GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

BOARD OF ELECTIONS

SPECIAL BOARD MEETING

TUESDAY
FEBRUARY 25, 2014

The Special Board Meeting of the District of Columbia Board of Elections convened in Room 280 North, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 10:00 a.m., Deborah K. Nichols, Chairman, presiding.

BOARD OF ELECTIONS MEMBERS PRESENT:

DEBORAH K. NICHOLS, Chairman
DEVARIESTE CURRY, Member
STEPHEN I. DANZANSKY, Member

BOARD OF ELECTIONS STAFF PRESENT:

CLIFFORD D. TATUM, Executive Director
KENNETH MCGHIE, General Counsel

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(10:03 a.m.)

CHAIRMAN NICHOLS: Good morning. Welcome. I hereby call to order the Special Meeting of the Board of Elections to conduct a hearing to determine whether the proposed initiative measure entitled, "Legalization of Possession of Minimal Amounts of Marijuana for Personal Use Act of 2014," presents a proper subject of initiative in the District of Columbia. We are also conducting Special Meeting to approve the finalization of polling place relocations.

It is Tuesday, February 25, 2014. The time is 10:04 a.m. We are meeting in Room 280 North of One Judiciary Square.

I am Deborah K. Nichols, Chairman of the Board. Present with me this morning are Mr. Stephen Danzansky

MEMBER DANZANSKY: Good morning.

CHAIRMAN NICHOLS: -- and Ms.

Devarieste Curry.
MEMBER CURRY: Good morning.

CHAIRMAN NICHOLS: Also present this morning are Mr. Kenneth McGhie, the Board's general counsel, and Mr. Clifford Tatum, the Board's executive director.

We're going to rearrange the agenda this morning and take the finalization of polling place relocations for the April 1st primary election first. I'll turn it over to Mr. Tatum for that presentation.

EXECUTIVE DIRECTOR TATUM: Thank you, Madam Chair. At our last meeting, we announced several precincts that needed to be relocated and took motions to relocate those precincts. And, I am now requesting the Board to make a motion to finalize the relocation of those specific precincts.

CHAIRMAN NICHOLS: All right. I'll entertain a motion to finalize the proposed polling place relocation.

MEMBER DANZANSKY: Yes, Madam Chair, I move that we do finalize the
relocation of a voting placement for Precinct 3, 116, 117, 118, and 121.

CHAIRMAN NICHOLS: For comment.

Thank you, Dr. Danzansky, Mr. Curry.

All in favor, aye.

(Chorus of ayes.)

CHAIRMAN NICHOLS: All oppose.

(No response.)

CHAIRMAN NICHOLS: Motion carries.

EXECUTIVE DIRECTOR TATUM: Thank you, ma'am.

CHAIRMAN NICHOLS: Thank you, Mr. Tatum.

All right, we will now move to the initiative, to the initiative. At this morning's meeting, the Board will conduct a hearing to receive testimony on whether the proposed initiative entitled, "Legalization of Possession of Minimal Amounts of Marijuana for Personal Use Act of 2014," presents a proper subject of initiative in the District of Columbia.
I'll turn the meeting over to Mr. McGhie, our general counsel, to give an overview of the requirements to meet the criteria for a proper subject of initiative.

MR. MCGHIE: Okay. In the District -- the District of Columbia is one of the few states which allows citizens to have initiative measures in the, in their jurisdiction. And, the citizens can pretty much legislate on any matter what they choose with eight exceptions. And, if you want to see what those exceptions are, I've put it up on this little easel right here.

So, you can legislate or introduce legislation that could be adopted by the citizens on anything except a matter that would be contrary to the terms of the Home Rule Act. That's number one.

By contrary to the terms of the Home Rule Act that would include legislation that would conflict with a Federal statute. Just like the City Council cannot adopt any
legislation that is contrary to a Federal
statue, citizens cannot introduce any
legislation that would be contrary to a
Federal statute.

Also, two, you cannot have
legislation that seeks to amend the Home Rule
Act. The Home Rule Act is like the District
of Columbia's constitution, and so the
District's Home Rule Act can only be amended
through a charter amendment, and that is
initiated through the Council first.

So, you cannot introduce
legislation to amend the charter, you can't
introduce legislation to appropriate funds as
a function of the Council, and that was
specifically excluded as an area that cannot
be legislated by the citizens in the
Initiative Act.

You can't introduce legislation
that would violate the United States
Constitution, and your initiative measure must
also be, or the Committee, must also be in
compliance with the Office of Campaign Finance filing requirements.

So, not having properly filed at the Office of Campaign Finance is a grounds for the Board to deny the initiative at this time as not being a proper subject. Your initiative must be also in the proper legislative form. It cannot discriminate. And, finally, the last part, it cannot negate or limit a budget act.

Again, that is the providence of the Council. And, so as the Chairman indicated, the Board is here today to make a determination on whether or not you have a proper subject of initiative, meaning that it does not fall into any of these eight exceptions.

And, if the Board finds that it does fall into one of these exceptions, it would reject the, reject the measure, and you would have an opportunity, if you chose, to appeal it to the D.C. Superior Court.
That would be my overview.

CHAIRMAN NICHOLS: All right.

Thank you, Mr. McGhie.

Let me ask if the proponent of the measure has met all the statutory clerical and administrative requirements with respect to filing the, verify statement of contributions?

MR. MCGHIE: Yes. The -- the proposal of the measure has, or his committee, has made all the proper filings at the Office of Campaign Finance, and they are in compliance with the, their filing requirements.

CHAIRMAN NICHOLS: Okay. All right. We will move to comments from any opponents. Are there any individuals who wish to make comments in opposition to the proposed initiative?

(No response.)

CHAIRMAN NICHOLS: All right.

Well, we'll move to our, our list of those who wish to present testimony in support, or
comments and support. And, that -- I think,
we'll do panels of two.

We'll start with Grant Smith. Are you present?

(No response.)

CHAIRMAN NICHOLS: And, Sima Anand?

(No Response.)

CHAIRMAN NICHOLS: All right. How about Amanda La Forge?

All right. Come forward, Ms. La Forge.

MR. SMITH: Thank you.

CHAIRMAN NICHOLS: Please identify yourself for the record.

MR. SMITH: Yes. My name is Grant Smith. I'm with the Drug Policy Alliance organization that is committed to reducing the harms associated with drug use and drug policies that harm individuals.

As we've been hearing in the news and, and from recent reports on the matter, thousands of District residents have been
harmed by laws that criminalize people who
possess and use small amounts of marijuana.
We have seen enormous disparity in who has
been penalized for possessing and using small
amounts of marijuana in the District of
Columbia.

More than 90 percent of all
arrests for possessing marijuana in the
District have been of African-Americans even
though African-Americans and white residents
of the District use marijuana at similar
rates. People should not be criminalized,
arrest, arrested, handcuffed, and then later
denied access to the most basic of life's
necessities, jobs, housing, public assistance
on account of a record of a marijuana-related
arrest.

Given that so many people have
been affected by marijuana prohibition and
each arrest cost so much harm to individuals
that neighborhoods in which they live in all
of the District of Columbia. Ending the
criminalization of marijuana possession in the
District of Columbia is an issue of importance
to voters who are impacted by the harm that
marijuana prohibition has presented to the
citizens of the District of Columbia.

This is an issue for voters to
decide. Voters should be given the
opportunity to voice their opinion on this
issue that has affected so many.

A single point of concern that has
been raised by the Office of the Attorney
General should not prevent the voters from
deciding this issue. And, in light of the
racial disparities perpetuated by marijuana
prohibition and the lives destroyed really,
thousands of lives, by marijuana prohibition,
preventing this measure from moving forward
would send the wrong message in my view to
those individuals and communities that have
been impacted the most by marijuana
prohibition.

And, for that reason and others, I
I urge the Board of Elections to allow this initiative to proceed.

CHAIRMAN NICHOLS: Thank you, Mr. Smith.

Ms. La Forge.

MS. LA FORGE: Yes. Good morning.

Thank you.

CHAIRMAN NICHOLS: Good morning.

MS. LA FORGE: My name is Amanda La Forge. I'm counsel to Adam Eidinger, who's the proposer of the initiative and the D.C. Candidates Campaign. I thank you for this opportunity to address the Board this morning.

We hope that the Board considers this testimony, as well as the other testimony that you hear today, and finds that the proposed initiative, the Legalization of Minimal Amounts of Marijuana for Personal Use Act of 2014, is indeed a proper subject of initiative that it is not contrary to the Home Rule Act.

And, we urge you to accept the
proposed initiative so that the process of
collecting signatures to place this measure on
the ballot before the voters of the District
of Columbia can begin.

Last week, we sent a letter to the
Board's general counsel, Mr. McGhie, which
outlines our argument a bit more in depth.
I'll just summarize it here today. I do have
copies of that letter if any of you require
it.

CHAIRMAN NICHOLS: We have copies.

MS. LA FORGE: You have that, okay.

Wonderful.

But, in short, the legal
conclusion of the Attorney General is
incorrect that the proposed initiative as
drafted does not conflict with Federal law and
is therefore a proper subject matter for
initiative here in the District.

The Attorney General concluded
that the proposed initiative conflicts with a
provision of Federal law, namely the Anti-Drug
Abuse Act of 1988. That requires Public Housing Authority, such as the District as landlords, to include as a standard quality on leases a provision that gives the landlord the discretion, and do I emphasize that it's a discretionary right, the discretion to terminate a tendency based on drug-related activity that takes place on or near the public housing premises by the tenant, members of the tenant's household, or guests of the tenant with or without the tenant's knowledge.

This is clearly the law of the land. The United States Supreme Court in Housing and Urban Development versus Rucker clearly held that the Federal law provision requires public housing authorities to use leases that contain such a discretionary term.

And -- however, there's nothing in the proposed initiative that would prohibit D.C. Housing Authority from complying with Federal law, as in fact, it is required to do, and as such there is no conflict.
Under the proposed initiative as it's drafted, the District would remain free to use the lease as, again, as required to do by Federal law that gives them discretion to evict a public housing tenant who violates the term of the lease by conduct made lawful by the initiative, and that is the possession of small amounts of marijuana for personal use.

The Attorney General concluded that Section 1(b)3 of the proposed initiative, which would add new D.C. Code Section 48-904.01(a)3, and provides that no District government agency or office shall limit or refuse to provide any facility, service, program, or benefit to any person based on conduct that is made lawful by, by the, by the proposed initiative.

And, the Attorney General found that that conflicts with the aforementioned Federal law requiring the use of these clauses in leases, but this is not the case, and it's not the case, again, under the Rucker case,
which clearly states that requiring a tenant
to voluntarily enter into a lease is not the
denial of any public benefit based on conduct
that has already taken place.

It is simply asking a prospective
tenant to voluntarily agree to lease terms
that deal with future conduct of the tenant,
members of the tenant's household, or guests
of the, or guests of the tenant. The Housing
Authority would still have the discretion as
the landlord to evict tenants who violate the
terms of the lease. And, this would
essentially be the District acting to enforce
a contract rather than denying any benefit to,
to the tenant.

In addition, the proposed
initiative contains another section 1(b)6,
which states that nothing in the initiative
should be construed to prohibit the District,
or any other private property owner for that
matter in the District, from regulating the
possession and use or consumption of marijuana
on property that they own.

So, in summary, there is no conflict between the proposed initiative as drafted and Federal law. The District remains free to use the lease required by Federal law, free to use its discretion to terminate tenancies based on the tenants who violate the terms of, of the lease, and the District also remains free to regulate conduct on property that it, that it owns.

And, again, we urge the Board to reject the Attorney General's conclusion and to approve the initiatives so that this matter may move forward before the voters.

CHAIRMAN NICHOLS: Thank you, Ms. La Forge.

MS. LA FORGE: Thank you.

CHAIRMAN NICHOLS: Do you have any questions of the witnesses?

MR. MCGHIE: Just one matter. When you indicated you were questioning opponents, I should have indicated that the Office of the
Attorney General did submit a legal memorandum opposing the initiative as not being a proper subject for initiative.

And, I'd like to ask the Board to include that in the record at this time. It's a letter to me dated February 19, 2014, and it is from the Attorney General.

MEMBER CURRY: I have a couple of questions to both of you. Given the ACLU's findings, and I hope you're familiar with them, on the racial disparities, in the arrest of those using marijuana and given your testimony that nothing is going to change with respect to those living in public housing, I wonder if this is not an initiative designed to benefit the change in demographics of the District of Columbia.

Here's my concern. You spoke about the disparities and ending the criminalization, but what are you going to do to make sure that those arrested and charged are given a fair shake? That's the real
It's not that -- there were always laws on the books, so how does this law change? And, how is it going to benefit those who are disproportionately arrested and charged with the possession of marijuana?

And, that's irrespective of income, meaning that a middle or a high-middle income African-American is also four times more likely to be arrested than a white person with the same amount of marijuana.

MR. SMITH: Well, first and foremost, the arrests would end of African-Americans throughout the District of Columbia.

MEMBER CURRY: Let me stop you, sir, because I think you missed my question. It wouldn't end if -- I asked you how are you going to work with those doing the arresting because that's the issue is the discretion to arrest and charge.

And, indeed in the 187-page report issued by the ACLU, they profiled a number of
African-Americans. One who had one seed, one seed, of marijuana in his car and was arrested, lost his license, lost everything.

And, so, how is this law going to really affect and help those who are disproportionately arrested?

MR. SMITH: Well, it takes one mechanism, one means by which those, that profiling, as you say, can occur away, so that's one step. There are many other things that need to be done like you say.

There are many things that need to be done in terms of how we, how police are trained in the District of Columbia, what is considered appropriate, and what the metrics are in terms of how we enforce the laws in the District of Columbia.

We need to look at records. You know, we look at records, of those who have been convicted for marijuana possession and low-level marijuana offenses and write that wrong of people of people who have continued
to have, you know, records that are
disallowing them from getting jobs regardless
of income or regardless of where they live in
the District of Columbia.

We need to look at that. And, the
Council is looking at that. And, it's
something that we are, we're very interested
in trying to rectify, and so that we can, you
know, so we can change that, but there are
number of things that need to happen in
addition to, for appealing marijuana.

Marijuana prohibition has had a
very large impact on citizens in the District
of Columbia as you, as you laid out. And,
this is one of the ways that we can begin to,
begin to, to rollback and reform how, reform
that relationship between law enforcement
officers and the public.

And, you know, marijuana serving
as, as a means in order to, to create
situations where people may or may not
actually present with criminal, criminal
intent, but -- or treated as criminals because of the marijuana, and we need to, we need to change that relationship.

MEMBER CURRY: Let me ask you another question again because of D.C. Human Rights Act. Under the District of Columbia Human Rights Act, if I'm correct, there's a disproportionate effect on any group by an initiative or law or anything then would violate the Act.

Now, given that blacks are four times more likely to be arrested for marijuana possession, and that's also in this city, than are white, wouldn't this law have a disproportionate effect on African-Americans? And, let me tell you what I mean, just take his hypothetical.

John Doe at George Washington University, Georgetown University, or anywhere else, hanging out with his friends, he thinks he can smoke that joint, and it's not more than the two ounces and he thinks he's okay,
but the facts are different. He's more likely to be arrested.

And, wouldn't this law, knowledgeable people about the change of the law? I'm knowledgeable that I can have this amount. Wouldn't that loath those people into a false sense of security when in effect, the law is not applied the same way with respect to them?

MR. SMITH: And -- well, if the law -- you mean if this initiative pass and this was lawful activity, then that -- it would -- there will not be a -- there will not be a -- there will not be circumstances where people of color would be disproportionately impacted by a law that no longer criminalizes that activity.

Is that --

MEMBER CURRY: Well, I thank you for being so sanguine, but applications of laws, I mean, that's, that's -- it just doesn't work that way. And, in fact, there
was an article in the Washington Post not too
long ago that said, "If you smoke that joint
and you're black, you're more likely to be
arrested."

And, one group of -- these were
all highly educated upper-middle class
African-Americans, had a police officer to
come speak to their teams recently just about
this subject, and the police officer was just
blunt, "If I'm not the one in the car
arresting you, you're going to jail." It's as
simple as that.

So, thank you. I understand that
you want it to be that way, and maybe you've
answered the question as best you can.

MR. SMITH: Well, no agree.
There's many other -- there's other flaws in
the books that are disproportionately enforced
as well, you know, and that's some of the,
some of the studies that came out last summer
so that Washington Lawyers Committee report
found that people were being pulled over for
things like something hanging for the review
mirror, you know, obstructing the view was a,
you know, was a, gave cause to search the
vehicle.

There are others, such as minor
traffic violations, that we need to look at as
well. And, I think, you know, there's a,
there's a question about why these things
continuing.

And, you're right in the sense
that even if something is lawful, there's
still, you know, people may still be
discriminated against and, you know, and that
we can't, you know, can't have a false sense
of, you know, we can't provide a false of
assurance, but at the same time, we -- by
fundamentally changing the law, we can move in
that direction.

MEMBER CURRY: Thank you.

MR. SMITH: We can remove that,
that legal, that legal recourse to --
basically, it handcuffs people, handcuffs
people's lives for the remainder, basically,
for the remainder of their lives and
undermine, and their livelihoods.

MEMBER CURRY: Thank you.

CHAIRMAN NICHOLS: Thank you, both.

MEMBER DANZANSKY: Madam Chair.

CHAIRMAN NICHOLS: I'm sorry.

MEMBER DANZANSKY: If I may?

Counsel, Ms. La Forge, is that correct? Just
to clarify. Are you saying or suggesting here
that if a tenant enters into a lease with the
District of Columbia, and then is evicted for
possession of a minimal amount of marijuana,
this law does not act as a bar to that
eviction? Is that correct?

MS. LA FORGE: Yes.

MEMBER DANZANSKY: Is that stated
here?

MS. LA FORGE: That is what I'm
saying. Yes, it is stated there.

MEMBER DANZANSKY: Can you just
give us a section?
MS. LA FORGE: Sure. On the -- in the proposed initiative or --

MEMBER DANZANSKY: Yes.

MS. LA FORGE: Well, I would call your attention to Section -- let's see what it is, again, Section -- it's 1(b)6 of the initiative, which again, authorizes the District as the landlord, and any, any land, or property owner in the District, to regulate the possession or use of conduct of, you know, possession of minimal amounts of marijuana for personal use conduct made lawful by the initiative on property that they, that they own.

The Federal provision is clearly a provision that the District is required by law to comply with. Again, I do stress that it is a discretionary provision the District may consider --

MEMBER DANZANSKY: I understand.

MS. LA FORGE: -- drug-related activity as a, as a, as a basis for eviction.
It's not, it's not required.

MEMBER DANZANSKY: Okay. And,
secondly, this is directed to you both, there
was an article dated February 20 in the
Washington Times, which indicated that the
sponsor of the legalization initiative said
he's working with lawyers from his group to
see if the questionable wording in the
initiative can be changed ahead of today's
hearing.

"It might be..." In quote, "It
might be a matter of four words that have to
be changed. I don't want to lose our
opportunity to collect signatures."

Do you all know anything about
this? Is there in process a discussion that
will obviate our need to decide this or
whatever? Can anybody enlighten us on that or
is that somebody else?

MR. EIDINGER: That was me. I
would be happy to talk about that when --

MEMBER DANZANSKY: Okay, fine.
Thank you. It wasn't your group then.

Finally, one of our responsibilities as a Board is to in addition to the finding as to whether or not this is proper subject matter for legislation is to prepare a summary statement of your proposal for the ballot, which accurately reflects and signals to the voters what this is about.

And, one of the elements that you describe in this is that it relates to possession or production of minimal amounts of marijuana. I just, and maybe, I just need to understand what certain of these provisions means.

And, as I say, the reason I'm asking is both related to the subject matter determination and/or related to our responsibility to prepare a summary statement so we accurately reflect to the voter what this is about, but not everybody reads every line of a piece of proposed legislation or knows what it is.
And, I call your attention particularly to your proposal, Section 1(a) -- (d), I'm sorry -- well, and (d), where it talks about possessing, growing, harvesting, in the interior of a house. Is that correct?

(No response.)

MEMBER DANZANSKY: And, it's my understanding what (d) says is that once having grown this plant in your house, and there's a limit of six plants per person and 12 per household, or whatever you, the suggestion is, that once that marijuana is processed from those six plants, you can also keep that, and that's on the same premises. Is that correct? Is that the way it works?

MS. LA FORGE: Yes.

MEMBER DANZANSKY: Okay. Now, these plants, like all plant life, have a life. And, I just -- back of the envelop calculation indicated to me that, and the life of these plants apparently according to the research I did, is about eight weeks to
maturity. And, you're welcome to dispute this, but the point, it's not the exactness of the figures, there is a turnover.

And, if somebody grows six plants, harvests those plants, and puts the marijuana, or in whatever form, and keeps it in his home, he can keep that without danger, and then he can grow another six, is that correct, and also keep that? Is that correct? And, that can continue. Am I understanding that correct, correctly?

MS. LA FORGE: That's correct.

MEMBER DANZANSKY: Okay. So, so as I understand it, and as I calculated, if there's an eight-week growth cycle for six plants, one can produce about 7 crops a year or 42 plants and keep that in his apartment or home. Assuming whatever number of ounces per plant, say maximum 5 ounces, one could accumulate about 210 ounces of marijuana per year in one's apartment.

Again, they can't sell it, but he
can keep that amount in his apartment. And, if marijuana has a life of five years, or whatever the life expectancy is, it can amount to a pretty substantial amount.

And, I guess my question is, are we really -- when we're talking about this and describing this legislation because of this provision, are we really talking about possession and storage of minimal amounts?

That's about, for 5 years, 65 pounds of marijuana.

Just reading this, it raised that question. And, if any of you can enlighten us, I would appreciate it.

MS. LA FORGE: I actually don't believe that that is what we're talking about. I would like to defer to Mr. Eidinger, who certainly is far more --

MEMBER DANZANSKY: All right.

MS. LA FORGE: -- and should be able to answer your question.

MEMBER DANZANSKY: Again, this is
not, doesn't go to the issue of whether or not this is --

MS. LA FORGE: No, I understand --

MEMBER DANZANSKY: It's our description of this to the public.

MS. LA FORGE: Absolutely.

CHAIRMAN NICHOLS: Thank you, all.

MEMBER DANZANSKY: Thank you.

MS. LA FORGE: Thank you.

CHAIRMAN NICHOLS: All right.

We'll move to our next witnesses. Ms. Croydon, are you present?

(No response.)

CHAIRMAN NICHOLS: Mr. Summersgill.

(No response.)

CHAIRMAN NICHOLS: Is Ms. Anand, Anand?

(No response.)

CHAIRMAN NICHOLS: No. All right, Mr. Summersgill, please identify --

Summersgill, please identify yourself for the record.
MR. SUMMERSGILL: My name is Bob Summersgill. I'm the commissioner for ANC 3F07, Connecticut Avenue.

I just wanted to address the Human Rights aspect. I don't believe that anything in this initiative goes to violate the D.C. Human Rights Act. What I understand to be your concern is how a criminal law is implemented and enforced. And, that's a problem with Metropolitan Police Department, not with the initiative itself.

That's really all I came to say. I think other issues have been covered.

CHAIRMAN NICHOLS: All right.

MEMBER CURRY: Well, I have a question. And, I guess it's sort of still getting to the same thing, as one Judge said, "New laws don't exist in a vacuum."

So, a previous speaker referred to Section, and you did submit a paper, and I do thank you. One, I guess it's 1(c)6, "Nothing in this subsection shall be construed to
prohibit any person, business, corporation, organization, or other entity who or which owns or occupies or controls real property from prohibiting or regulating possession or consumption."

So, let me ask, if I'm living in one of these hoity-toity high-rises, very expensive places, and I have grown the amount that Mr. Danzanksy calculated I can grow, or even if I just have two ounces, and the property owner decides that he doesn't want me to live there anymore and he knows I've had this marijuana, and he decides to evict me, where is my safe harbor to say that I can own that small amount and prevent me from being evicted?

And, he has no other reason to evict me because I pay on time, I don't play loud music because I'm afraid of being shot, so he has no other reason to evict me. So, does this law provide any safe harbor because you give him that discretion in this
provision.

MR. SUMMERSGILL: No. Because none of the categories of the D.C. Human Rights Act are affected, no one is more impacted based on any of those categories than any other.

MEMBER CURRY: But I'm not going to the Human Rights now. I'm just going to this section of the law -- well, would become law, this initiative Section 1(c)6, that anybody who owns real property has the right, the discretion, to regulate it and prevent one from possession or consuming marijuana.

So, if the owner of the apartment high-rise wants to evict me for that, do I have a safe harbor anywhere in the Act or proposed Act?

MR. SUMMERSGILL: I don't -- I don't believe whether there is a safe harbor or not, there's violation of the D.C. Human Rights Act.

MEMBER CURRY: You don't believe there's a violation --
MR. SUMMERSGILL: I believe so because none of the categories is impacted.

MEMBER CURRY: Okay. As I said, I wasn't going to the D.C. Human Rights, but okay, thank you.

MR. SUMMERSGILL: That's one of the criteria.

MEMBER CURRY: Right.

MR. SUMMERSGILL: Thank you.

CHAIRMAN NICHOLS: All right, we will move to Mr. Eidinger. Come forward.

MR. EIDINGER: Ms. Curry, I'd like to address this point you're making because I do think it is -- it a very important point.

CHAIRMAN NICHOLS: Please identify yourself for the record.

MR. EIDINGER: Oh, my name is Adam Eidinger. I'm the proposer of the initiative. If you live in a high-rise, as you said, "hoity-toity apartment building," and the lease says you can't smoke, you can't have dogs, and you can't use marijuana, you can't
grow marijuana, that doesn't violate anyone's human rights. You've, you've agreed to that.

MEMBER CURRY: Let me stop you right now, sir. I get that if it's a contract.

MR. EIDINGER: It is a contract.

MEMBER CURRY: But, what I was positing is my contract -- because I don't violate laws, so my contract doesn't say that I can't have the marijuana. It doesn't say that in there, and so I'm -- but I'm choosing because it doesn't say that to exercise my right to have this couple of ounces of whatever, but for whatever reason because I'm a person who stands up for my rights and I don't like the people down the hall playing their music loud or whatever, the landlord has just decided I'm a person to be evicted and he evicts me on the basis of my having the two ounces in there.

And, I think it's legal because that's, you know, this law will have passed by
then, --

MR. EIDINGER: Sure.

MEMBER CURRY: -- and so, I'm asking is there a safe harbor anywhere --

MR. EIDINGER: I think this -- I don't think it's relevant to our initiative because that is an issue of the landlord violating the rights of their tenant. The tenant has to be given due process, so they have to be informed that, hey, we're changing the rules in this building.

You can't have dogs, you can't smoke marijuana. Okay, they got to give you notice. And, I don't think if a tenant went to court and said, I had no notice and he tried to evict me, the eviction would go through.

I think this is kind of a spurious topic because really the issue here is we're trying to change these laws so people aren't discriminated against. And, we are so restricted by this initiative process.
We can't put a complete Bill to
the voters. We can't say, we want to have a
place for you to buy it safely. We can't say
that this should be regulated in such and such
a way because that would spend money.

So, all we can say is that it's
legal for the individual in the privacy of
their own home to use minimal amounts of
marijuana, and this will have no impact on tax
dollars, no impact on human rights. This is
just for certain people's rights.

I feel bad for people who are low
income that have no option but to live in
public housing and are being denied this
right. I think they deserve this right too,
but we can't put that in the initiative or you
guys will say, we're spending money.

So, we have -- we're trying to do
-- we're trying to send a message to the whole
city and to the nation here that, yes, as the
Washington Post says, "It's marijuana's
moment." This is on the cover of the
Washington Post this past Sunday because of this hearing. That's why they're talking about this.

We're -- the country is watching this. And, when this passes, we still have to rewrite this law. It's not, it's not done. We need the City Council to come up with a tax and regulated scheme for us. We need, as you say, real protections. We need the Federal law to change, so how people are discriminated against.

It's a Federal law. And, if I could change the Federal law, I would, but I can't. All I can do as a D.C. resident is do this, and so, yes, I feel you, I hear you.

I've been to jail 16 times, and every time I've been jail, never once for marijuana, always for political activism, except for a couple of things, including drug paraphernalia, so I should be accurate about that because I'm being recorded here, but every time I've been to jail, I've met

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minorities who are in there for marijuana.

More than half the people I sat in
the cells with, were there for marijuana, and
they were always minorities, Latino or black.
I never met a single white person in jail for
marijuana.

Now, because I care about those
people, and I'm white, is that a problem? No,
okay. It doesn't matter what my race is. I
am taking the stand. That's what matters.

And, so, you know, I urge this
Board here to vote for this. I also want to
respond to Mr. Danzansky here. You were
completely off base about the five ounces
being produced every eight weeks. It's really
a much longer process.

If you start from a seed, which
people will be starting, you're looking at
like eight months before your first harvest,
okay. I don't know where you're getting this
maturity -- yes, maturity means you can tell
if it's a male plant or a female plant.
This is actually a male plant. If I plant a seed and this pops up, I'm going to kill this plant.

MEMBER CURRY: Which one grows faster?

MR. EIDINGER: They grow the same rate, but you sex the plants. There's male and female plants. And, when this -- when you see this, when you see these little pollen sacks here, you know you have a male plant. You won't get flowers, meaning you won't get marijuana.

Marijuana is a Spanish term for Mary Jane, which means Mary with female. People are smoking the female plants. So, the reason we said for six plants, in the immature phase is because half of them, 50 percent, will likely be males. We'll get rid of those, then you have three mature plants.

And, yes, you can start another round of three more plants that are immature, but then maybe only one of those is going to
be good, so really you're constricted. And, I think even the best grower, even with a lot of room, like a huge amount of space to grow, probably will not be able to produce more than 15 ounces per year. That's my estimate.

Some people claim they can get a pound of marijuana off one plant. Yes, if you're growing it, you know, in a, outdoors and you are in California and you've got great climate. We don't have that here.

You're looking at one backyard or balcony crop a year. And, indoors you can, maybe every eight months, you can squeeze a harvest out.

This is not going to end up -- and also, why would someone grow it just to stockpile it? Just to have all this -- they would grow it to use it. And, they're going to -- and I'm trying to figure out a way so I don't have to go to the black market to buy marijuana. That's what this is really about.

The whole -- we have to let people
grow cannabis. They have nowhere to buy it. And, since I can't put tax and regulate on the ballot, home cultivation is even more important because it's the only way.

And, I definitely think reducing the amount of business that gangs and cartels have is in the public interest. It's in the human rights' interest. People should not have to be worried about getting shot buying a tiny amount of marijuana, but that's what happens in the city, and too many people have died over this.

Too many people have died and been turned on to hard drugs too because the same drug dealer who, not every drug dealer is like this, but many of the big drug dealers, they've got everything. And, we shouldn't be putting the safe substance, which we know doesn't kill people, in the same category as heroine, but that's exactly what we've done, and we shouldn't make people go to that environment.
I want, I want everyone, I don't care where you live in the city, to have safe access to this plant, and if that means growing it, that's all we can do for now, great.

The other thing is just keep in mind like we can't put what we want on this ballot. Like we are really restricted. And, yes, it's not perfect. I don't know, I don't know of any law that's perfect, you know, but we, we are confident about one thing is this will not prevent the Federal laws from being enforced, and we are going to stand our ground on that.

We don't want any more delays. We don't want to a special election. You know, if you, if you -- we have to -- if we lose today, you know, we have to resubmit and start this whole process over, we will miss November 7. That's a million dollars for us to do a special election some time in 2015 or late, even late, even later this year potentially
based on the timing.

   Why do that? Why do that? We've already been before the Board. We already got the rejection on the grounds that we were spending money. Here we are with something that doesn't spend money, that is very limited, and really is just about individual rights.

   It is not, it is not the final word on legalization, but it is definitely in a sense in the right direction. And, I'm willing to take any questions you guys have.

I appreciate this Board, this Board's time.

MEMBER DANZANSKY: So, if a lease contains a provision saying that a tenant may not engage in any activity, which is a violation of Federal drug law, they cannot use this provision as a defense against eviction.

MR. EIDINGER: Unfortunately, no. If they signed that lease, they just waive their rights. If I sign a lease saying I can't have a dog in my house, which I have
done, I can't have a dog in my house. I can be evicted for that. It's the same kind of thing.

You know, I don't think it's that complicated of an issue. Unfortunately, yes, I think you're right. There are probably more minorities that are living in public housing, so this disproportionately is an issue for them.

I wish we could address it. We can't. We can't go there. We can't -- I can't change Federal law. You know, I want to change Federal law, you know.

MEMBER CURRY: Well, you addressed part of the question I raised to the others, the disproportionate impact of the Human Rights Act for those living in Federal housing, but what about, as I said, those kids at Georgetown and everywhere else who has read this and they think they have a right now to go out and light up a joint?

And, unfortunately, it's going to
have a disproportionate impact according to
the ACLU study because they're going to be
arrested four times more. So, whenever
anything has a disproportionate impact under
the Human Rights Act, that seems to be a
violation of it.

And, that's out there that they're
more likely to be arrested. And, now that
they know about it because, you know, I'm
acting like, wow, just like this bottle of
Courvoisier, or whatever, it's not illegal for
me to have it, but I'm --

MR. EIDINGER: Well, if you're a
kid, it is illegal. If you're under 21 years
of age, and I think that's, you know, I do
call sometimes an 18-year-old a kid because
they act that way, but, you know, it's illegal
for them still. I'm sorry, we're not going
there. We're not addressing the issue of
minors and people under 21.

MEMBER CURRY: No, I'm talking
about kids in college.
MR. EIDINGER: Well, they're not, they're not kids. They're adults. And, if you're, if you're 21, you're 21 and still in college, and you use cannabis in the privacy of your own home and your apartment, and there's nothing in your lease says you can't do it, I don't see why you're breaking -- you shouldn't be targeted.

And, if you are targeted, you have rights. That's the whole point here. If you're -- I think if you're a minority and you're, you feel that you've been targeted because you're color for marijuana, and they came to your house, they search your house, and they find under two ounces of marijuana, it's yours to keep and they can't do anything to you if this becomes law.

So, I think we're definitely addressing it. And, I've done -- I've --

MEMBER CURRY: So, this is for your house. You can't -- I can't have the two ounces in my car. I mean, I'm not smoking it,
but I just have it because I'm going over to --

MR. EIDINGER: I don't know the answer to be honest. Is your car considered property?

PARTICIPANT: It's considered your property.

MR. EIDINGER: It's considered personal property.

MEMBER CURRY: Right. So, I have it, I'm not smoking it, but I have it, and they stop me.

MR. EIDINGER: You would be able to keep it. You'll be able to keep it like you're able to keep a case if wine in your back trunk, you know. Like another thing is we let people brew wine and beer at home up to like 50 gallons, 50 gallons.

I mean, I don't drink that in five years, okay. And, it's like, you know, you can make that all the time. You can have that going, so we want to encourage people to
pursue happiness in their own homes. That's what this is about.

Yes, I guess I'm kind of, you know, the question of whether you're transporting your car, you'd be allowed to that, I think, but I think this might be something that, you know, ultimately the City Council will transmit this if it passes. Ultimately, they'll probably change it.

We're really giving the voters a chance to weigh in on the bigger issue and we're leaving the details to the City Council. You know that.

CHAIRMAN NICHOLS: Why do you think the Council didn't take this up?

MR. EIDINGER: Well, I've been told by at least six members of the City Council personally that they want us to do this. That they feel that the political climate with the Federal government is that such that we need the local government, the local citizen ring, to lead on this, to give them the political
cover, if you will.

    Now, I don't think there's unanimous support for legalization yet in the Council. They haven't even passed decrim yet. On March 4, the City Council will take its final vote on decriminalization of marijuana.

    I think if this Board today decides to not approve this language for consideration that City Council vote will go badly for us. I think this is actually creating a lot of pressure. They know the voters are going to weigh in, so they want to lead first, but if the voters don't have a chance to weigh in in the general election, I think we lose all leverage on the Council and --

    MEMBER DANZANSKY: But this isn't just weighing in. This is creating a statute. You can weigh in with answering a poll.

    MR. EIDINGER: You know as well as I do that nothing becomes law until it's transmitted to Congress. That gives almost
detail authority to the City Council. And, I've also -- there is a Bill in the City Council for broad spectrum legalization that would have places where you can buy it and use it and it would just cover everything. There hasn't been a hearing yet.

Maybe it'll get a hearing if this is coming. I am only here because this is one piece of the puzzle and I know that I've been hearing for about three years now, we should just put this in the ballot, let the voters decide. And, I'm like, let's do it. Let's do it. Let's do it say, I hope you guys will vote yesterday.

MEMBER DANZANSKY: So this is part -- are you saying this is part of a larger strategy here?

MR. EIDINGER: Absolutely. I mean, I think, there's a national strategy here. I think people are recognizing that -- now, granted if we didn't have polling that showed that 63 percent over a number of years now of
at least two years once legalization here 63 percent, and it still hasn't happened, that's a reason to do an initiative.

If we were polling at 40 percent, I wouldn't be here right now, yes, or even 50 percent for that matter. We wanted this to win. We're not putting this in the ballot to lose, you know. And, it's -- it will, it will pass, I believe. And, then, hopefully, in 2015, we'll see a watershed moment on this issue for the whole country.

And, you know, our neighbors in Maryland and Virginia I know are also looking at this issue, especially in Maryland. So, yes, I think, this is democracy. It's time for a change.

CHAIRMAN NICHOLS: Any other questions?

(No response.)

CHAIRMAN NICHOLS: Thank you, Mr. Eidinger.

MR. EIDINGER: I really appreciate
your time. Thank you.

CHAIRMAN NICHOLS: Is there anyone else who wishes to make comments?

Ms. Wells, come forward. And, identify yourself for the record.

MS. OBAMA: For this record, I'm identifying myself as Attorney General Octavia Obama. That is my federal name.

I do want to say this. I am working on making D.C. a promise state/district, okay. I have asked for Eric Holder's resignation, okay. I have entered a case against him for this and other reasons.

First off, I think the scope of this project needs to be narrowed down. I think that it needs to be -- that medical marijuana needs to maintain that status, medical marijuana because -- for MHMR use only, not for recreational use.

Just to tell you a brief story. When I first started law school in Texas, they had stores that we can go into and actually
buy medical marijuana plant. The plant was about yay high and it was about $50 to buy a plant in this store. And, this was in Texas when I started law school.

You know, after Bush became President and things like that, it got done away with, but we were able to go to those stores, smoke it in our homes, we could go to work and smoke, and we had absolutely no problem.

I'm an MHMR advocate myself, and I think that it needs to be restricted to that. We need to get that together first because there are people out here when you allow everybody to use it, there are people that get into selling it that have -- they start mixing it with stuff, like formaldehyde or maybe cocaine or other illegal drugs that make it more highly addictive and it should not be.

It needs to be narrowed down and scoped to only medical purposes. I have been diagnosed by a doctor to be schizoaffective
disorder. I'm a manic thinker, and I have been
diagnosed that ever since law school.

So, I think that the age limit
needs to be also 18 and not 21 because MHMR
disorders kick in at the age of 18. And, I'm
also proposing as assistant to the, the
conduct initiative that she was talking about
earlier, I can't remember her name, but a $200
fine for harassment.

I saw a book, and it was a law
book, here. We do things differently on a
military base, which is where I was raised, so
I'm proposing a $200 harassment ticket be
issued. I've already done a pilot myself and
it can work. I can issue cost tickets for
harassment.

You cannot discriminate on anybody
based on color, okay, so I'm proposing that.
I went to the FOIA's Office, and I've already
spoke with them on several issues, and they
said that it was okay and that I needed to
bring it here to introduce that ticket, that
fine, for $200 harassment.

So, and I also have a case just in case you all want --

MEMBER CURRY: Excuse me. May I ask you a question though about that? So, you're saying the $200 fine is issued against whom?

MS. OBAMA: The police officers, correct, that are harassing people.

MEMBER CURRY: The police officer for harassment, okay. I just wanted to understand you.

MS. OBAMA: Or any person that's harassing somebody that's smoking medical marijuana because it's just -- you need to treat it like any form of medication. If that person has to go and take their medication, they have to take their medication.

It's going to be regulated to where you have to take it regular amounts of times a day.

MEMBER CURRY: Okay.

MS. OBAMA: It's Marinol. It's MJNA
known on, for the book, and it's a 10 percent
tax. It's really, it's really, you know,
simple.

So, as long as you take medical
pills, the marijuana is better for you. Those
pills do not allow women to procreate and they
cause other side effects, like nerve damage,
so the medical marijuana is more safe for you
or herbal solution for a person of my statute
or another, you know, MHMR person.

CHAIRMAN NICHOLS: Okay. Ms.

Wells, can you wrap up?

MS. OBAMA: So, yes.

CHAIRMAN NICHOLS: Okay.

MS. OBAMA: I'm wrapping up.

Octavia Wells as U.S. Senate on that ballot.

CHAIRMAN NICHOLS: All right.

MS. OBAMA: And, that's it. Oh,
wait.

CHAIRMAN NICHOLS: Thank you.

MS. OBAMA: No, I have another
case. I have a case actually to get people
CHAIRMAN NICHOLS: No, that's not in our jurisdiction. That's not in our jurisdiction.

MS. OBAMA: Okay. Because the FOIA's office said you might need --

CHAIRMAN NICHOLS: No. We -- no.

MS. OBAMA: Okay.

CHAIRMAN NICHOLS: That's not in our jurisdiction. Thank you so much, Ms. Wells.

MS. OBAMA: Thank you.

CHAIRMAN NICHOLS: We will take this matter under advisement, and we will issue an order as soon as possible. I cannot give you an exact date, time, but it will come forthwith.

Having no other business before us, this meeting is adjourned. It is 10:58 on Tuesday, February 25.

(Whereupon, proceedings in the above-entitled matter concluded at 10:57 a.m.)
voters 12:3,6,7,12 14:3 18:14 30:8 41:2 53:10 54:12 54:13 55:11 voting 5:1

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This is to certify that the foregoing transcript

In the matter of: Special Board Meeting

Before: DC BOE

Date: 02-25-14

Place: Washington, DC

was duly recorded and accurately transcribed under
my direction; further, that said transcript is a
true and accurate record of the proceedings.

[Signature]
Court Reporter