15 part of a group with respect to 2700?

16 MR. PHILLIPS: I don't know what
17 their document is. All I know is that there's
18 a petition that was circulated and was signed
19 by eight members that appeared reasonable to
20 me. And so I signed it.

21 MS. FLETCHER: Okay. Same for
22 you, Ms. Kaub?

1 MS. KAUB: Yes.

2 MS. FLETCHER: You don't want to
3 be treated as a part of the group of 2700?

4 MS. KAUB: I don't believe so. I
5 think that we want some regulation and say but
6 not perhaps as total as some of the others.

7 MS. FLETCHER: Is there anyone
8 else present that shares that view -- any
9 other individuals who do not want to be a part
10 of the group at 2700 Virginia Avenue? Or does
11 everyone else choose to be a part of the
12 entire group?

13 MR. SMITH: My name's William
14 Smith.

15 MS. FLETCHER: Yes?

16 MR. SMITH: We represent a
17 separate protest letter. And we have taken
18 positions from the negotiating standpoint that
19 we hope that the group or the building itself
20 will arrive at a position. But like the other
21 folks who are here, we're not fully aware of
22 what the building's position is at this time.

1 So we felt we wanted to be on record as a
2 separate protest until it's clear what the
3 building's position was.

4 And I think that's probably both
5 the protests that you're seeing in addition to
6 the building are in that position. That's
7 correct.

8 MS. FLETCHER: Okay. Thank you.

9 MR. SMITH: And in terms of our
10 negotiating position, we are asking the
11 building to take the lead on it. But the
12 building right now, we don't know what their
13 position is. So until that becomes clear,
14 we'd like to be treated separately.

15 MS. FLETCHER: Okay.

16 MS. KELLEY: So can he speak for
17 all of us who signed his petition or do we
18 each need to stand up?

19 MS. FLETCHER: And I'm going to
20 get to that in a moment.

21 MS. KELLEY: Okay.

22 MS. FLETCHER: Because what I'm

1 going to do now in light of that is I'm going
2 to designate each individual group --
3 determine whether each individual group is
4 standing as protestants today. If you were
5 all going to be one group at 2700 Virginia
6 Avenue, then I would just grant standing to
7 the entire group as protestants. So now I'm
8 just going to break it down and see who's here
9 from each group and determine if the group has
10 standing as protestants.

11 So Ms. Rice, I know already that
12 Carolyn Walker would like to be included --

13 MS. RICE: Cynthia Walker.

14 MS. FLETCHER: What?

15 MS. RICE: Cynthia Walker.

16 MS. FLETCHER: Well, she says
17 Carolyn. But okay. Her correspondence to me
18 says Carolyn Walker.

19 MS. RICE: It does?

20 MS. FLETCHER: Yes.

21 MS. RICE: We have an email for
22 her.

1 MS. FLETCHER: I do, too. I'm
2 just letting you know the name that I use.
3 I'm just making a note for the record that Ms.
4 Walker already decided that she wanted to be
5 a member of the group at 2700 Virginia Avenue.

6 MS. RICE: And the Board.

7 MS. FLETCHER: Yes. A member of
8 the Board --

9 MS. RICE: As the Board.

10 MS. FLETCHER: A member of the
11 group of 2700 --

12 MR. SMITH: Yes.

13 MS. RICE: Yes.

14 MS. FLETCHER: -- Virginia Avenue.

15 MS. RICE: Okay.

16 MS. FLETCHER: I just wanted to
17 state that for the record.

18 MS. RICE: Okay. Yes.

19 MS. FLETCHER: Thank you.

20 ANC 2A does have standing as a
21 protestant.

22 Ms. Dymowski's group does have

1 standing as a protestant. That would be the
2 Watergate West, Inc., in addition to the other
3 individuals represented by Ms. Dymowski.

4 So Ms. Dymowski, I'm looking at
5 your protest letter, and I see the names of
6 the individuals that signed. Some of them I
7 can read. Some of them I can't. But their
8 signatures are there.

9 MS. DYMOWSKI: Correct.

10 MS. FLETCHER: I know that Daniel
11 Dening -- Daniel Dening -- is that correct?

12 MR. WALDMAN: Deming. Deming.

13 MS. FLETCHER: You're a part of
14 the group being represented by Ms. Dymowski,
15 yes?

16 MR. DEMING: Yes, ma'am.

17 MS. DYMOWSKI: Correct.

18 MS. FLETCHER: Jennifer South?

19 MS. DYMOWSKI: Jennifer Smith.

20 MS. FLETCHER: Smith? Ms.

21 Jennifer Smith? I'm sorry. Jennifer Smith is
22 being represented by Ms. Dymowski.

1 MS. DYMOWSKI: Correct. She's not
2 present.

3 MS. FLETCHER: She's not present
4 but she's covered because you're here.

5 MS. DYMOWSKI: Correct.

6 MS. FLETCHER: Okay.

7 And Ms. Dymowski, I'm looking at
8 your signature page on page two.

9 MS. DYMOWSKI: Yes?

10 MS. FLETCHER: That third
11 signature, who is that?

12 MS. DYMOWSKI: Mr. Waldman.

13 MS. FLETCHER: Oh, that's Mr.
14 Waldman? Okay. Mr. Waldman.

15 Ms. Dymowski?

16 MS. DYMOWSKI: Yes?

17 MS. FLETCHER: On the second page,
18 what's the second name?

19 MS. DYMOWSKI: What's the second
20 name?

21 MR. WALDMAN: This is Mai Dugoff.
22 Well, she often writes it Tran. But Mai

1 Dugoff is Mai Van Tran. I'm not sure how she
2 signed it here though.

3 MS. FLETCHER: Okay.

4 MS. DYMOWSKI: Can you spell it
5 for the court reporter?

6 MS. FLETCHER: The second one on
7 the list?

8 MS. DYMOWSKI: Yes. Can someone
9 spell it for the court reporter?

10 MS. FLETCHER: Or pronounce it
11 phonetically?

12 MR. WALDMAN: She wrote it Tran.
13 It's Tran. So it's M-A-I V-A-N T-
14 R-A-N.

15 MS. FLETCHER: Thank you. So
16 that's Mai Van Tran?

17 MS. DYMOWSKI: Right.

18 MS. FLETCHER: So the person to
19 that effect is also represented by Ms.
20 Dymowski.

21 MS. DYMOWSKI: Correct.

22 MS. FLETCHER: Okay. And then we

1 have Lewey Gilstrap?

2 MR. WALDMAN: Yes, ma'am.

3 MS. FLETCHER: Also represented --

4 MR. WALDMAN: Mr. Gilstrap back
5 here.

6 MS. FLETCHER: Yes.

7 MS. DYMOWSKI: He's present.

8 MR. WALDMAN: Christine Evans,
9 member of the -- secretary of the Board.
10 She's not here.

11 And the last one is Hal Lawrence.

12 MS. FLETCHER: Hal Lawrence is
13 being represented by Ms. Dymowski, but he's
14 not here today.

15 MS. DYMOWSKI: Correct.

16 MS. FLETCHER: But he is being
17 represented. Okay.

18 MR. WALDMAN: And one other person
19 is Judge Newman who you previously met as
20 she's on both petitions, ma'am.

21 MS. DYMOWSKI: Ms. Fletcher, if
22 you go to page one of my letter at the very

1 bottom, you'll see that the first signature --

2 MS. FLETCHER: Yes. That's
3 Pauline Newman. Yes.

4 MS. DYMOWSKI: Correct.

5 MS. FLETCHER: So Ms. Dymowski,
6 present from your group today -- and let me
7 know if I leave out anyone --

8 MS. DYMOWSKI: Okay.

9 MS. FLETCHER: -- is Pauline
10 Newman is present?

11 MS. DYMOWSKI: Correct.

12 MS. FLETCHER: Daniel Deming is
13 present?

14 MS. DYMOWSKI: Is he present?
15 Correct.

16 MS. FLETCHER: Lewey Gilstrap is
17 present?

18 MS. DYMOWSKI: Correct.

19 MS. FLETCHER: Mr. Waldman is
20 present?

21 MS. DYMOWSKI: Correct.

22 MS. FLETCHER: Did I leave out

1 anybody?

2 MS. DYMOWSKI: Not that's present.

3 MS. FLETCHER: Okay. So what that
4 means is that if this matter is not resolved
5 in mediation and there's going to be a status
6 hearing, then one more person from Ms.
7 Dymowski's group will need to appear. But Ms.
8 Dymowski knows that already. I'm just stating
9 this for the record.

10 MS. DYMOWSKI: Okay.

11 MS. FLETCHER: At the point of the
12 status hearing, the Board needs to have seen
13 at least five people.

14 MS. DYMOWSKI: Okay.

15 MS. FLETCHER: Four are present
16 today. So one person who's not here today
17 from Ms. Dymowski's group would appear at the
18 status hearing.

19 MS. DYMOWSKI: Yes.

20 MS. FLETCHER: So that's one
21 group. Ms. Dymowski's group has standing as
22 a protestant.

1 Watergate West, Inc. is a
2 protestant. ANC 2A.

3 MR. IRIZARRY: 2A.

4 MS. FLETCHER: I'm going to deal
5 with the groups in just a moment.

6 Okay. And so now I'm going to
7 look at the individual groups.

8 So there is a group of 22. None
9 of the other groups designated
10 representatives. So I'm going to identify the
11 groups and then determine who's in the groups,
12 and you can decide who's going to represent
13 your group.

14 MR. SMITH: We have some
15 additional signatures --

16 MS. FLETCHER: I'm sorry. Could
17 you just tell --

18 MR. SMITH: Sure. We have
19 additional signatures for that group as well.

20 MS. FLETCHER: Okay.

21 MR. SMITH: Is that the group that
22 you'd like to talk to now?

1 MS. FLETCHER: I'm going to have
2 to figure out who's in the group of 22. I
3 have a couple of other groups. I'll let you
4 know in a moment.

5 MR. SMITH: Very good.

6 MS. FLETCHER: And what's your
7 name, sir?

8 MR. SMITH: William Smith.

9 MS. FLETCHER: Okay. William
10 Smith is speaking.

11 Okay. So Anne Smith -- these are
12 members of the group of 22?

13 MR. SMITH: Correct.

14 MS. FLETCHER: Anne Smith, who's
15 present; William Smith is present. Pauline
16 Newman also signed as an individual member of
17 your group. She's present.

18 MR. SMITH: Yes.

19 MS. FLETCHER: Daniel Deming is
20 also present. He signed as a protestant of
21 the group of 22.

22 MR. SMITH: Yes.

1 MS. FLETCHER: Michael Walsh is
2 present. Michael Walsh is present from the
3 group of 22. Thank you.

4 Sherry Kelley is present from the
5 group of 22.

6 Is there anyone else present that
7 you know that you're with the group of 22?

8 MR. KELLEY: Yes.

9 MS. FLETCHER: Whatever you say,
10 you'll need to say it in the microphone so
11 that the court reporter can record it.

12 MR. KELLEY: Yes. You got my name
13 before -- a member of the group of 22.

14 MS. FLETCHER: And what is it?

15 MR. KELLEY: Estel -- E-S-T-E-L
16 Kelley -- K-E-L-L-E-Y.

17 MS. FLETCHER: Yes. Exactly.
18 Yes, I do have you as a member of the group of
19 22. Thank you.

20 Did somebody else raise their hand
21 back there? Did you raise your hand?

22 PARTICIPANT: You've already

1 called my name.

2 MS. FLETCHER: Okay. Thank you.

3 I just wanted to make sure that I include
4 everybody.

5 Okay. So from the group of 22,
6 there are six people present. From the group
7 of 22, there are six people present.

8 What that means is that only those
9 six individuals are granted standing as
10 protestants.

11 MR. SMITH: We have an additional
12 two letters --

13 MS. FLETCHER: I'll take those.

14 MR. SMITH: -- of designation.

15 MS. FLETCHER: The ones you gave
16 me earlier.

17 MR. SMITH: Yes.

18 MS. FLETCHER: Yes, yes, yes.
19 Thank you. Thanks for reminding me. That
20 will include those individuals.

21 Madeleine Deming.

22 MR. SMITH: I think you have

1 different letters there. It should be Carrey
2 Thyne.

3 MS. FLETCHER: Yes. I'm just
4 going through them one at a time.

5 MR. SMITH: Oh, okay. Great.

6 MS. FLETCHER: Madeleine Deming is
7 being represented by Daniel Deming. And she
8 is a member of the group of 22.

9 MR. SMITH: Yes.

10 MS. FLETCHER: So that brings the
11 number up to seven.

12 Madeleine is spelled M-A-D-E-L-E-
13 I-N-E. And the last name is D-E-M-I-N-G.

14 Michelle Michaels is a member of
15 the group of 22. And she has designated Anne
16 Smith as her representative bringing the
17 number up to eight.

18 Carrey Thyne is a member of the
19 group of 22. She designated Anne Smith as her
20 representative. So that brings the number up
21 to nine.

22 MR. O'BRIEN: What was that last

1 name?

2 MS. FLETCHER: Thyne. T-H-Y-N-E,
3 Carrey.

4 MR. O'BRIEN: Thank you.

5 MS. FLETCHER: She's on the first
6 page.

7 MR. O'BRIEN: Thank you.

8 MS. FLETCHER: Mr. Smith, are
9 there any other letters?

10 MR. SMITH: I think you got them.

11 MS. FLETCHER: Okay. Thank you.

12 So the group that started out as a
13 group of 22 is now a group of nine.

14 Anybody that's not present today
15 and did not designate a representative to
16 appear on the behalf is dismissed. But the
17 roll call hearing notice states that. But the
18 group of nine has standing to file a protest.
19 So now we have a group of nine.

20 And for the group of nine, you
21 actually need to designate a representative to
22 speak on behalf of the entire group.

1 I was only dealing with the group
2 of 22. So what started out as a group of 22
3 is now a group of nine that has standing as
4 protestants because you're present.

5 From this point forward, we just
6 need the name of a person that you want to
7 designate as your representative to speak on
8 behalf of the entire group. That's going to
9 be Mr. Smith?

10 MR. SMITH: That'll be me.

11 MS. FLETCHER: So William Smith is
12 the designated representative for the group of
13 nine.

14 Mr. Smith, on the table there is a
15 sign-in sheet, a contact sheet. The only name
16 that needs to be on there is the designated
17 representative. So any of you that filled it
18 in, that's okay as long as your name is on
19 there, Mr. Smith. A name, daytime number and
20 email address.

21 Okay. We'll look at a couple of
22 other groups to see who has standing.

1 Oh, let me just add for the
2 record, I'm actually going to add Cynthia
3 Walker to the group of nine to make that a
4 group of ten. If no one is opposed to that,
5 I'm going to add her to your group because she
6 lives at 2700 Virginia Avenue. She could not
7 be here today. But she indicated that if that
8 group was given standing that she would like
9 to join the group.

10 MR. SMITH: Okay.

11 MS. FLETCHER: She's a resident at
12 2700 Virginia Avenue?

13 MR. SMITH: Yes, she is.

14 MS. FLETCHER: So I'm going to
15 make her a member of your group of nine
16 bringing that up to a group of ten.

17 MR. SMITH: Okay.

18 She's also a resident and member
19 of the Board.

20 MS. FLETCHER: Okay.

21 So there's one other group which
22 is a group of eight.

1 MS. KAUB: This is the letter.
2 We're representing Jonda McFarlane. She's our
3 designated person.

4 MS. FLETCHER: Okay. Can you say
5 that into the microphone for the court
6 reporter, please?

7 MS. KAUB: Yes.

8 MS. FLETCHER: State your name.

9 MS. KAUB: Jonda McFarlane is our
10 designated representative.

11 MS. FLETCHER: Okay. Thank you.
12 And your name?

13 MS. KAUB: Karen Kaub -- K-A-U-B.

14 MS. FLETCHER: Thank you, Ms.
15 Kaub.

16 MR. SMITH: Karen, have a seat.

17 MS. FLETCHER: Karen Kaub has
18 designated Jonda McFarlane as her
19 representative. And Jonda is spelled J-O-N-D-
20 A. The last name is M-C- --

21 MR. PHILLIPS: M-C-F-A-R- --

22 MS. FLETCHER: -- F-A-R --

1 MR. PHILLIPS: -- L-A-N-E.

2 MS. FLETCHER: -- L-A-N-E. And
3 Robert Phillips has also designated Jonda
4 McFarlane as his representative.

5 MR. PHILLIPS: Yes

6 MS. FLETCHER: Okay. So I have a
7 letter of designation from Robert Phillips and
8 Karen Kaub designating Jonda McFarlane as
9 their representative.

10 Thank you.

11 Robert Phillips. Mr. Phillips,
12 I'm now looking at the group of eight which is
13 a separate group.

14 MR. PHILLIPS: Right.

15 MS. FLETCHER: Okay. You signed
16 the protest letter of a member of a group of
17 eight.

18 MR. PHILLIPS: That's correct.

19 MS. FLETCHER: Okay. So there's
20 one person here from your group so far.

21 MR. PHILLIPS: There's two people
22 from our group today. Karen Taub and me.

1 Those have named Jonda McFarlane as our
2 representative for future hearings.

3 MS. FLETCHER: Thank you.

4 So Karen Kaub is here from that
5 group of eight.

6 MR. PHILLIPS: That's correct.

7 MS. FLETCHER: Is Jonda McFarlane
8 here?

9 MR. PHILLIPS: She's not here.

10 MS. FLETCHER: That's okay. I'm
11 just checking for the record.

12 MR. PHILLIPS: She's out of town.

13 MS. FLETCHER: Thank you very
14 much.

15 Is there anyone else here from the
16 group of eight?

17 MR. PHILLIPS: No, not from this
18 group -- just the two of us.

19 MS. FLETCHER: Okay.

20 MR. O'BRIEN: I believe Ms. Kaub
21 gave you a letter of representation from Jonda
22 McFarlane.

1 MS. FLETCHER: Yes.

2 MR. O'BRIEN: So there's three
3 actually.

4 MS. FLETCHER: I have a letter
5 from Jonda McFarlane designating -- yes -- Mr.
6 Phillips and Ms. Kaub to represent her. And
7 so, yes, that is --

8 MR. PHILLIPS: Today.

9 MS. FLETCHER: Yes.

10 MR. PHILLIPS: And we designate
11 her to represent us in the future.

12 MS. FLETCHER: Yes.

13 MR. PHILLIPS: Okay.

14 MS. FLETCHER: Thank you. And so,
15 Ms. McFarlane is credited with being present
16 today because she designated you as her
17 representative. So that's three.

18 MS. DYMOWSKI: Good.

19 MS. FLETCHER: So what that means
20 is there are not at least five people present
21 from your group or represented. That means
22 that your group would actually have to be

1 dismissed today because in order to be granted
2 standing as a protestant, at least five people
3 have to be present or a total of five people
4 have to be represented. And in your case,
5 there's a total of three.

6 You still have the option, if you
7 wish, to join the other group. But as a
8 stand-alone group, you could not have standing
9 today. And I'll let you make that decision.

10 MR. PHILLIPS: Nobody told us.

11 MS. FLETCHER: Earlier when I
12 mentioned if you all wanted to join as one
13 group -- we do that when there's a large group
14 that lives in pretty much the same vicinity
15 and there are a lot of different groups. So
16 that option still stands.

17 If you would like to join the
18 group of ten, if there's no opposition to
19 that, you may join the group of ten. But as
20 a stand-alone group, you would have to be
21 dismissed.

22 MR. GILSTRAP: Some members of the

1 group of ten joined her group to get her up to
2 five.

3 MS. FLETCHER: We're not going to
4 do it that way. Because we've already
5 established ten, it'll be much easier just to
6 let them join you than to switch over. But we
7 could do that.

8 MR. PHILLIPS: Okay. Can I make
9 the decision after I talk? It has to be right
10 now?

11 MS. FLETCHER: Yes. It has to be
12 right now.

13 MR. PHILLIPS: I'll just -- so I
14 didn't know about this rule.

15 MS. FLETCHER: Actually, it's just
16 a courtesy that we offer. We could just
17 dismiss your group, but because we're aware
18 that there's a larger group, we allow you an
19 opportunity to join it.

20 MS. TAUB: Jonda McFarlane is
21 really the one in charge. We're just
22 representing her at her direction. And so, if

1 we have no choice --

2 MS. FLETCHER: You have a choice.

3 MS. TAUB: -- if she can be on the
4 larger committee and doesn't want to be, then
5 she can drop out. But I think that we might
6 as well put her on so she at least exists.

7 MS. FLETCHER: Can you hear that?
8 You're going to need to come up to the
9 microphone. Any speaking has to be done --
10 you're going to need to --

11 MR. PHILLIPS: To put us on, we're
12 having --

13 MS. FLETCHER: Excuse me. Excuse
14 me one second. You must speak into that
15 microphone. You must because the court
16 reporter has to record everything that's being
17 said today. Thank you.

18 PARTICIPANT: Why don't you guys
19 talk a little bit and then tell them what you
20 want to do. Whatever you want to do is great.

21 MS. FLETCHER: Mr. O'Brien, do you
22 want to say something?

1 MR. O'BRIEN: I want to say
2 something.

3 MS. FLETCHER: Okay.

4 MS. KAUB: Well, I would like to
5 -- I'm Karen Kaub -- and I would like to
6 include Jonda McFarlane in the group of ten
7 with the caveat that she is allowed to drop
8 out if she chooses to.

9 MS. FLETCHER: Okay. Thank you.

10 MR. PHILLIPS: And you might
11 include me in that group of ten as long as I
12 have a choice of dropping out.

13 MS. FLETCHER: At any time, you
14 can drop out.

15 MR. PHILLIPS: Yes.

16 MS. FLETCHER: Yes.

17 MR. PHILLIPS: And you, too,
18 Karen. You can do it, too.

19 MS. KAUB: Yes, I would like the
20 same privilege to drop out.

21 MS. FLETCHER: Okay. Thank you.

22 Mr. O'Brien, you were going to say

1 something?

2 MR. O'BRIEN: I was going to offer
3 the alternative of allowing the group of three
4 to be seated -- waive any objection -- allow
5 the group of three to be seated as long as two
6 show up the next time -- two more show up the
7 next time.

8 MS. FLETCHER: And I actually
9 would do that if they had letters of
10 designation from at least two more people.

11 MR. O'BRIEN: Well, I was offering
12 to waive the objection --

13 MS. FLETCHER: Yes.

14 MR. O'BRIEN: -- and allow late
15 submission of letters of representation.

16 MS. FLETCHER: I don't have the
17 authority to do that, Mr. O'Brien. That could
18 be an alternative but just not today. I don't
19 have the authority to waive the requirement.

20 MR. O'BRIEN: Very well.

21 So then the three individuals have
22 now joined the group of ten, at least for the

1 moment?

2 MS. FLETCHER: Yes.

3 MR. O'BRIEN: Okay. Thank you.

4 MS. FLETCHER: So now we have a
5 group of --

6 MR. O'BRIEN: Thirteen.

7 MS. FLETCHER: -- 13. We have a
8 group of 13 with William Smith as the
9 designated representative for the group.

10 Any individuals from the group of
11 eight that are not present are dismissed in
12 accordance with the notices that they
13 received. You'd either have to be here or
14 designate someone to represent you, or you're
15 automatically dismissed.

16 But the group of 13 stands.

17 MR. WALDMAN: I'm sorry, ma'am.

18 But the corporation that owns the building is
19 represented --

20 MS. FLETCHER: Exactly. So you
21 could represent the interests of everybody,
22 but just as a group.

1 MR. WALDMAN: Right. Thanks.

2 MS. FLETCHER: Yes.

3 Okay. So we have the group
4 represented by Ms. Dymowski -- the
5 individuals. That's one protestant.

6 Then we've got Waterside --

7 MS. DYMOWSKI: Watergate.

8 MR. WALDMAN: Watergate West.

9 MS. FLETCHER: Watergate West.

10 MR. WALDMAN: 143 apartments,
11 ma'am.

12 MS. FLETCHER: Yes. Watergate
13 West, Inc. is a protestant because they own
14 the property.

15 ANC 2A is a protestant.

16 And then there's a group of 13.

17 Did I leave out anybody?

18 (No audible response.)

19 MS. FLETCHER: So I need to set
20 some dates for a status hearing, a protest
21 hearing and a date for mediation. I'm just
22 going to give you the dates for the status and

1 protest hearings first.

2 The status hearing is set for
3 March 27th.

4 MS. DYMOWSKI: We have a conflict
5 with that date.

6 MS. FLETCHER: Ms. Dymowski, let
7 me ask you something. You know this already.
8 I'll just say it anyway. At the status
9 hearing, you know you just report to the Board
10 the outcome of the mediation.

11 MS. DYMOWSKI: Okay. That's fine.

12 MS. FLETCHER: Okay. So that's
13 all that happens. The Board would just want
14 to know the results of the mediation.

15 MS. DYMOWSKI: Yes.

16 MS. FLETCHER: And we'll need to
17 have the mediation report at the status
18 hearing.

19 MS. DYMOWSKI: That's fine.

20 MS. FLETCHER: Mr. Smith?

21 MR. SMITH: The acoustics aren't
22 great. I just wanted you to repeat just the

1 date.

2 MS. FLETCHER: Yes. The date for
3 the status hearing --

4 MR. SMITH: Yes.

5 MS. FLETCHER: -- is March the
6 27th.

7 MR. SMITH: The 27th?

8 MS. FLETCHER: Yes. At 9:30 a.m.

9 MS. DYMOWSKI: At what time?

10 MS. FLETCHER: At 9:30. March 27
11 at 9:30.

12 MR. IRIZARRY: And that will be
13 here?

14 MS. FLETCHER: Yes.

15 The date for the protest hearing
16 is May the 8th. The date of the protest
17 hearing is May the 8th, 2013 at 4:30.

18 MR. SMITH: Also here, ma'am?

19 MS. FLETCHER: Yes.

20 MR. SMITH: Okay.

21 MS. FLETCHER: The status hearing
22 and the protest hearing will be before the

1 full Board. I'm the Board's agent, and I
2 conduct the roll calls. But the full Board
3 will conduct the remainder of the proceedings
4 except for the mediation.

5 MR. SMITH: May we ask a process
6 question?

7 MS. FLETCHER: Yes.

8 Can you hear that? Can you hear
9 that?

10 MR. SMITH: In terms of the
11 hearings and the representation of the groups,
12 can you just clarify who needs to be here for
13 those meetings? Do we need to bring letters
14 of designation, show up in person?

15 MS. FLETCHER: Thanks for asking
16 that.

17 No. Because from your group of 13
18 because at least 13 people are present today,
19 the Board does not need to see anybody else
20 but you unless anyone else decides they want
21 to come.

22 So for the status hearing, if

1 you're here, Mr. Smith, that'll be fine. It's
2 not required that anyone else show up. But
3 anyone else can come if they want.

4 MR. SMITH: Thank you.

5 MR. WALDMAN: I will not be here,
6 but our attorney will be here.

7 MS. FLETCHER: Yes. Exactly.

8 MR. SMITH: So you can designate a
9 representative?

10 MS. FLETCHER: Yes. If it turns
11 out you can't come, you can designate someone
12 else.

13 MR. SMITH: Very good.

14 MS. FLETCHER: Do you have my
15 email? Did you get my card?

16 MR. SMITH: I did.

17 MS. FLETCHER: Okay. You can just
18 let me know.

19 MR. SMITH: Thank you.

20 MS. FLETCHER: So we need to set a
21 date for the mediation to occur prior to the
22 March 27th status hearing. And I'll give you

1 the next dates that are available.

2 Thursday, March 7 is available.

3 Thursday, March 7 for mediation.

4 MR. O'BRIEN: In the afternoon?

5 MS. FLETCHER: Yes. We have 1:00
6 o'clock in the afternoon.

7 MR. O'BRIEN: That would be all
8 right with us.

9 MR. SMITH: I have a conflict on
10 that date.

11 PARTICIPANT: Seven or 27? March
12 7th for what? Mediation hearing?

13 MS. FLETCHER: March 27 is the
14 status hearing.

15 PARTICIPANT: Right.

16 MS. FLETCHER: Did you have a
17 question?

18 MS. KELLEY: Yes. I just need
19 clarification for the Thursday, March 7th
20 meeting.

21 MS. FLETCHER: Yes.

22 MR. SMITH: It's mediation. It's

1 an opportunity.

2 MS. FLETCHER: Yes. Anything that
3 we say has to be recorded. So that's the
4 reason that you need to step forward.

5 MR. O'BRIEN: Dr. Smith's not
6 available on the 7th?

7 MR. SMITH: The question I think
8 related to mediation and what exactly that
9 process entailed. Is that what you're asking?

10 MS. KELLEY: That is correct.

11 MS. FLETCHER: What was the
12 question?

13 MR. SMITH: Exactly what that
14 process entailed in terms of that particular
15 meeting.

16 MS. FLETCHER: Oh, okay. Thank
17 you.

18 So that's you speaking, Mr. Smith?

19 MR. SMITH: It was actually --

20 MS. KELLEY: He's speaking for me.

21 MS. FLETCHER: You understand the
22 court reporter's position when she tries to

1 transcribe. She has to know who's talking.

2 MS. KELLEY: So the question is --

3 MS. FLETCHER: And who's speaking,
4 please.

5 MS. KELLEY: My name is Sherry
6 Kelley.

7 MS. FLETCHER: Okay. Thank you.

8 MS. KELLEY: He spoke for me but I
9 will repeat it.

10 MS. FLETCHER: Okay.

11 MS. KELLEY: What exactly is the
12 nature of the mediation session?

13 MS. FLETCHER: Okay. The nature
14 of the mediation session is first of all, it's
15 informal. It's nonadversarial. The whole
16 purpose of it is for the parties to come
17 together in an attempt to resolve the protest
18 issues.

19 And if those issues can be
20 resolved to the mutual satisfaction of all,
21 then a settlement agreement is signed by all
22 the parties and is submitted to the ABC Board

1 for review. If the ABC Board approves it,
2 they will cancel the protest hearing and they
3 will cancel the status hearing. If it's
4 received prior to the status hearing, there
5 won't be a need for any future proceedings.

6 And also, it's not mandatory. I
7 think you know the city well. But it's not
8 mandatory that the matter is resolved. It's
9 just mandatory that all the parties
10 participate in mediation.

11 MS. KELLEY: I understand. Thank
12 you very much.

13 MS. FLETCHER: Okay. You're
14 welcome.

15 Were you going to say something?
16 I thought the lady sitting next to you. Okay.
17 Thank you.

18 MS. DYMOWSKI: I think we have a
19 problem with the date.

20 MS. FLETCHER: Exactly. I'm going
21 to move to the next week.

22 Mr. O'Brien, would you prefer

1 afternoons, or are you available earlier
2 during the day?

3 MR. O'BRIEN: Generally,
4 afternoons.

5 MS. FLETCHER: Okay. Let's see.

6 The next available date available
7 in the afternoon at 1:00 o'clock is Thursday,
8 March the 14th.

9 MR. O'BRIEN: That's all right.

10 MS. FLETCHER: Is that good for
11 you?

12 MR. IRIZARRY: I have a conflict
13 on that day. However, the ANC has also
14 designated other commissioners.

15 MS. FLETCHER: Yes.

16 MR. IRIZARRY: At this point, I
17 believe -- I don't know if they would have a
18 conflict.

19 MS. FLETCHER: Yes.

20 MR. IRIZARRY: So I know I
21 probably will. But there are four other
22 commissioners that have been designated.

1 MS. FLETCHER: That's right.

2 MR. IRIZARRY: So I'm assuming --
3 I believe that probably one of them could
4 attend. But I can't confirm that now.

5 MS. FLETCHER: Okay. No problem.
6 That date is --

7 MS. DYMOWSKI: That date is fine
8 for us.

9 MS. FLETCHER: Okay. Mr. Smith,
10 is that good for you?

11 MR. WALDMAN: 1:00 p.m., ma'am?

12 MS. FLETCHER: Yes.

13 So Mr. Irizarry, you indicated
14 that ANC 2A has designated a couple of other
15 representatives. And we have that on the
16 record.

17 MR. IRIZARRY: Yes.

18 MS. FLETCHER: I'm just stating
19 it.

20 And so we'll go ahead and set the
21 mediation for Thursday, March 14 at 1:00. And
22 as you said, maybe one of the other

1 representatives can appear on behalf of the
2 ANC.

3 And you can let me know. Do you
4 have my card?

5 MR. IRIZARRY: I do.

6 MS. FLETCHER: You can let me know
7 if that changes.

8 MR. WALDMAN: Ma'am, I have a
9 question regarding mediation. Does the
10 appointment allow enough time to keep going
11 until we resolve this thing, hopefully?

12 MS. FLETCHER: The date of the
13 mediation, you mean? Or afterwards?

14 MR. WALDMAN: No. During the
15 mediation. How many hours do we have?
16 There's a lot of issues. And I'm hoping we
17 can just stay at it and finish it up.

18 MS. FLETCHER: Yes. Normally,
19 even with this many issues, we're done in a
20 couple of hours.

21 MR. WALDMAN: Good.

22 MS. DYMOWSKI: And a second day

1 could be had.

2 MS. FLETCHER: And a second day
3 can be set if not. Yes, we get through them
4 as quickly as we can. So normally in a couple
5 of hours, we're done. And if not, as Ms.
6 Dymowski said, we can just set a second date.

7 And also, if the matter is not
8 resolved by the date of the status hearing, if
9 it's resolved by the date of the protest
10 hearing, the protest hearing can still be
11 canceled.

12 So Mr. Waldman, do you have any
13 other questions about the dates?

14 MR. WALDMAN: No, ma'am.

15 But since we do have a lot of
16 issues, is it possible while you have a
17 calendar in front of you to set a second date
18 sometime immediately after the 14th so we can
19 finish it up?

20 MS. FLETCHER: We can do that.
21 Yes. Do you want to put a date out there just
22 in case?

1 MR. WALDMAN: I think everybody
2 would like to resolve this.

3 MS. FLETCHER: Okay. Is that good
4 for you, Mr. O'Brien?

5 MR. O'BRIEN: Yes.

6 MS. FLETCHER: Okay. And these
7 will be dates before the status hearing?

8 MR. WALDMAN: Correct.

9 MS. FLETCHER: Okay. Well, the
10 status hearing is on Wednesday, March 27. If
11 everyone is available, Thursday, March 21 is
12 also available at 1:00 o'clock.

13 Is that good for you, Mr. O'Brien?

14 MR. O'BRIEN: Yes, ma'am.

15 MS. FLETCHER: Okay. Thank you,
16 Mr. Waldman. So there's the second date.

17 MS. KELLEY: So 1:00 p.m., March
18 21st?

19 MS. FLETCHER: Yes.

20 MR. O'BRIEN: So March 14 is
21 mediation. March 21 is a continuation date,
22 if needed.

1 MS. FLETCHER: Yes. Thank you,
2 Mr. Waldman.

3 So there you have it. So we have
4 November 14 for the mediation at 1:00 o'clock.

5 MR. O'BRIEN: March 14.

6 MS. FLETCHER: I'm sorry. I'm
7 saying November. I don't know why I'm doing
8 that.

9 We have March 21st as the second
10 date if necessary at 1:00 o'clock.

11 Any other questions?

12 (No audible response.)

13 MS. FLETCHER: Okay, then. Then
14 I'll see you on March the 14th at 1:00.

15 The roll call hearing is
16 concluded. Thank you.

17 (Whereupon, at 10:51 a.m., the
18 hearing was concluded.)

19

20

21

22

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