

ALSO PRESENT:

**KIRREAB EMBAYE, APPLICANT
RICHARD BIANCO, APPLICANT
CARL BERGMAN, PROTESTANT
CHRISTIE HOYTE HAYES, PROTESTANT
DAVID HAYES. PROTESTANT
GALE BLACK, PROTESTANT, ANC 4A CHAIR
JOAN HOYTE, PROTESTANT
LAWRENCE HALLER, PROTESTANT
KEN GILES, PROTESTANT
MARK KOTLAREWSKY, PROTESTANT
NAIMA JEFFERSON, PROTESTANT, SHEPARD PARK
CITIZENS ASSOCIATION
PAULA EDWARDS, PROTESTANT
SHERRY MARTS, PROTESTANT
SAMUEL WASHINGTON, PROTESTANT**

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

2 10:04 a.m.

3 CHAIRPERSON ANDERSON: All right,
4 the next case on the calendar is Case No. 19-
5 PRO-00050, Betty's Gojo, License No. 102500.
6 Would the parties please approach and identify
7 themselves for the record, please?

8 MR. BIANCO: Good morning, Mr.
9 Chairman and the board. Mr. Bianco for the
10 licensee, Betty's Gojo present, and to my left
11 is Kirreab Embaye.

12 CHAIRPERSON ANDERSON: All right,
13 good morning, Mr. Bianco. All right, we have
14 several protestants, so what I need the
15 protestants to do, when you identify yourself
16 please identify what group you belong to.

17 Okay, so we'll start with the lady
18 in blue who's sitting --

19 MS. BLACK: Good morning, I'm Gale
20 Black; I am chair of the ANC 4A and ANC 4A is
21 here in that capacity to protest.

22 CHAIRPERSON ANDERSON: All right,

1 good morning Ms. Black.

2 All right, who else do we have?

3 MR. BERGMAN: I am Carl Bergman; I
4 am Vice President of the Shepherd Park Citizens
5 Association and I am here to protest on this.

6 CHAIRPERSON ANDERSON: Shepherd
7 Park. Good morning, Mr. Bergman.

8 MS. JEFFERSON: Good morning, Chair
9 Anderson. Naima Jefferson, President of
10 Shepherd Park Citizens Association and part of
11 the designated group.

12 CHAIRPERSON ANDERSON: Good morning,
13 Ms. Jefferson, Shepherd Park.

14 MS. EDWARDS: Paula Edwards,
15 Treasurer of the Shepherd Park Citizens
16 Association and I'm here as part of the
17 protestants.

18 CHAIRPERSON ANDERSON: Good morning,
19 Ms. Edwards.

20 MS. HOYTE: Joan Hoyte, I am part of
21 the group of 15 protestants.

22 CHAIRPERSON ANDERSON: Group of 15

1 you said?

2 MS. HOYTE: What we call our self,
3 Group of 15.

4 CHAIRPERSON ANDERSON: A Group of
5 15, Ms. Hoyte. How do you spell your last name,
6 ma'am?

7 MS. HOYTE: H-O-Y-T-E.

8 CHAIRPERSON ANDERSON: And I'm going
9 to ask that there's a sign-in sheet that
10 everyone needs to sign into, please.

11 Good morning, Ms. Hoyte. Who else
12 do we have?

13 MR. GILES: Good morning, my name is
14 Ken Giles. I have an abutting floor involved.

15 CHAIRPERSON ANDERSON: So you are
16 the abutting property?

17 So were you given a stand-in as an
18 abutting property owner?

19 MR. GILES: I have an abutting
20 floor. I live right above.

21 CHAIRPERSON ANDERSON: I'm asking a
22 different question, sir. When you went to the

1 roll call, were you granted stand-in as an
2 abutting property owner?

3 MR. GILES: Yes.

4 CHAIRPERSON ANDERSON: I'm sorry;
5 Ken, what's your last name, again?

6 MR. GILES: Giles, G-I-L-E-S.

7 CHAIRPERSON ANDERSON: Okay, Mr.
8 Giles. Who else do we have?

9 MR. WASHINGTON: Good morning,
10 Chairman and board. Samuel C. Washington,
11 Shepherd Park Citizens Association.

12 CHAIRPERSON ANDERSON: Shepherd
13 Park. And who else, is that everyone?

14 MS. HAYES: Christie, C-H-R-I-S --

15 CHAIRPERSON ANDERSON: Speak up,
16 ma'am.

17 MS. HAYES: Christie Hoyte Hayes,
18 C-H-R-I-S-T-I-E, Hoyte same as my mother, H-O-Y-
19 T-E, space H-A-Y-E-S. Another neighbor with a
20 bordering, not abutting, but --

21 CHAIRPERSON ANDERSON: So you belong
22 to?

1 MS. HAYES: Group of 15.

2 CHAIRPERSON ANDERSON: Okay, group.

3 All right, is that everyone?

4 MR. HAYES: David Hayes, part of the
5 Group of 15, standard spelling.

6 MR. HALLER: Lawrence Haller, part
7 of the Group of 15, last name H-A-L-L-E-R, Group
8 of 15.

9 CHAIRPERSON ANDERSON: Okay.

10 MS. MARTS: Sherry Marts, M-A-R-T-S,
11 Group of 15.

12 MR. KOTLAREWSKY: Mark Kotlarewsky,
13 designated representative of the Group of 15.

14 CHAIRPERSON ANDERSON: How do you
15 spell your last name?

16 MR. KOTLAREWSKY: K-O-T-L-A-R-E-W-S-
17 K-Y, part of the group.

18 CHAIRPERSON ANDERSON: You're part
19 of the group. Is that everyone? Everyone has
20 identified themselves?

21 All right, hold on one minute.

22 Okay, from the group, who was not at

1 the roll call hearing?

2 All right, so who was not at the
3 roll call hearing?

4 And let me go over -- the folks who
5 were not at the roll call hearing, give me your
6 name again, please.

7 MR. HALLER: Lawrence Haller.

8 CHAIRPERSON ANDERSON: Mr. -- I'm
9 sorry; your last name again?

10 MR. HALLER: H-A-L-L-E-R.

11 CHAIRPERSON ANDERSON: And you were
12 not, okay. Who else?

13 MR. HAYES: David Hayes, H-A-Y-E-S.

14 CHAIRPERSON ANDERSON: Okay, who
15 else?

16 MS. MARTS: Sherry Marts, M-A-R-T-S.

17 CHAIRPERSON ANDERSON: And who else?

18 MS. HOYTE: And Joan Hoyte.

19 CHAIRPERSON ANDERSON: Okay, all
20 right. Hold on.

21 Now, Mr. Hayes, you were at the roll
22 call. You're David Hayes, right? So you were

1 at the first hearing.

2 MR. HAYES: You have a record of
3 that? Then I guess I was.

4 CHAIRPERSON ANDERSON: Your name is
5 on here to say that you were there, so I want to
6 make sure. So my notes that you were there, is
7 that correct? Did you show up for the first
8 time we had a hearing in this room?

9 MR. HAYES: I probably did.

10 CHAIRPERSON ANDERSON: Okay, hold
11 on.

12 MS. HAYES: I believe I was here as
13 well then. I wasn't sure what the question was.

14 CHAIRPERSON ANDERSON: Okay, so you
15 -- I'm sorry; your name again?

16 MS. HAYES: Christie Hoyte Hayes.

17 CHAIRPERSON ANDERSON: Christie
18 Hoyte -- okay, so you were there.

19 All right, so we have here Mr.
20 Haller and Joan Hoyte Hayes, right?

21 MS. HAYES: Joan Hoyte.

22 CHAIRPERSON ANDERSON: Huh?

1 MS. HAYES: Joan Hoyte.

2 CHAIRPERSON ANDERSON: I'm sorry,
3 and we have Joan Hoyte.

4 All right, so --

5 MS. HAYES: One more.

6 CHAIRPERSON ANDERSON: No. Well, I
7 only need one person. So I have a list of folks
8 who were there and how many different people
9 needed to be here today. And so because we do
10 have one additional person here for the group,
11 then I make a motion that the Group of 5 or more
12 be granted stand-in. Is there a second?

13 MR. SHORT: Second.

14 CHAIRPERSON ANDERSON: Mr. Short,
15 Mr. Silverstein and Ms. Crockett has seconded
16 the motion. All those in favor say aye.

17 MR. SHORT: Aye.

18 CHAIRPERSON ANDERSON: Those
19 opposed?

20 The matter passes 6-0-0.

21 All right, one thing that I also
22 wanted to inform the Group of 5 or more; if

1 there is a settlement agreement between the ANC,
2 the Group of 5 or more falls by automatic law.
3 Just want to let you know that. So the ANC
4 signs a settlement agreement with the
5 establishment, then you no longer have stand-in.
6 If the group of -- if a settlement agreement is
7 reached by the ANC, however, the abutting
8 property owner still stands and the Shepherd
9 Park Citizens Association still stands. So in
10 order for the matter not to move forward with a
11 protest hearing, that a settlement agreement
12 would have to be reached between the abutting
13 property owner and the Civic Association for us
14 not to move forward.

15 Yes, ma'am. You had a question you
16 were asking?

17 MS. HOYTE: Well, two questions
18 actually.

19 CHAIRPERSON ANDERSON: Yes, ma'am.

20 MS. HOYTE: Can one be a member of
21 the Group of 5 and an abutting property owner?
22 Because my property is right in the back of

1 there, we share the alley and the parking lot.

2 Can I belong to two groups?

3 CHAIRPERSON ANDERSON: At this
4 junction, no. Because you would have to have
5 had stand-in at the roll call. So therefore you
6 had to have protested the establishment and
7 stand-in was granted to you at the roll call,
8 because stand-in was granted at the roll call
9 hearing. If for some reason we need more folks
10 at this meeting, then you have two
11 opportunities, but you have to have shown up at
12 the roll call hearing and say that I'm an
13 abutting property owner and therefore I am
14 seeking stand-in on my own. So you will not
15 have stand-in as an abutting property owner, but
16 you can still participate in the process through
17 the ANC or you could be a witness for the other
18 abutting property owner, or you could have the
19 Civic Association express your views.

20 MS. HOYTE: But how does a property
21 owner know that there's these several options?
22 Because not only am I a member and the past

1 president of the Citizens Association, I'm
2 abutting property owner, and I'm also a member
3 of the Group of 15. So I saw the options and no
4 one said to me there is a high priority for
5 Option 1 or Option 2, so how is one supposed to
6 know about this? Is it published in some way?

7 CHAIRPERSON ANDERSON: It is
8 published, ma'am.

9 MS. HOYTE: Okay.

10 CHAIRPERSON ANDERSON: And I see
11 that Mr. Giles is abutting property owner, he
12 showed up at the roll call hearing and he stated
13 that I'm an abutting property owner and I want
14 my own stand-in, and it was granted to him.
15 Now, were you at the roll call hearing?

16 MS. HOYTE: I got here just a little
17 too late for that.

18 CHAIRPERSON ANDERSON:
19 Unfortunately, if you're at the roll call
20 hearing, you could have stood up and said, "This
21 is who I am." Or once the notice went out, that
22 because you know -- when you see the red placard

1 that's listed -- and just for anyone, whenever
2 you see an establishment and there's a red
3 placard in the prop on the door, go over and
4 read it, because it tells you what your rights
5 are as a citizen. So that placard tells you
6 what you can do and it tells you how you can
7 contact the agents to find more information.
8 And so --

9 MEMBER SHORT: Up to 45 days.

10 CHAIRPERSON ANDERSON: Yes, so
11 understand the placard gives you that within a
12 45-day period to say that you can call the
13 agency to ask questions to find out what it is
14 that you can or can't do. And that's how you
15 know when you see the placard.

16 MS. HOYTE: If you don't mind, one
17 last question. You mentioned that if there's an
18 agreement between the establishment with the
19 ANC, that takes precedent over --

20 CHAIRPERSON ANDERSON: Over the
21 group. Just the group.

22 MS. HOYTE: Which I am in.

1 CHAIRPERSON ANDERSON: Right, not
2 the abutting property owner and not the Civic
3 Association.

4 MS. HOYTE: So I have a question;
5 will that be an agreement with the overall
6 agency or with neighborhood ANC?

7 CHAIRPERSON ANDERSON: It's the
8 overall agency. So it's the ANC -- the only
9 person that -- the ANC is recognized as the
10 agency, not the single-member district, but the
11 agency. That's what's recognized here, so
12 whatever I -- I'm sorry; Ms. --

13 MS. HOYTE: Hoyte.

14 CHAIRPERSON ANDERSON: Yes, Ms.
15 Black is -- so she is representing -- we're
16 being told that she is a designee of the ANC, so
17 she's speaking for the entire ANC. And all
18 parties are equal, so it's not abutting property
19 owner, you have the ANC -- these are the folks
20 who can protest -- you have the ANC and abutting
21 property owner as Civic Association and a group.
22 They're all equal in the sense of priority, so

1 not one group is greater than the other.
2 They're all equal in the sense of protesting;
3 the only difference is that if there is a
4 settlement agreement -- and this is in the law
5 established by the City Council -- if there is a
6 settlement agreement, then the group falls
7 because the understanding is that the ANC is
8 still representing your interests because you
9 are a member of the ANC. Also, for the group
10 also, we cannot tell -- the board cannot force
11 the ANC or the Civic Association or the abutting
12 property owner to mandate that you're part of
13 the settlement agreement. So we can't do that.
14 Some groups have come and said that, "Oh,
15 they'll shut us out of the process and I want to
16 be a part of the group. That is a negotiation
17 between the two, between the parties, and if the
18 parties decide that we're not going to negotiate
19 with the group and we're going to have
20 settlement agreement, the board cannot change
21 that. But all the groups are equal, there's no
22 pecking order in the sense of an abutting

1 property owner is more important than the ANC or
2 less important than the group. Just want to let
3 you know that, okay?

4 MS. HOYTE: Appreciate it.

5 CHAIRPERSON ANDERSON: Okay. Now,
6 this matter is then scheduled for a protest
7 hearing on October 9th at 4:30. I think I
8 believe that ANC had requested --

9 MS. HOYTE: Shepherd Park Citizens.

10 CHAIRPERSON ANDERSON: I'm sorry;
11 the Citizens Association had requested -- filed
12 a motion requested continuance, and that's on
13 our Legal Agenda too. So -- why don't you just
14 raise the motion?

15 MS. JEFFERSON: I'm sorry, Chair.

16 MR. BERGMAN: I'll double check.

17 MS. JEFFERSON: He's double checking
18 a significant portion of our membership,
19 including Mr. Bergman, our observant.

20 MR. BERGMAN: Observant Jews.

21 MS. JEFFERSON: Observant Jews, I'm
22 sorry.

1 CHAIRPERSON ANDERSON: All right,
2 well let me ask you this; why don't you just
3 raise your motion that you had filed?

4 MR. BERGMAN: It's Yom Kippur which
5 is --

6 CHAIRPERSON ANDERSON: Why don't you
7 raise the motion that you filed?

8 MS. JEFFERSON: Okay, the motion was
9 for a continuance. We have submitted a four-
10 year request two days after the initial roll
11 call hearing. And even as of yesterday I have
12 an email that's redacted just to keep legal
13 privilege of our legal strategy from Mr. Powell
14 they are still gathering documents.

15 CHAIRPERSON ANDERSON: And Mr.
16 Bianco, it's fine to say you didn't have an
17 objection to the continuance?

18 MR. BIANCO: No objection.

19 CHAIRPERSON ANDERSON: So I make a
20 motion, the board will grant a continuance to
21 have the hearing on October 9th at 4:30 p.m.,
22 okay. Are there any other preliminary matters

1 that need to be addressed? By either side?

2 Yes, ma'am. Identify yourself for
3 the record.

4 MS. BLACK: Gale Black, ANC 4A. If
5 October 9th is a holiday --

6 CHAIRPERSON ANDERSON: It's not a
7 holiday.

8 MS. BLACK: But it's --

9 MR. BERGMAN: It's a religious
10 holiday.

11 CHAIRPERSON ANDERSON: I apologize.
12 Why don't -- if that's an issue -- it's
13 scheduled for October 9th, just -- all right,
14 hold on.

15 So are you saying that because it's
16 a religious holiday, that what?

17 MS. BLACK: ANC 4A would also
18 request that the hearing not be held on a date
19 that we know that some might not be able to
20 attend.

21 CHAIRPERSON ANDERSON: All right.

22 All right, the matter is scheduled

1 for -- the hearing on October 9th at 4:30 -- we
2 will work with the parties if there are
3 conflicts in a sense of the parties cannot
4 appear, we'll work with the parties to
5 reschedule it. So why don't -- I'll just ask
6 the parties to advise the board that there is --
7 if there are any concerns with that date, and
8 we'll work with the parties to reschedule the
9 hearing.

10 MS. BLACK: Wouldn't that be through
11 a motion? You would request that that be
12 through a motion?

13 CHAIRPERSON ANDERSON: Yes, the
14 board is aware that there might be some concerns
15 with that, so we'll work in scheduling this
16 matter for a date and time next reasonable for
17 both parties. But I alert parties that between
18 October and December it's a short part of the
19 year for the board. I think we only meet for --
20 we have Thanksgiving, we don't meet -- I don't
21 remember when -- Labor Day -- so we don't meet
22 the Labor Day, so that's a week that's gone,

1 Labor Day week. We probably take two weeks off
2 in November for Thanksgiving and we probably
3 take off two to three weeks in December for
4 Christmas. So I just want to let you folks know
5 that time is of the essence, so whatever we can
6 do to come to a reasonable compromise to come up
7 with a date as soon as possible. I'd just
8 advise the parties to try to work that way to
9 make sure that occurs.

10 Yes, ma'am?

11 MS. HOYTE: Should we reach out to
12 you about reschedule it or would we hear from
13 you?

14 CHAIRPERSON ANDERSON: The board is
15 aware that there's an issue, and so staff will
16 contact the parties to see if they come up with
17 a date and time that's workable for all sides.
18 But I'm just letting folks know that we have to
19 work carefully in scheduling that date, because
20 if you really want to have this hearing, then we
21 have to do some compromises based on the
22 calendar. That's all I'm saying. But we're not

1 going to hold a hearing on a date that all the
2 parties saying that because of religious
3 observation we need to take this off, and then -
4 - so the board will be cognizant of that. I'm
5 just telling the parties that just be cognizant
6 that if you really want to have this hearing,
7 that there has to be a lot of compromise that
8 has to be made in coming up with a date.

9 MS. BLACK: Thank you, Chair, for
10 your consideration.

11 CHAIRPERSON ANDERSON: You're
12 welcome.

13 MR. BERGMAN: We understand that the
14 board as well is under constraints of time.

15 CHAIRPERSON ANDERSON: All right,
16 thank you. Now, do I need to read the
17 instructions that I just read about protest
18 hearings, or as a party are you aware of this?

19 MS. JEFFERSON: I think you should.

20 CHAIRPERSON ANDERSON: All right.
21 You're telling me you folks weren't
22 listening to me when I went through all that?

1 You just love to hear me when I speak. Okay,
2 fine. All right.

3 MS. JEFFERSON: It's the New York
4 accent.

5 CHAIRPERSON ANDERSON: Well, for me
6 it's the Jamaican accent, okay, which I can't
7 help no matter how I try.

8 All right, now that we've scheduled
9 this matter for a protest hearing, there are a
10 few things that I would like to instruct the
11 applicant and the protestants about so that the
12 protest hearing is focused and addresses only
13 those issues that are being protested.

14 Before that, Mr. Bianco, do you have
15 any preliminary issues?

16 MR. BIANCO: No.

17 CHAIRPERSON ANDERSON: Okay, good.
18 You know, I've been dealing with the protestors
19 that I'm treating as part of the plan, and I
20 know you're not.

21 MR. BIANCO: Just along for the
22 ride, Mr. Chair. We're happy to --

1 CHAIRPERSON ANDERSON: All right,
2 okay. All right, so the board doesn't have any
3 particular testimony and matters that are not
4 relevant to this case. You should have received
5 by electronic or regular mail a letter
6 explaining the protest process, a copy of the
7 protest information form and a copy of the
8 exhibit form. If you do not have these
9 documents, please contact Assistant General
10 Counsel, April Randall, following this hearing.
11 It is imperative that you review the rules
12 closely and adhere to them before and during the
13 protest hearing. You are also required to
14 complete and submit the protest information form
15 if/and the exhibit form seven days before the
16 date of the hearing. These two forms and
17 accompanying documents need to be submitted to
18 ABRA's legal division and to all opposing
19 parties in this matter. If we do not receive a
20 copy of your PIP, your application, or your
21 protest, whichever side you're representing, may
22 be subject to dismissal. Likewise, if we do not

1 receive a copy of the exhibit form and the
2 exhibits themselves, your exhibits may be
3 excluded from the record, opine assigned in that
4 the opposing party has been prejudice or no good
5 cause for failure to submit has been shown.

6 Likewise, witnesses other than a party may be
7 subject to exclusion if not identified on the
8 PIP. Accordingly, these forms are very
9 important; they greatly assist the board in
10 narrowing the protest issues, facilitating the
11 process and keeping the parties on point during
12 the hearing. They likewise provide notice to
13 opposing parties, enabling them to better
14 prepare for the hearing.

15 We thank you greatly for your
16 consideration. If you have any questions today
17 or at any time leading up to the hearing, please
18 do not hesitate to contact Assistant General
19 Counsel, Randall, at (202) 442-8353.

20 Thank you very much.

21 Again, the legal office is here to
22 work with all the parties. Any questions you

1 have, reach out. If you don't understand a
2 process, please reach out to our agent and the
3 board's agents will explain to you the process.
4 So if I don't see you at the protest hearing,
5 then it says to me that all the parties have
6 worked to agree for a settlement agreement. But
7 if not, I will see you when this hearing is
8 scheduled.

9 Have a great summer. Thank you very
10 much.

11 (Whereupon, the above-entitled
12 matter went off the record at 10:28 a.m.)
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In the matter of: Betty's Gojo

Before: DCABRA

Date: 08-14-19

Place: Washington, DC

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