

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ELECTIONS

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SPECIAL BOARD MEETING

+ + + + +

TUESDAY

FEBRUARY 25, 2014

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

(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.

1 MEMBER CURRY: Good morning.

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

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

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

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

21 MEMBER DANZANSKY: Yes, Madam
22 Chair, I move that we do finalize the

1 relocation of a voting placement for Precinct
2 3, 116, 117, 118, and 121.

3 CHAIRMAN NICHOLS: For comment.

4 Thank you, Dr. Danzansky, Mr. Curry.

5 All in favor, aye.

6 (Chorus of ayes.)

7 CHAIRMAN NICHOLS: All oppose.

8 (No response.)

9 CHAIRMAN NICHOLS: Motion carries.

10 EXECUTIVE DIRECTOR TATUM: Thank
11 you, ma'am.

12 CHAIRMAN NICHOLS: Thank you, Mr.
13 Tatum.

14 All right, we will now move to the
15 initiative, to the initiative. At this
16 morning's meeting, the Board will conduct a
17 hearing to receive testimony on whether the
18 proposed initiative entitled, "Legalization of
19 Possession of Minimal Amounts of Marijuana for
20 Personal Use Act of 2014," presents a proper
21 subject of initiative in the District of
22 Columbia.

1 I'll turn the meeting over to Mr.
2 McGhie, our general counsel, to give an
3 overview of the requirements to meet the
4 criteria for a proper subject of initiative.

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

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

19 By contrary to the terms of the
20 Home Rule Act that would include legislation
21 that would conflict with a Federal statute.
22 Just like the City Council cannot adopt any

1 legislation that is contrary to a Federal
2 statue, citizens cannot introduce any
3 legislation that would be contrary to a
4 Federal statute.

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

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

19 You can't introduce legislation
20 that would violate the United States
21 Constitution, and your initiative measure must
22 also be, or the Committee, must also be in

1 compliance with the Office of Campaign Finance
2 filing requirements.

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

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

18 And, if the Board finds that it
19 does fall into one of these exceptions, it
20 would reject the, reject the measure, and you
21 would have an opportunity, if you chose, to
22 appeal it to the D.C. Superior Court.

1 comments and support. And, that -- I think,
2 we'll do panels of two.

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

5 (No response.)

6 CHAIRMAN NICHOLS: And, Sima Anand?

7 (No Response.)

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

10 All right. Come forward, Ms. La
11 Forge.

12 MR. SMITH: Thank you.

13 CHAIRMAN NICHOLS: Please identify
14 yourself for the record.

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

20 As we've been hearing in the news
21 and, and from recent reports on the matter,
22 thousands of District residents have been

1 harmed by laws that criminalize people who
2 possess and use small amounts of marijuana.
3 We have seen enormous disparity in who has
4 been penalized for possessing and using small
5 amounts of marijuana in the District of
6 Columbia.

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

18 Given that so many people have
19 been affected by marijuana prohibition and
20 each arrest cost so much harm to individuals
21 that neighborhoods in which they live in all
22 of the District of Columbia. Ending the

1 criminalization of marijuana possession in the
2 District of Columbia is an issue of importance
3 to voters who are impacted by the harm that
4 marijuana prohibition has presented to the
5 citizens of the District of Columbia.

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

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

22 And, for that reason and others, I

1 urge the Board of Elections to allow this
2 initiative to proceed.

3 CHAIRMAN NICHOLS: Thank you, Mr.
4 Smith.

5 Ms. La Forge.

6 MS. LA FORGE: Yes. Good morning.
7 Thank you.

8 CHAIRMAN NICHOLS: Good morning.

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

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

22 And, we urge you to accept the

1 proposed initiative so that the process of
2 collecting signatures to place this measure on
3 the ballot before the voters of the District
4 of Columbia can begin.

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

11 CHAIRMAN NICHOLS: We have copies.

12 MS. LA FORGE: You have that, okay.
13 Wonderful.

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

20 The Attorney General concluded
21 that the proposed initiative conflicts with a
22 provision of Federal law, namely the Anti-Drug

1 Abuse Act of 1988. That requires Public
2 Housing Authority, such as the District as
3 landlords, to include as a standard quality on
4 leases a provision that gives the landlord the
5 discretion, and do I emphasize that it's a
6 discretionary right, the discretion to
7 terminate a tendency based on drug-related
8 activity that takes place on or near the
9 public housing premises by the tenant, members
10 of the tenant's household, or guests of the
11 tenant with or without the tenant's knowledge.

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

18 And -- however, there's nothing in
19 the proposed initiative that would prohibit
20 D.C. Housing Authority from complying with
21 Federal law, as in fact, it is required to do,
22 and as such there is no conflict.

1 Under the proposed initiative as
2 it's drafted, the District would remain free
3 to use the lease as, again, as required to do
4 by Federal law that gives them discretion to
5 evict a public housing tenant who violates the
6 term of the lease by conduct made lawful by
7 the initiative, and that is the possession of
8 small amounts of marijuana for personal use.

9 The Attorney General concluded
10 that Section 1(b)3 of the proposed initiative,
11 which would add new D.C. Code Section 48-
12 904.01(a)3, and provides that no District
13 government agency or office shall limit or
14 refuse to provide any facility, service,
15 program, or benefit to any person based on
16 conduct that is made lawful by, by the, by the
17 proposed initiative.

18 And, the Attorney General found
19 that that conflicts with the aforementioned
20 Federal law requiring the use of these clauses
21 in leases, but this is not the case, and it's
22 not the case, again, under the Rucker case,

1 which clearly states that requiring a tenant
2 to voluntarily enter into a lease is not the
3 denial of any public benefit based on conduct
4 that has already taken place.

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

16 In addition, the proposed
17 initiative contains another section 1(b)6,
18 which states that nothing in the initiative
19 should be construed to prohibit the District,
20 or any other private property owner for that
21 matter in the District, from regulating the
22 possession and use or consumption of marijuana

1 on property that they own.

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

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

15 CHAIRMAN NICHOLS: Thank you, Ms.
16 La Forge.

17 MS. LA FORGE: Thank you.

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

20 MR. MCGHIE: Just one matter. When
21 you indicated you were questioning opponents,
22 I should have indicated that the Office of the

1 Attorney General did submit a legal memorandum
2 opposing the initiative as not being a proper
3 subject for initiative.

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

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

18 Here's my concern. You spoke
19 about the disparities and ending the
20 criminalization, but what are you going to do
21 to make sure that those arrested and charged
22 are given a fair shake? That's the real

1 issue.

2 It's not that -- there were always
3 laws on the books, so how does this law
4 change? And, how is it going to benefit those
5 who are disproportionately arrested and
6 charged with the possession of marijuana?

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

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

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

21 And, indeed in the 187-page report
22 issued by the ACLU, they profiled a number of

1 African-Americans. One who had one seed, one
2 seed, of marijuana in his car and was
3 arrested, lost his license, lost everything.

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

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

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

18 We need to look at records. You
19 know, we look at records, of those who have
20 been convicted for marijuana possession and
21 low-level marijuana offenses and write that
22 wrong of people of people who have continued

1 to have, you know, records that are
2 disallowing them from getting jobs regardless
3 of income or regardless of where they live in
4 the District of Columbia.

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

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

19 And, you know, marijuana serving
20 as, as a means in order to, to create
21 situations where people may or may not
22 actually present with criminal, criminal

1 intent, but -- or treated as criminals because
2 of the marijuana, and we need to, we need to
3 change that relationship.

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

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

18 John Doe at George Washington
19 University, Georgetown University, or anywhere
20 else, hanging out with his friends, he thinks
21 he can smoke that joint, and it's not more
22 than the two ounces and he thinks he's okay,

1 but the facts are different. He's more likely
2 to be arrested.

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

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

18 Is that --

19 MEMBER CURRY: Well, I thank you
20 for being so sanguine, but applications of
21 laws, I mean, that's, that's -- it just
22 doesn't work that way. And, in fact, there

1 was an article in the Washington Post not too
2 long ago that said, "If you smoke that joint
3 and you're black, you're more likely to be
4 arrested."

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

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

16 MR. SMITH: Well, no agree.
17 There's many other -- there's other flaws in
18 the books that are disproportionately enforced
19 as well, you know, and that's some of the,
20 some of the studies that came out last summer
21 so that Washington Lawyers Committee report
22 found that people were being pulled over for

1 things like something hanging for the review
2 mirror, you know, obstructing the view was a,
3 you know, was a, gave cause to search the
4 vehicle.

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

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

19 MEMBER CURRY: Thank you.

20 MR. SMITH: We can remove that,
21 that legal, that legal recourse to --
22 basically, it handcuffs people, handcuffs

1 people's lives for the remainder, basically,
2 for the remainder of their lives and
3 undermine, and their livelihoods.

4 MEMBER CURRY: Thank you.

5 CHAIRMAN NICHOLS: Thank you, both.

6 MEMBER DANZANSKY: Madam Chair.

7 CHAIRMAN NICHOLS: I'm sorry.

8 MEMBER DANZANSKY: If I may?

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

16 MS. LA FORGE: Yes.

17 MEMBER DANZANSKY: Is that stated
18 here?

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

21 MEMBER DANZANSKY: Can you just
22 give us a section?

1 MS. LA FORGE: Sure. On the -- in
2 the -- in the proposed initiative or --

3 MEMBER DANZANSKY: Yes.

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

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

20 MEMBER DANZANSKY: I understand.

21 MS. LA FORGE: -- drug-related
22 activity as a, as a, as a basis for eviction.

1 It's not, it's not required.

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

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

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

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

22 MEMBER DANZANSKY: Okay, fine.

1 Thank you. It wasn't your group then.

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

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

15 And, as I say, the reason I'm
16 asking is both related to the subject matter
17 determination and/or related to our
18 responsibility to prepare a summary statement
19 so we accurately reflect to the voter what
20 this is about, but not everybody reads every
21 line of a piece of proposed legislation or
22 knows what it is.

1 And, I call your attention
2 particularly to your proposal, Section 1(a)
3 -- (d), I'm sorry -- well, and (d), where it
4 talks about possessing, growing, harvesting,
5 in the interior of a house. Is that correct?

6 (No response.)

7 MEMBER DANZANSKY: And, it's my
8 understanding what (d) says is that once
9 having grown this plant in your house, and
10 there's a limit of six plants per person and
11 12 per household, or whatever you, the
12 suggestion is, that once that marijuana is
13 processed from those six plants, you can also
14 keep that, and that's on the same premises.
15 Is that correct? Is that the way it works?

16 MS. LA FORGE: Yes.

17 MEMBER DANZANSKY: Okay. Now,
18 these plants, like all plant life, have a
19 life. And, I just -- back of the envelop
20 calculation indicated to me that, and the life
21 of these plants apparently according to the
22 research I did, is about eight weeks to

1 maturity. And, you're welcome to dispute
2 this, but the point, it's not the exactness of
3 the figures, there is a turnover.

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

12 MS. LA FORGE: That's correct.

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

22 Again, they can't sell it, but he

1 can keep that amount in his apartment. And,
2 if marijuana has a life of five years, or
3 whatever the life expectancy is, it can amount
4 to a pretty substantial amount.

5 And, I guess my question is, are
6 we really -- when we're talking about this and
7 describing this legislation because of this
8 provision, are we really talking about
9 possession and storage of minimal amounts?
10 That's about, for 5 years, 65 pounds of
11 marijuana.

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

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

19 MEMBER DANZANSKY: All right.

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

22 MEMBER DANZANSKY: Again, this is

1 not, doesn't go to the issue of whether or not
2 this is --

3 MS. LA FORGE: No, I understand --

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

6 MS. LA FORGE: Absolutely.

7 CHAIRMAN NICHOLS: Thank you, all.

8 MEMBER DANZANSKY: Thank you.

9 MS. LA FORGE: Thank you.

10 CHAIRMAN NICHOLS: All right.

11 We'll move to our next witnesses. Ms.

12 Croydon, are you present?

13 (No response.)

14 CHAIRMAN NICHOLS: Mr. Summersgill.

15 (No response.)

16 CHAIRMAN NICHOLS: Is Ms. Anand,

17 Anand?

18 (No response.)

19 CHAIRMAN NICHOLS: No. All right,

20 Mr. Summersgill, please identify --

21 Summersgill, please identify yourself for the

22 record.

1 MR. SUMMERSGILL: My name is Bob
2 Summersgill. I'm the commissioner for ANC
3 3F07, Connecticut Avenue.

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

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

14 CHAIRMAN NICHOLS: All right.

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

19 So, a previous speaker referred to
20 Section, and you did submit a paper, and I do
21 thank you. One, I guess it's 1(c)6, "Nothing
22 in this subsection shall be construed to

1 prohibit any person, business, corporation,
2 organization, or other entity who or which
3 owns or occupies or controls real property
4 from prohibiting or regulating possession or
5 consumption."

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

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

1 provision.

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

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

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

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

21 MEMBER CURRY: You don't believe
22 there's a violation --

1 MR. SUMMERSGILL: I believe so
2 because none of the categories is impacted.

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

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

8 MEMBER CURRY: Right.

9 MR. SUMMERSGILL: Thank you.

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

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

15 CHAIRMAN NICHOLS: Please identify
16 yourself for the record.

17 MR. EIDINGER: Oh, my name is Adam
18 Eidinger. I'm the proposer of the initiative.

19 If you live in a high-rise, as you
20 said, "hoity-toity apartment building," and
21 the lease says you can't smoke, you can't have
22 dogs, and you can't use marijuana, you can't

1 grow marijuana, that doesn't violate anyone's
2 human rights. You've, you've agreed to that.

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

6 MR. EIDINGER: It is a contract.

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

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

1 then, --

2 MR. EIDINGER: Sure.

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

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

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

18 I think this is kind of a spurious
19 topic because really the issue here is we're
20 trying to change these laws so people aren't
21 discriminated against. And, we are so
22 restricted by this initiative process.

1 We can't put a complete Bill to
2 the voters. We can't say, we want to have a
3 place for you to buy it safely. We can't say
4 that this should be regulated in such and such
5 a way because that would spend money.

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

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

18 So, we have -- we're trying to do
19 -- we're trying to send a message to the whole
20 city and to the nation here that, yes, as the
21 Washington Post says, "It's marijuana's
22 moment." This is on the cover of the

1 Washington Post this past Sunday because of
2 this hearing. That's why they're talking
3 about this.

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

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

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

1 minorities who are in there for marijuana.

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

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

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

17 If you start from a seed, which
18 people will be starting, you're looking at
19 like eight months before your first harvest,
20 okay. I don't know where you're getting this
21 maturity -- yes, maturity means you can tell
22 if it's a male plant or a female plant.

1 This is actually a male plant. If
2 I plant a seed and this pops up, I'm going to
3 kill this plant.

4 MEMBER CURRY: Which one grows
5 faster?

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

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

20 And, yes, you can start another
21 round of three more plants that are immature,
22 but then maybe only one of those is going to

1 be good, so really you're constricted. And,
2 I think even the best grower, even with a lot
3 of room, like a huge amount of space to grow,
4 probably will not be able to produce more than
5 15 ounces per year. That's my estimate.

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

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

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

22 The whole -- we have to let people

1 grow cannabis. They have nowhere to buy it.
2 And, since I can't put tax and regulate on the
3 ballot, home cultivation is even more
4 important because it's the only way.

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

13 Too many people have died and been
14 turned on to hard drugs too because the same
15 drug dealer who, not every drug dealer is like
16 this, but many of the big drug dealers,
17 they've got everything. And, we shouldn't be
18 putting the safe substance, which we know
19 doesn't kill people, in the same category as
20 heroine, but that's exactly what we've done,
21 and we shouldn't make people go to that
22 environment.

1 I want, I want everyone, I don't
2 care where you live in the city, to have safe
3 access to this plant, and if that means
4 growing it, that's all we can do for now,
5 great.

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

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

1 based on the timing.

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

9 It is not, it is not the final
10 word on legalization, but it is definitely in
11 a sense in the right direction. And, I'm
12 willing to take any questions you guys have.
13 I appreciate this Board, this Board's time.

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

19 MR. EIDINGER: Unfortunately, no.
20 If they signed that lease, they just waive
21 their rights. If I sign a lease saying I
22 can't have a dog in my house, which I have

1 done, I can't have a dog in my house. I can
2 be evicted for that. It's the same kind of
3 thing.

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

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

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

22 And, unfortunately, it's going to

1 have a disproportionate impact according to
2 the ACLU study because they're going to be
3 arrested four times more. So, whenever
4 anything has a disproportionate impact under
5 the Human Rights Act, that seems to be a
6 violation of it.

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

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

21 MEMBER CURRY: No, I'm talking
22 about kids in college.

1 MR. EIDINGER: Well, they're not,
2 they're not kids. They're adults. And, if
3 you're, if you're 21, you're 21 and still in
4 college, and you use cannabis in the privacy
5 of your own home and your apartment, and
6 there's nothing in your lease says you can't
7 do it, I don't see why you're breaking -- you
8 shouldn't be targeted.

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

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

20 MEMBER CURRY: So, this is for your
21 house. You can't -- I can't have the two
22 ounces in my car. I mean, I'm not smoking it,

1 but I just have it because I'm going over to
2 --

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

6 PARTICIPANT: It's considered your
7 property.

8 MR. EIDINGER: It's considered
9 personal property.

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

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

19 I mean, I don't drink that in five
20 years, okay. And, it's like, you know, you
21 can make that all the time. You can have that
22 going, so we want to encourage people to

1 pursue happiness in their own homes. That's
2 what this is about.

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

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

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

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

1 cover, if you will.

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

7 I think if this Board today
8 decides to not approve this language for
9 consideration that City Council vote will go
10 badly for us. I think this is actually
11 creating a lot of pressure. They know the
12 voters are going to weigh in, so they want to
13 lead first, but if the voters don't have a
14 chance to weigh in in the general election, I
15 think we lose all leverage on the Council and
16 --

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

20 MR. EIDINGER: You know as well as
21 I do that nothing becomes law until it's
22 transmitted to Congress. That gives almost

1 detail authority to the City Council. And,
2 I've also -- there is a Bill in the City
3 Council for broad spectrum legalization that
4 would have places where you can buy it and use
5 it and it would just cover everything. There
6 hasn't been a hearing yet.

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

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

18 MR. EIDINGER: Absolutely. I mean,
19 I think, there's a national strategy here. I
20 think people are recognizing that -- now,
21 granted if we didn't have polling that showed
22 that 63 percent over a number of years now of

1 at least two years once legalization here 63
2 percent, and it still hasn't happened, that's
3 a reason to do an initiative.

4 If we were polling at 40 percent,
5 I wouldn't be here right now, yes, or even 50
6 percent for that matter. We wanted this to
7 win. We're not putting this in the ballot to
8 lose, you know. And, it's -- it will, it will
9 pass, I believe. And, then, hopefully, in
10 2015, we'll see a watershed moment on this
11 issue for the whole country.

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

17 CHAIRMAN NICHOLS: Any other
18 questions?

19 (No response.)

20 CHAIRMAN NICHOLS: Thank you, Mr.
21 Eidingger.

22 MR. EIDINGER: I really appreciate

1 your time. Thank you.

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

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

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

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

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

20 Just to tell you a brief story.
21 When I first started law school in Texas, they
22 had stores that we can go into and actually

1 buy medical marijuana plant. The plant was
2 about yay high and it was about \$50 to buy a
3 plant in this store. And, this was in Texas
4 when I started law school.

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

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

20 It needs to be narrowed down and
21 scoped to only medical purposes. I have been
22 diagnosed by a doctor to be schizoaffective

1 disorder. I'm a manic thinker, and I have been
2 diagnosed that ever since law school.

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

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

17 You cannot discriminate on anybody
18 based on color, okay, so I'm proposing that.
19 I went to the FOIA's Office, and I've already
20 spoke with them on several issues, and they
21 said that it was okay and that I needed to
22 bring it here to introduce that ticket, that

1 fine, for \$200 harassment.

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

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

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

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

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

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

21 MEMBER CURRY: Okay.

22 MS. OBAMA: It's Marinol. It's MJNA

1 known on, for the book, and it's a 10 percent
2 tax. It's really, it's really, you know,
3 simple.

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

11 CHAIRMAN NICHOLS: Okay. Ms.
12 Wells, can you wrap up?

13 MS. OBAMA: So, yes.

14 CHAIRMAN NICHOLS: Okay.

15 MS. OBAMA: I'm wrapping up.
16 Octavia Wells as U.S. Senate on that ballot.

17 CHAIRMAN NICHOLS: All right.

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

20 CHAIRMAN NICHOLS: Thank you.

21 MS. OBAMA: No, I have another
22 case. I have a case actually to get people

1 paid.

2 CHAIRMAN NICHOLS: No, that's not
3 in our jurisdiction. That's not in our
4 jurisdiction.

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

7 CHAIRMAN NICHOLS: No. We -- no.

8 MS. OBAMA: Okay.

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

12 MS. OBAMA: Thank you.

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

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

21 (Whereupon, proceedings in the
22 above-entitled matter concluded at 10:57 a.m.)

A				
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In the matter of: Special Board Meeting

Before: DC BOE

Date: 02-25-14

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