

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ELECTIONS

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REGULAR BOARD MEETING

+ + + + +

WEDNESDAY

MARCH 4, 2026

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The District of Columbia Board of Elections convened via videoconference, pursuant to notice at 10:33 a.m. EST, Gary Thompson, Chair, presiding.

BOARD OF ELECTIONS MEMBERS PRESENT:

GARY THOMPSON, Chair
KARYN GREENFIELD, Member

BOARD OF ELECTIONS STAFF PRESENT:

MONICA HOLMAN EVANS, Executive Director
TERRI STROUD, General Counsel
CECILY COLLIER-MONTGOMERY, Director of Campaign Finance
MARISSA CORRENTE, Registrar of Voters
JORGE QUINTANA, Attorney Advisor

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

2 (10:33 a.m.)

3 CHAIR THOMPSON: All right. Looks like
4 we have 38 attendees with us. Good morning,
5 everybody. Welcome to our March regular board
6 meeting. My name is Gary Thompson, the chair of
7 the Board of Elections. And with us today is
8 Karyn Greenfield, my fellow board member, which
9 means we have a quorum. And the first thing
10 we'll do is adopt our agenda, which we've each
11 had a chance to review. It's a pretty busy
12 agenda today. I move that we adopt the agenda.

13 MEMBER GREENFIELD: I second.

14 CHAIR THOMPSON: It is passed. And I
15 also move that we adopt the minutes that we've
16 both had a chance to review from our last
17 meeting.

18 MEMBER GREENFIELD: And I second that.

19 CHAIR THOMPSON: Okay. Those are
20 passed as well. We'll just start by recognizing
21 one of our staff members that unfortunately
22 passed away recently, Charlie Gilchrist, and

1 I'll let Terry Stroud make some comments.

2 MS. STROUD: Yes. Charlie Gilchrist
3 was a member of our staff. He wasn't a current
4 member, but he was on our staff for a very long
5 time, and served the board really well, and was
6 well-loved by all of his friends and colleagues
7 at the board. So I just wanted to acknowledge
8 his loss and to send my condolences to his
9 family and his friends, of course, many of which
10 are still at the board, and we will miss him
11 dearly.

12 And I think we -- or, I last saw
13 Charlie when he attended an event that we had to
14 honor the memory of Reds (phonetic) Hunter, our
15 warehouse leader, our fearless warehouse leader.

16 So we did have the opportunity to see Charlie
17 recently, and I'm sorry that it was the last
18 time that at least I saw him. And I will
19 remember him fondly, as I'm sure all of us here
20 at the board will. Thank you.

21 CHAIR THOMPSON: All right. Yes. Our
22 thoughts are with his family and friends. Okay.

1 Well, moving on to the regular business that we
2 have. We're in the middle of a really busy
3 cycle. The primary, of course, is on June 16th.

4 This is really, for us, one of the busiest
5 parts of the cycle, as we're coming up on the
6 last day to file, not last date to file
7 nominating petitions, which is March 18th.

8 And we have a ten-day challenge period,
9 and then some adjudicatory hearings that our
10 board will have to do, to finalize which
11 candidates have met the requirements and will
12 make the ballot. So that's all ahead of us in
13 the next month. So it's -- as busy as it is
14 right now, it's -- I think it's going to get a
15 little busier, so thank you to everybody who's
16 working so hard and for what's soon to come. So
17 with that, I'll turn it over to Monica Evans for
18 our executive director's report.

19 MS. EVANS: Thank you so much.

20 And good morning. The executive
21 director's report for February 2026. During the
22 month of February, I attended several outreach

1 events and gave presentations about ranked
2 choice voting, or RCV. Events included
3 presentations to the D.C. Chamber of Commerce,
4 D.C. State Democratic Committee, Ward 3 Dems,
5 the Chevy Chase Community Association, and a
6 town hall meeting with Council Member Bonds.
7 The town hall of the council was largely
8 attended by advisory neighborhood commissioners.

9 Voter registration rolls. In February,
10 the Board of Elections registered 1,468 new
11 voters and processed 2,812 registration changes.

12 In total, we prepared 4,280 voter registration
13 cards to be mailed. Additionally, 83 registered
14 voters moved out of D.C., 57 voters canceled
15 their D.C. registrations and registered with
16 other jurisdictions, and 316 voters registered
17 in D.C. after canceling their registrations in
18 other states.

19 Online voter registration. We are
20 continuing to register voters using our website
21 portal. To date, we have processed over 103,834
22 applicants using the portal. These include new-

1 voter registrations and updates to existing
2 registrations. Total non-citizen registration
3 is 960. We registered one new non-citizen in
4 February. We are continuing our outreach in
5 D.C. communities to share information about non-
6 citizen voting in local elections.

7 2026 election cycle planning. We are
8 implementing the requirements of the Automatic
9 Voter Registration, or AVR, Expansion Act. We
10 now have a staff member dedicated to this
11 effort. We are continuing to monitor
12 legislation to repeal the Local Resident Voting
13 Rights Amendment Act. We are awaiting further
14 action from the senate. We are also monitoring
15 the SAVE Act, which will require every American
16 to provide documentary proof of citizenship to
17 register to vote in federal elections.

18 Rank choice voting. During the 2026
19 election cycle, we are implementing RCV. We
20 have developed informational materials, and
21 these materials are available to our community
22 partners. We have begun to provide educational

1 materials and information to all eligible
2 District residents explaining how RCV works,
3 conduct hands-on demonstrations using voting
4 equipment, and collaborate with community
5 organizations and groups to assess their
6 membership to expand engagement and outreach
7 opportunities around RCV.

8 We are actively scheduling virtual and
9 in-person outreach events. We are working on a
10 video and additional print materials. All
11 outreach events, including those specific to
12 RCV, can be found on our website. There are
13 also many online tools to assist with explaining
14 RCV. The BOE website has information dedicated
15 to RCV, including mock ballots and frequently
16 asked questions. We are taking mock ballots and
17 voting equipment into communities, and we are
18 also providing information as requested.
19 Education will not end ahead of in-person
20 voting. We will provide educational materials
21 at vote centers as well.

22 List maintenance. In preparation for

1 the 2026 election cycle, BOE is continuing the
2 list-maintenance process to ensure our voter
3 registration database is accurate and complete.

4 Voters are encouraged to verify their
5 registration status and make any necessary
6 updates prior to the registration deadline of
7 May 26, 2026. Instructions on how to check or
8 update voter registration information are
9 available on the BOE website.

10 The cybersecurity operations and threat
11 monitoring. The IT and cybersecurity teams
12 continue to monitor and assess potential threats
13 to BOE's information systems and infrastructure.

14 During this reporting period, the team has
15 monitored network traffic and endpoint
16 protection tools for indicators of compromise,
17 investigated reporting phishing emails and block
18 malicious domains and sender addresses as
19 necessary, conducted routine threat intelligence
20 reviews to identify emerging risk relevant to
21 election and government systems, and provided
22 security awareness reminders to staff to

1 reinforce safe email and system practices.

2 Voter education and outreach. During
3 the month of February, the Voter Education and
4 Outreach division participated in 22 outreach
5 events on behalf of the agency. Events included
6 the Vida Senior Citizen Home in Adams Morgan,
7 the D.C. Federation of Civic Associations, and
8 the Congress Heights Senior Wellness Center.
9 The division continues to refine our outreach
10 plan as -- and is actively scheduling events on
11 RCV.

12 Our election worker division. In
13 preparation for the 2026 election cycle, the
14 election worker division has updated the
15 operations manual, hired trainers to facilitate
16 election worker training classes, provided
17 training to call center staff, and begun
18 scheduling election worker training classes.

19 ANC vacancies. We currently have 13
20 active ANC vacancies for the 2025, 2026 term.
21 These positions are in different stages of being
22 filled. After candidate filing requirements are

1 met, an open vote of registered voters of the
2 affected SMD will be held during regularly
3 scheduled ANC meetings. The deadline for
4 candidate filing for both the primary and
5 special elections is Wednesday, March 18th at
6 5:00 p.m. Candidates should review the
7 information in their packets to ensure they
8 arrive at the office with their paperwork and
9 order prepared to file. And that concludes my
10 report. Thank you.

11 CHAIR THOMPSON: Yeah. Thank you.

12 On the voter education and outreach
13 issue, I personally have attended three of the
14 ranked choice voting -- voter sessions, and they
15 were each really fabulous. Director Evans did a
16 great job leading them. General Counsel Stroud
17 and I were at one for the D.C. Bar. And they've
18 been really well received. I mean, the
19 information is really nicely presented, in terms
20 of the sample ballot that we're showing, how the
21 digital voting is going to work.

22 And in my own neighborhood, I've

1 received really nice and warm feedback from
2 members of our ANC who have seen it. So I know
3 there's a -- we have these stacked up one or two
4 a day now. The answer is yes to everybody who's
5 asked, and we have -- we've got a few dozen
6 more, probably, to do in the next month or so.

7 So thank you to everybody who's out
8 there, helping educate our voters on ranked
9 choice voting, especially, I think, with a whole
10 lot of time from Director Evans at a lot of
11 these sessions. That includes, for the most
12 part, evenings. So after a long work day, I
13 have to also attend and lead a session from 7:00
14 to 8:30, you know, sometimes 9:00, sometimes
15 weekends. It's really quite above and beyond,
16 so I wanted to recognize that. So with that,
17 General Counsel's report.

18 MS. STROUD: Yes. My very short report
19 today. So the first item on my agenda are
20 initiative matters. There are three initiatives
21 that we're going to be dealing with today. The
22 first one is the adoption of formulations for

1 Initiative Measure Number 86, which is the
2 Prohibiting the Force Feeding of Birds Act of
3 2026. And I just want to make sure that Cady
4 Witt (phonetic) is present today, C-A-D-Y. Oh,
5 there she is. She -- I see her hand raised at
6 the top. Okay.

7 So by way of background, on January
8 14th of this year, the board ruled orally that
9 the Prohibiting Force Feeding of Birds Act of
10 2026 met proper subject requirements and issued
11 a written order to that effect on January 20th.

12 Thereafter, OGC staff prepared formulations for
13 the measure that were published in the D.C.
14 Register on February 20th, and on the board's
15 website prior to that. In addition, a courtesy
16 copy of the draft formulations were provided to
17 the proposer.

18 The board received a fiscal impact
19 statement in connection with the measure on
20 January 21st of this year, and the board's task
21 today is to adopt the short title and summary
22 statement for the measure. And I just want to

1 lay out what will happen in the aftermath of
2 that. After adoption, the board will notify the
3 proposer of the measure via email of the exact
4 language of the summary statement, short title,
5 and legislative forms -- form, and submit the
6 formulations to be published in at least one
7 newspaper of general circulation on the board's
8 website and in the D.C. Register.

9 The publication in the D.C. Register,
10 which will take place on March 13th, will launch
11 a ten-day period during which any registered
12 voter who objects to the summary statement,
13 short title, and/or legislative form of the
14 measure, as formulated by the board, may seek
15 review in the Superior Court of the District of
16 Columbia, stating objections and requesting
17 appropriate changes. Registered qualified
18 electors may also file objections regarding the
19 initiative with the Court on other grounds
20 during this period, including the board's
21 determination that the proposed measure presents
22 a proper subject for initiative. That ten-day

1 period will end on March 23rd.

2 And so with that, I would ask Ms. Witt,
3 if you have any comments with respect to the
4 formulations.

5 And, Randy, if you could share -- yep.

6 I'm going to -- simulations that were
7 prepared on the screen. So you'll see -

8 If you could scroll down, Randy?

9 That the short title is The Prohibiting
10 Force Feeding of Birds Act of 2026, and it --
11 the summary statement reads as follows. "If
12 enacted, this act -- this initiative would
13 prohibit any person from force-feeding a bird
14 for the purpose of enlarging the bird's" -- I
15 can't see.

16 Randy, if you -

17 RANDY: "Liver."

18 MS. STROUD: "Liver." And -

19 Go back up, Randy.

20 "Enlarging the bird's liver beyond
21 normal size. B, ban the sale or distribution of
22 any product resulting from force-feeding a bird,

1 including foie gras. C, define force-feeding as
2 inserting a tube into the bird's throat to
3 deliver excessive food. D, provide for
4 enforcement by the Department of Energy and
5 Environment during routine safety -- food safety
6 inspections." And that should be an end, and
7 we'll change that. "E, provide for civil
8 penalties." And the legislative text has been
9 prepared to conform to legislative drafting as
10 due acts of the counsel. And so that is the
11 short title and summary statement, and the
12 formulations that were prepared by OGC staff for
13 the board's adoption.

14 If you could go back up to the short
15 title and summary statement, Randy? Yes. And
16 so -

17 CHAIR THOMPSON: All right. Well,
18 thank you.

19 I've had a chance to review this. I
20 mulled it over last night. It's very clear and
21 straightforward, to me, and as is the title. So
22 with that, I'll move that we adopt the short

1 title and summary statement that we have
2 prepared. And

3 MEMBER GREENFIELD: And I'll second. I
4 did read through this, and I'm fine with it.
5 It's good.

6 MS. STROUD: Okay.

7 And with that, I'll ask for a roll call
8 vote.

9 Mr. Chair?

10 CHAIR THOMPSON: Aye.

11 MS. STROUD: Madam Greenfield?

12 MEMBER GREENFIELD: Aye.

13 MS. STROUD: And with that, the board
14 has adopted the formulations for the Prohibiting
15 the Force Feeding of Birds Act of 2026. And the
16 next two items on my agenda are proper subject
17 hearings, and we have two measures that will be
18 heard today in that regard. The first is the
19 D.C. Housing Modernization and Accessibility Act
20 of 2026. The second is the District of Columbia
21 Living Wage for All Amendment -- for All
22 Amendment Act of 2026.

1 And so before we begin the hearings, I
2 just want to give a background with respect to
3 the board's role in the initiative process.
4 Here in the District, voters are permitted to
5 participate directly in the legislative process
6 via the right of initiative. The term,
7 initiative, is defined in the District's Charter
8 as, "The process by which the electors of the
9 District of Columbia may propose laws, except
10 for laws appropriating funds, and present such
11 proposed laws directly to the voters of D.C. for
12 their approval or disapproval."

13 Pursuant to D.C. Official Code Section
14 1-1001.16, the board, upon receipt of a proposed
15 initiative measure, must refuse to accept it if
16 it determines that the measure conflicts with or
17 seeks to amend Title IV of the District Home
18 Rule Act or the District Charter, conflicts with
19 the U.S. Constitution, has not been properly
20 filed, was not accompanied by a timely filed
21 verified statement of contributions which
22 consists of the Measures Committee -- the

1 Measure Committee statement of organization and
2 report of receipts and expenditures, would
3 authorize discrimination in violation of the
4 D.C. Human Rights Act, would negate or limit a
5 budgetary act of the counsel, or would
6 impermissibly appropriate funds under applicable
7 D.C. Court of Appeals rulings. If the measure
8 does not suffer from any of the aforementioned
9 defects, it may proceed along the initiative
10 measure process.

11 Again, the board has two measures that
12 it must assess to determine whether or not
13 proper subject requirements are met. For each
14 proposed measure, we shall proceed as follows.
15 I'll provide the procedural background for each
16 measure, we'll hear from any opponents of the
17 measure who have indicated that they wish to
18 provide testimony, then from supporters of the
19 measure, and conclude with the proposer.

20 I will share what the Office of the
21 Attorney General and the General Counsel for the
22 D.C. Counsel have stated regarding the measure

1 in the advisor opinions that they are
2 statutorily required to provide to the board,
3 and then make a recommendation to the board as
4 appropriate. The board may enter into executive
5 session to deliberate in accordance with D.C.
6 Official Code Section 2-575B4A and 13, or they
7 may render the decision orally from the dais.
8 In any event, a written order will issue
9 thereafter.

10 And Mr. Chair, did you want -- which
11 order did you want to take first? On the
12 agenda, the Housing and Modernization and
13 Accessibility Act of 2026 is first, but we can
14 -

15 CHAIR THOMPSON: Yeah. Yeah. Let's
16 start with the D.C. Housing Modernization and
17 Accessibility Act.

18 We've -- this is a revised version of
19 something we very recently went over. And also,
20 just to supplement Ms. Stroud's comments, just
21 to state the obvious, you know, we on the board
22 don't have any position, in substance, one way

1 or another, about any of these voter
2 initiatives, whether they're proposed or
3 approved for the ballot in the case of the
4 measure we just approved. Our role is strictly
5 to make sure that they comply with the statute,
6 which derives from the charter itself.

7 So with respect to proper subject
8 matter, General Counsel just reviewed the
9 standard, so it's a -- really a gatekeeper
10 function that's neutral and more procedural than
11 anything. I mean, we may need to drill down on
12 the substance of constitutionality or something
13 like that, but on the ultimate measure that, for
14 example, the Housing Act is proposing, we don't
15 have any position or opinions about whether it's
16 a good, or not good, or wise, or unwise, public
17 policy.

18 MS. STROUD: Okay.

19 CHAIR THOMPSON: Want to give a
20 background on -

21 MS. STROUD: Yes.

22 So the -- again, the first measure is

1 the D.C. Housing Modernization and Accessibility
2 Act of 2026. On January 19th, the proposer
3 filed a version, which, as we've said, is the --
4 this is the third version of the measure that
5 we've seen, and they filed that and supporting
6 documents at the board's offices. The board
7 previously rejected the second version by a
8 written order dated January 20th, and the first
9 version was rejected prior to that.

10 According to its summary statement and
11 legislative text, the measure would, if enacted,
12 "Freeze rents for two years and, in future
13 periods of high inflation, when the regional
14 consumer price index exceeds 5 percent, reduce
15 the maximum permitted total rent increase for
16 rent-controlled units to 6 percent, call upon
17 the counsel of the District of Columbia to
18 reduce the income levels of households served by
19 the Housing Production Trust Fund, or HPTF,
20 realign certain affordable housing programs with
21 an upper eligibility threshold of 60 percent of
22 area median income, and revise affordable

1 housing requirements for land sold or leased by
2 the D.C. Government." The measure also provides
3 that its provisions with any fiscal effect will
4 not take effect until they are funded in a
5 counsel-approved budget and financial plan as
6 certified by the chief financial officer.

7 On January 20th, the board's Office of
8 General Counsel requested advisory opinions from
9 the Office of the Attorney General and the
10 General Counsel for the D.C. Counsel. On
11 February 6th, the OAG issued an opinion
12 concluding the revised measure is a proper
13 subject, and on February 10th, the General
14 Counsel for the D.C. Counsel issued an opinion
15 that reached the same conclusion. And with
16 that, I think it's appropriate to hear from the
17 opponents of the measure, several of whom have
18 submitted testimony. And so I will -- let's see
19 if I can identify -- (inaudible). I think the
20 first opponent is Shawn Hilgendorf of the -- and
21 I see Mr. Hilgendorf is present.

22 MR. HILGENDORF: Thank you. Can you

1 hear me?

2 MS. STROUD: Yes. And if you could
3 just state your name and business address for
4 the record?

5 MR. HILGENDORF: Sure. My name is
6 Shawn Hilgendorf, and my business address is
7 1615 New Hampshire Avenue Northwest, 3rd floor,
8 Washington, D.C.

9 MS. STROUD: Okay. And you can
10 proceed.

11 MR. HILGENDORF: Good morning, Chair
12 Thompson and members and staff of the Board of
13 Elections. My name is Shawn Hilgendorf, as I
14 said, and I'm the Vice-President of Government
15 Affairs for the D.C. Association of Realtors, or
16 DCAR. I'm also a resident of Ward 6. My
17 written statement includes additional legal
18 analysis and concerns with multiple sections of
19 the proposed initiative, but my oral
20 presentation will be a bridge for purposes of
21 time. DCAR is the District State Association of
22 Realtors and serves as the premier voice of real

1 estate in D.C. Our mission is to protect and
2 promote the interests of our approximately 3,000
3 members and their clients who live and work in
4 every ward of our city. Thank you for the
5 opportunity to present this testimony on the
6 behalf of the association.

7 Moving to the proposed ballot
8 initiative, Section 2 purports to prohibit the
9 increase of rent for any rental unit during the
10 period from the effective date of the section
11 through the second anniversary thereof, except
12 for those units owned by or leased to any person
13 by federal or District agencies. Section 2's
14 blanket and ongoing restrictions on rent differ
15 substantively than the District's longstanding
16 rent-stabilization program. Under rent
17 stabilization, housing providers may petition
18 for administrative relief in order to raise
19 rents due to hardship, capital improvements,
20 vacancy, or pursuant to voluntary agreements,
21 among other grounds.

22 Absent any path for administrative

1 relief, the proposed rent restriction
2 effectuates the taking of personal property
3 without provision for just compensation.
4 Affordable housing is an important government
5 goal and one that our organization supports, but
6 it is a burden that cannot rest solely on
7 housing providers. The Fifth Amendment, quote,
8 "Saves individual property owners from bearing
9 public burdens," which, in all fairness and
10 justice, should be borne by the public as a
11 whole. The Supreme Court, in its landmark Penn
12 Central case, considered a number of factors,
13 including the property owner's, quote, "Primary
14 expectation concerning use of the parcel, and
15 ability to obtain a reasonable return on its
16 investment in determining whether a landmark
17 designation represented a taking."

18 The president ballot initiative offers
19 no such consideration. The view that temporary
20 regulatory takings in particular do not require
21 compensation has been called into question
22 repeatedly at the Supreme Court. Justice

1 Scalia, in a separate opinion in a case
2 involving a rent-control ordinance, opined that
3 even if affordable housing is an important
4 problem, compelled subsidization by landlords is
5 an improper and unconstitutional method of
6 solving the problem. And while temporary
7 takings do not always require compensation,
8 Justice Kennedy wrote, in his consenting opinion
9 in *Lucas v. South Carolina Coastal Council*, that
10 it was well established that temporary takings
11 are as protected by the constitution as
12 permanent ones.

13 Even *Tahoe Sierra*, a case which
14 challenged that principle, engendered a strong
15 dissenting opinion from Chief Justice Rehnquist
16 that rejected that -- the distinction between
17 temporary and permanent takings as it regards to
18 the need to allow for compensation. The
19 proposed ballot initiative, through its
20 comprehensive scope, lack of consideration for
21 economic damages, or the settled expectations of
22 housing providers, and lack of due process for

1 relief, would present the courts with a dramatic
2 departure from precedent in D.C.

3 As such, it invites constitutional
4 challenge, which has a likelihood of success
5 unless compensation is provided for. As Section
6 2 of the proposed initiative, as circulated for
7 this hearing, is not a proper subject matter for
8 an initiative, in our opinion, the initiative as
9 a whole must be refused. In my written
10 testimony, we also raise concerns with Sections
11 4 and 6, but in the interest of time, I'll defer
12 that to my written testimony.

13 Thank you, Chair Thompson. I'd be
14 happy to answer any questions you may have.

15 CHAIR THOMPSON: Yeah. Thank you very
16 much, Mr. Hilgendorf. I really appreciate you
17 and your colleagues getting us focused on the
18 takings issue. I spent some time yesterday and
19 yesterday evening reading about this in your
20 statements, and it's something that I'm focused
21 on today, and I -- I'm hoping the proposers and
22 their counsel can maybe comment on this as well

1 from the other perspective. But I read your
2 statement and the cases you cited, and I thank
3 you for it.

4 MS. STROUD: Okay.

5 MR. HILGENDORF: Thank you.

6 MS. STROUD: And next, we will hear
7 from David Lewis of NAOIP DC.

8 And Mr. Lewis, if you could state your
9 name and business address for the record and
10 then proceed?

11 MR. LEWIS: Thanks very much. Dave
12 Lewis of Goulston & Storrs, 1999 K Street
13 Northwest, Suite 500. And thanks very much for
14 the opportunity to speak. I'm speaking today in
15 my capacity as a member of the DC Leadership
16 Committee of NAIOP DC. My committee
17 respectfully urges the board to reject the
18 ballot initiative before you at the moment. I
19 also submitted written comments to the board's
20 counsel last week, but I'll take just a minute
21 to summarize my comments here. And to
22 distinguish my comments from the previous

1 speaker, my comments will focus on the
2 constitution's contract clause, which is
3 incorporated into the Home Rule Act. As noted
4 by the chair and his comments at the outset, our
5 request of the board is not to decide -- we're
6 not asking you to decide whether the rent
7 control initiative before you is good policy.
8 Our request is that the board determine whether
9 this is proper subject for the ballot initiative
10 under the Home Rule Act and the constitution.

11 In our view, it is not a proper
12 subject. Under the Home Rule Act, the
13 district's legislative power, including by
14 ballot initiative, is subject to the contract
15 clause of Article 1 of the U.S. Constitution.
16 And under Section 1000.5 of the board's
17 regulations, the board must reject any
18 initiative that would violate the Home Rule Act
19 or the constitution. This initiative does
20 exactly that. The contract clause prohibits
21 laws that substantially impair existing
22 contractual obligations unless the impairment

1 serves a significant and legitimate public
2 purpose and is reasonable and appropriately
3 tailored to that purpose. Here, the proposed
4 initiative retroactively nullifies contracts and
5 leases already enforced. It does not merely
6 regulate future contracts. It freezes rents
7 immediately without a phase-in period, without
8 hardship relief, and without allowing lessors to
9 recapture bargain for increases after the freeze
10 ends. That is a substantial impairment of
11 existing contracts.

12 Under settled precedent, once a
13 substantial impairment is shown, the question
14 becomes whether the law is reasonable and
15 appropriately tailored to a legitimate public
16 purpose, and that is where this initiative
17 fails. Unlike the district's existing rent
18 control regime, the proposal contains no
19 legislative findings, no evidentiary record, no
20 hardship petition process, no individualized
21 review, and no tailoring to tenant need.
22 Existing D.C. rent control laws include

1 mechanisms for hardship relief and were enacted
2 through legislative findings and deliberation.
3 Courts defer to those legislative judgments
4 because they reflect balancing and tailoring.
5 This initiative, by contrast, is a categorical
6 and retroactive rent freeze. It permanently
7 nullifies bargain for rent increases with no
8 showing of necessity and no consideration for
9 less restrictive alternatives, and that
10 distinction is constitutionally decisive.

11 The constitution allows for carefully
12 tailored regulation enacted with legislative
13 findings to address legitimate public purposes.

14 It does not permit the wholesale retroactive
15 rewriting of existing contracts without any
16 justification. Because this initiative
17 retroactively and substantially impairs existing
18 contracts and lacks the legislative findings and
19 tailoring required under the contract clause, it
20 is not a proper subject for this -- for the
21 ballot. So for these reasons, we respectfully
22 urge the board to reject this initiative. Happy

1 to take any questions at this time.

2 CHAIR THOMPSON: Yeah.

3 MR. LEWIS: Thank you.

4 CHAIR THOMPSON: Yeah. Thank you, Mr.
5 Lewis. And thank you for focusing us on this
6 second issue that we need to grapple with under
7 the contract clause. I think in the last go
8 round, there was some passing reference to these
9 two concerns, which we addressed in our prior
10 order, but they weren't really squarely
11 presented and briefed the way you all have done.

12 So -- and once again, I appreciate it. I guess
13 my main question on this, having read your
14 statement, is: Is there -- is there any case on
15 point that has struck down a rent control law,
16 something like this one, specifically under the
17 contract clause?

18 MR. LEWIS: Yes, there is. It's in my
19 -- it's cited in my written materials. There
20 was -- it's from a rent control ordinance that
21 was adopted via legislation, not via ballot
22 initiative, in Berkeley, California. In the

1 1980s, it struck down the rent control ordinance
2 at that point for the reasons, frankly, that I
3 just went through. And then not strictly rent
4 control, a number of ordinances were adopted
5 during the COVID era that had similar effects to
6 rent control, basically, you know, capping rents
7 or capping economic benefits to the owners of
8 real property.

9 One of those ordinances in New York
10 City was struck in 2023, I believe. It's cited
11 in my written testimony from Friday, a case
12 called Melendez (phonetic). That case is still
13 kind of navigating the federal court process,
14 but it's a second and more recent example of
15 federal courts finding, under the contract
16 clause, that this type of action is
17 impermissible. So to answer your question, yes,
18 there's precedent on -- directly on point.

19 CHAIR THOMPSON: Yeah. Yeah. I see
20 your footnote 9, Ross v. Berkeley. Okay.

21 MR. LEWIS: Correct.

22 CHAIR THOMPSON: All right. And you

1 mentioned that, I guess, a cure for
2 retroactively altering contracts of this nature
3 -- one cure might be a legislative process
4 that's, you know, fulsome and deliberate, and
5 involves taking in evidence, and weighing
6 factors, and elevating the public interest, and
7 that sort of thing. Is that what you're seeing
8 in the case law?

9 MR. LEWIS: Exactly. The council can
10 take this kind of action because they hold
11 hearings, they make findings, they produce
12 reports, which is just not possible, frankly, in
13 the ballot initiative context. And, you know,
14 if you look at the existing D.C. rent control
15 legislation, it's pretty lengthy, and it's very
16 nuanced. And it's been amended multiple times.

17 That's the right forum for this kind of
18 policymaking. It's very difficult to legislate
19 this way in a constitutionally appropriate
20 fashion via ballot initiative.

21 CHAIR THOMPSON: Yeah. I guess that
22 answers my question. I mean, how would voters

1 possibly provide such deliberative process in
2 the form of a voter initiative? Only a
3 legislative body like the council could do that,
4 so it just -- I don't know what to make of it.
5 It might be a concern that there's this implicit
6 limitation on the voters' rights to propose
7 certain types of initiatives that would
8 ordinarily be subject to a more lengthy
9 deliberative process, but I guess it's something
10 we got to figure out, so -

11 MEMBER GREENFIELD: Yeah.

12 MR. LEWIS: Respectfully, Chair, I
13 don't think it's an implicit limitation. I
14 think it's an explicit limitation. The Home
15 Rule Act explicitly says that voters cannot, by
16 ballot initiative, do things that would violate
17 the Home Rule Act or the constitution. So I
18 would characterize the limits on what ballot
19 initiatives can accomplish as very much
20 expressly limited.

21 CHAIR THOMPSON: Yeah, no, I appreciate
22 that voter initiatives can't violate the

1 constitution, but a step beyond that is, well,
2 what would pass muster for a legislative body?
3 We've got a wedge now between that and what
4 might pass muster for a voter initiative. And
5 the paradox is, in theory anyway, our voters
6 should be able to propose any legislation that
7 our elected council can propose. So it's
8 cutting against one part of our deliberative --
9 of our legislative approach, which allows voters
10 to propose legislation and not the other more
11 common side, which is the DC Council. And maybe
12 that's fatal. I don't know, but it's -

13 MR. LEWIS: Well, I mean, there are
14 lots of other ways that voters can now pass
15 legislation, you know, I mean, but earlier
16 efforts in this -- in this realm were rejected
17 for some of those reasons, you know, can't
18 affect the budget, that kind of thing. So
19 there's all kinds of things that voters can't do
20 that the council can do. This is just another
21 of a long list.

22 CHAIR THOMPSON: Yeah.

1 MS. STROUD: So, Mr. Lewis, the council
2 could enact this legislation.

3 MR. LEWIS: Or something similar to it.

4 I mean, I think the point that we're making
5 here is, this legislation is very, very broad
6 and unfocused in a way that -- I mean, if the
7 council were to take this up, you know, without
8 having hearings, without making legislative
9 findings, et cetera, I think it would fail the
10 same way. But the reality is the council
11 doesn't work that way, right? They have
12 hearings, they make findings, there is
13 compromise. That's the difference between
14 legislating in the council context versus
15 legislating by ballot initiative.

16 MS. STROUD: Okay.

17 CHAIR THOMPSON: Thank you. I really,
18 once again, appreciate you getting us focused on
19 this, and I think you've raised a very
20 reasonable and worthy argument under the
21 contract clause, so we'll keep thinking about
22 it.

1 MR. LEWIS: Thank you.

2 MS. STROUD: The next individual who
3 requested to speak is Eric Jones of the
4 Apartments and Office Building Association of
5 Metropolitan Washington.

6 Mr. Jones, if you could state your name
7 and business address for the record, and then
8 proceed.

9 MR. JONES: Good morning, everyone. My
10 name is Eric J. Jones. I am with the Apartment
11 and Office Building Association of Metropolitan
12 Washington. Our office address is 1025
13 Connecticut Avenue, Northwest Washington, D.C.,
14 Suite 1005, and the zip code is 20036.

15 (Inaudible) Apartment and Building Association
16 of Metropolitan Washington is a principal
17 membership organization representing commercial
18 office buildings and multi-family properties
19 throughout the Greater Washington Metropolitan
20 Division. Our members own or manage more than
21 150 million square feet of commercial space and
22 over 450,000 multi-family units across the

1 district of Maryland and Virginia. In the
2 district, our members own or manage more than
3 120,000 multi-family units and over 75 million
4 square feet of commercial space.

5 Just in a matter of time, I'm going to
6 touch briefly on one part of our testimony,
7 which highlights Section 2 as a proposed
8 initiative. This needed a designation of an
9 emergency, a violation of power exclusively
10 given to the executive elected branches. The
11 Home Rule Act expressly authorized the
12 district's mayor and the executive to issue
13 emergency executive orders, as outlined by DC
14 Official Code 7-2304. Revisions in this
15 initiative would impose a proactive and
16 retroactive rent freeze without properly
17 identifying an emergency, defining the
18 emergency's timeline, or designating an
19 emergency by the executive.

20 Additionally, the district's charter
21 authorizes the Council of the District of
22 Columbia to enact resolutions, establishing

1 emergencies and temporary legislation for 90 and
2 100 -- I'm sorry, 225 days respectively. This
3 initiative would supersede those authorities by
4 creating a false emergency to freeze rent and
5 transfer that authority to the rent
6 administrator. Previously, courts have
7 recognized that in the district, a rent freeze
8 may take effect only during an emergency, not
9 after the emergency has expired, as in Block v.
10 Hirsh 256 United States 135, 1921 and the
11 Chastleton Corp. v. Sinclair, 264 in the USA in
12 1924. Notably, proposed initiative further
13 exceeds the district's statutory authority as
14 granted by congress and that it provides no
15 workable pass through mechanism for a landlord
16 to recover increased cost or hardship exemption
17 systems, as previously stated by Mr. Lewis.

18 Really quickly, in addition to that, we
19 have several other constitutional issues and
20 concerns that we would quickly raise, and I
21 think we highlighted this somewhat in our
22 written statement. The first would be Fifth

1 Amendment to take this loss. The initiative
2 imposes an immediate two-year rent freeze and
3 additional automatic freezes tied to inflation,
4 found any mechanism for individualized review,
5 cost recovery, or relief based on the actual
6 operating conditions.

7 Courts have recognized that rent
8 regulations may constitute a regulatory taking
9 when they prevent property owners from earning a
10 fair return or force owners to absorb
11 inflationary costs indefinitely. Fourteenth
12 Amendment (inaudible) due process concerns. The
13 initiative imposes sweeping economic
14 restrictions without findings tied to marketing
15 conditions, administrative discretion, or a
16 mechanism to account for property specific
17 circumstances. Economic regulations that are
18 arbitrarily irreputable or disconnected from
19 legitimate government interests raise serious
20 substantial due process concerns. Also, as
21 previously mentioned, Article 1, Section 10,
22 Clause 1, impairment of contracts, by

1 retroactively limiting rent increases permitted
2 under existing law and private agreements, the
3 initiative risks substantially impairing
4 contracts, thereby triggering the contract
5 clause.

6 In the matter of time, we thank you for
7 the opportunity to present and are open to
8 answering any questions you may have.

9 CHAIR THOMPSON: Yeah, no questions.
10 Thank -- yeah, thank you very much. I -- you
11 also got my brain focused on the substantive due
12 process concerns. I guess that overlaps, to
13 some extent, with the impairment of contracts,
14 but -

15 MEMBER GREENFIELD: Yeah.

16 CHAIR THOMPSON: -- my law -- my very
17 old and dusty law school brain somehow came up
18 with the phrase Lochner, 1905, which we all read
19 about in law school as liberty -- the beginnings
20 of the liberty substantive due process component
21 of the Fifth and now Fourteenth Amendment, so
22 it's -- I guess that's in play as well.

1 And I guess I guess I sort of make
2 reference to all that to sort of note that our
3 board of elections were called upon to consider
4 these kind of complex constitutional questions.

5 They're a little bit above our pay grade.
6 These are the kinds of heavy questions you would
7 expect the Supreme Court or, you know, a court
8 of law to decide after full briefing.

9 But nevertheless, there is this sort of
10 side door into constitutional analysis through
11 our proper subject matter determination, so we
12 have to -- we have to grapple with these things
13 ourselves. So I appreciate this briefing, and
14 it -- we'll come back to this later, but it -- I
15 think -- I would note for the record, we don't
16 have any briefing on this from the Office of the
17 Attorney General or the D.C. Council's general
18 counsel or the proposers, so I'm hoping we can
19 balance that out. Because if we're going to
20 undertake this heavy lifting ourselves, I feel
21 like we need a little bit of balanced guidance
22 from both sides, so -- but I think you all

1 certainly have it covered. And I think we have
2 one more person commenting, who wrote an
3 excellent testimony as well.

4 MEMBER GREENFIELD: Yes. We have Erika
5 Wadlington from the D.C. Building Industry
6 Association.

7 And, Ms. Wadlington, if you could,
8 state your name and business address for the
9 record, and then proceed.

10 MS. WADLINGTON: Good morning. I'm
11 Erika Wadlington with D.C. Building Industry
12 Association. We've recently moved offices.
13 We're located now at 700 K Street Northwest. So
14 I'm here today to represent DCBIA. I'm also a
15 Ward 5 resident.

16 This morning, we're here to discuss the
17 D.C. Housing Modernization and Accessibility Act
18 of 2026. And once again, the question before
19 you is not whether rent policy is good or bad,
20 nor is DCBIA here to debate housing policy
21 preferences.

22 The only question is whether this

1 measure is a proper subject for the initiative
2 process under the D.C. Charter. It is not.
3 First, Section 2 raises a serious constitution
4 issue under the Fifth Amendment. As mentioned
5 before, under Penn Central Transportation v. New
6 York City, courts have evaluated whether a
7 regulation can go too far by examining economic
8 impact, the interference with reasonable
9 investment-backed expectations, and the
10 character of government action.

11 Here, the initiative proposes a
12 categorical two-year rent cap, followed by
13 automatic annual freezes whenever CPI exceeds 5
14 percent. It also applies the, quote,
15 "Notwithstanding any other provision" quote of
16 the Rental Housing Act, meaning it suspends
17 existing hardship petitions and adjustment
18 mechanisms that currently protect against that
19 confiscatory outcomes.

20 Additionally, to underscore the
21 interference with distinct investment --
22 investment-backed expectations that Penn Central

1 examines, this proposed measure would impact
2 that as well. Property owners subject to the
3 Rental Housing Act currently operate within a
4 rent stabilization framework that includes
5 annual adjustments and includes hardship
6 petitions, as mentioned, but Section 2 alters
7 that, that framework on which those investments
8 and those financial decisions were ultimately
9 made.

10 So for the record, temporary
11 regulations are non-immune from the takings
12 scrutiny, as mentioned before. The fact that
13 Section 2 is labeled "Temporary" does not
14 resolve that constitutional question. The
15 Supreme Court made that clear in Tahoe-Sierra,
16 and under longstanding district court precedent
17 in Karrick v. Cantrill, fixed rent regulations
18 that prevent a reasonable net return are also
19 unconstitutional. The constitutional question
20 this measure presents is serious and non-
21 frivolous on its face. That alone places it
22 beyond the initiative's power.

1 Finally, the initiative conflicts with
2 the structure of the Home Rule Act. Title IV of
3 the Home Rule Act vests legislative authority in
4 the D.C. Council to enact and amend laws. In
5 Jack Spicer Real Estate v. Gassaway, the D.C.
6 Court of Appeals confirmed that congress
7 delegated rent regulatory authority to the D.C.
8 Council's legislative judgment.

9 That included the authority to design
10 the regulatory framework, but Section 2 of this
11 initiative replaces that ongoing legislative
12 discretion with an automatic self-executing CPI
13 trigger. So once enacted, it operates
14 mechanically and independently of D.C. Council's
15 judgment. The council could -- would be bound
16 by a rigid formula, unless and until a voter-
17 approved measure were amended or repealed this.

18 It is not simply legislation. It is the
19 removal of discretionary policymaking authority
20 that entrusted the D.C. Council under the Home
21 Rule Act.

22 The significance of Jack Spicer Real

1 Estate is not merely that rent control laws are
2 permissible. It is that D.C. Court of Appeals
3 has already interpreted Congress's delegation
4 and concluded that rent regulation authority
5 resides with D.C. Council.

6 So in sum, this measure presents
7 serious constitutional questions under the
8 takings clause, the contracts clause, which
9 you've heard, and it also restricts the
10 council's delegated legislative authority and
11 discretion. Because those conflicts appear on
12 the face of the initiative, it is not a proper
13 subject for the ballot. We're happy to answer
14 questions at this time.

15 CHAIR THOMPSON: I thank you very much.

16 I don't have any questions. I think -- along
17 with the other testimony, I think we got a
18 pretty good picture of the opposition view on
19 this.

20 MEMBER GREENFIELD: Okay. Now we will
21 turn to the proponents and then the proposer.
22 In terms of the proponents, we have Adam

1 Eidinger.

2 And if you could, state your name and
3 address for the record.

4 MR. EIDINGER: Yes. Sure. My name is
5 Adam Eidinger. I'm the treasurer for More
6 Affordable D.C. I -- my address is 2448
7 Massachusetts Avenue Northwest, Washington, D.C.
8 20008.

9 I'm not a constitutional law expert.
10 I'm an activist. And, you know, I want to just
11 bring this back to reality here. And the
12 reality is that we've gone through three
13 versions of this with some of the best attorneys
14 on the district payroll, and there has been
15 rejection, and now there was exception -- I mean
16 acceptance. It was accepted. We were told that
17 this is a proper subject matter from your own
18 analysis from the board and from the attorney
19 general.

20 Of course, the real estate industry,
21 which has undue power and influence over the
22 council and prevents the council from passing

1 legislation like this through their powerful
2 lobbyists -- of course, they're going to come
3 here and raise constitutional claims to say that
4 the attorney general and the general counsel are
5 wrong about making this a proper subject matter.

6 Of course, they're going to do that. They're
7 going to come up with arguments.

8 When you're a renter, telling your
9 landlord you don't want to pay a rent increase
10 because nothing has changed about the service
11 you're being provided at all, like zero
12 improvements, doesn't fly. Like, you have to
13 pay. They will charge you more. They will come
14 after you with lawyers for this.

15 What we are proposing is incredibly
16 fair because it applies to all landlords, all
17 landlords renting to district residents, and it
18 doesn't except any of them. So when they talk
19 about, oh, you need to have special provisions
20 for contracts that are going to have to be
21 changed. You're going to have to have special
22 allowances. You know, we're going to have to

1 have an appeal process. These are all things
2 they would like to lobby for in the council that
3 they -- if this was going through the council.
4 But the ballot initiative process gives the
5 proposer the right to draft the initiative the
6 way they want to as long as it is a proper
7 subject matter, and this is.

8 So you know, coming at us with saying,
9 it should have this, and it should have that --
10 well, do your own ballot initiative, folks,
11 like, who are criticizing this. Do your own, or
12 go to the council and lobby. Because we know
13 this battle initiative will most likely be
14 modified by the council after it passes, but let
15 the voters weigh in. Don't take away this
16 democratic process because there might be a
17 constitutional challenge down the line, or
18 district attorneys, you know, for the board will
19 have to defend a constitutional perspective, you
20 know, on the law that they currently agree with
21 with us. At least I thought they did.

22 So you know, like, remember what this

1 process is about. It's about involving the
2 voters. We have such a weak ballot initiative
3 law. We can't spend money. And we're not. The
4 council will control that if there is any cost.

5 And, you know, we can't -- there's so much we
6 can't do. It's not enforceable, you know?

7 And so they can just change it, and
8 they will. This -- these folks you heard from
9 today will lobby the hell out of that council
10 after this passes. And, you know, some of the
11 changes, I would even say, are reasonable. Some
12 of the things I heard today were reasonable, but
13 we just can't put them in a ballot initiative.
14 But that's not the reason to kill the ballot
15 initiative, saying it's deficient in some
16 things.

17 And, you know, I'm a businessman, and
18 I've been in so many rent negotiations over the
19 years for real estate that I've lived in, as
20 well as having businesses in. And you are not
21 in a strong position. You really are not.
22 Like, as the renter, you are in a very weak

1 position. You kind of are at the mercy of the
2 landlord.

3 And it's time to level the playing
4 field, folks. It's time to, you know, bring
5 some justice to income inequality when the
6 majority, the vast majority of D.C. residents
7 are renters. And we don't -- we -- every year,
8 the rent goes up 3, 5, 10 percent, no pushback.

9 This is the pushback.

10 So I urge this board, as I conclude, to
11 -- don't buy these constitutional arguments that
12 are hypothetical. Don't go -- don't get lost in
13 the weeds here. Let the voters vote on a very
14 simple and straightforward measure that, you
15 know, is easily understood.

16 I mean, I encourage people to go to
17 moreaffordablec.org and use our rent
18 calculator, where you can type in your rent and
19 you can see how much you will save in the first
20 two years of this initiative. And it's the same
21 for everyone. The calculations are the same for
22 everyone. This is not unfair to the landlords,

1 to the owners, who have -

2 CHAIR THOMPSON: Okay. Thank you -

3 MR. EIDINGER: -- massive amounts of
4 equity, by the way. Let's not forget. They
5 have equity. Thank you.

6 CHAIR THOMPSON: All right. Mr.
7 Eidinger, thank you so much. And one point you
8 made that I really appreciate it, and I -- it's
9 foremost in my mind is to respect and honor the
10 ability of voters to propose initiatives of
11 their choosing and to let the voters decide
12 whether they think that is a good or bad idea
13 for our city.

14 I mean, that's -- if there's a
15 presumption or a default, you know, standard,
16 that -- that's our standard. It's -- you know,
17 we favor ballot access for candidates, right, if
18 there's -- you know, all of the -- all other
19 things equal, any kind of a close call, you
20 know, coin flip, you favor the candidate making
21 the ballot so the voters can decide and the
22 initiative is kind of like a candidate. You

1 know, it's -- we're just deciding whether it's
2 going to be on the ballot. That's it.

3 So I mean, I hear you when you talk
4 passionately about why you think it's a good
5 law, but that's not particularly relevant to us.

6 But what is relevant is your point that we
7 should be respectful of the voter's ability to
8 decide. That's tempered by a couple things.
9 And I think -- I don't mind saying I'm -- you
10 know, I'll give you the point that you've cured
11 the appropriations issue by your revision of
12 Section 4. That was the holdup last time, and I
13 don't -- it's not even been raised again. I
14 think you've got that one fixed, as the two
15 legal opinions have stated from the OGC and the
16 General Counsel's -- I mean, the DC Council's
17 GC.

18 I mean, I don't think anybody ever had
19 an issue with Section 6, and I don't see any
20 concern about the voters taking over some core
21 function of the D.C. counsel. That's a
22 structural aspect of what the DC Council does,

1 because the voters can do whatever the DC
2 Council does. But even in the realm of a voter
3 initiative, you -- it still can't be something
4 that violates the U.S. Constitution. And, I
5 mean, I hear your comments about the opponents,
6 but for the most part, they were ad hominem, you
7 know, comments about who they are. So our job
8 is just to focus on the substance, and so we'll
9 try to do that.

10 And I think maybe counsel -- Mr.
11 Sandler will start to address -- will address
12 some of the legal issues, like the Penn Central
13 case, and we'll just try to figure it out. But
14 we're always going to keep in mind the paramount
15 importance of giving voters the opportunity,
16 when we can under the test, to make the call on
17 whether they like or don't like something --
18 legislation like this.

19 MS. STROUD: And next, we will have Mr.
20 Joseph Sandler, who is Counsel for the proposer.
21 But first, I just want to ascertain whether or
22 not the proposer, Salim Adofo, is here, and he

1 can have the opportunity to speak as well if he
2 would like.

3 So Mr. Adofo, I see that your handle
4 is, "Friends of Salim Adofo." Is that you? And
5 if so, you can state your name and address for
6 the record, and we'll hear from you and Mr.
7 Sandler. That is your -

8 MR. ADOFO: Oh. Good morning,
9 everyone. Can you all hear me?

10 MS. STROUD: Yes.

11 MR. ADOFO: All right. I would like to
12 defer to my legal counsel at this time.

13 MS. STROUD: Thank you. Thank you.
14 And we will hear from Mr. Sandler.

15 MR. SANDLER: Thank you. Can you --
16 yes. Can you hear me?

17 MS. STROUD: Yes, we can, Joe.

18 MR. SANDLER: Okay. Thank you very
19 much.

20 The chairman noted that this -- these
21 supposedly heavy constitutional issues were only
22 referenced in passing in the extensive testimony

1 previously submitted by the landlord lobby, with
2 respect to the initial version, and all of a
3 sudden, this has become their central focus.
4 There's -- the reason for that is that while
5 these are, you know, significant issues,
6 ultimately, their position is without merit.

7 Let me start with the contracts-clause
8 issue first. The test, according to the D.C.
9 Court of Appeals, in the D.C. Metro Police
10 Department case, 301 A Third 714, "To establish
11 a violation of the contracts clause, a party
12 must demonstrate there's been a substantial
13 impairment, contractual relationship. The
14 impairment is not justified by a significant
15 legitimate public purpose, or if so justified,
16 the impairment is not based upon reasonable
17 conditions of a character appropriate to the
18 public purpose justifying the legislation's
19 adoption."

20 The -- with respect to the substantial
21 impairment, first of all, it's not -- there's no
22 -- the idea that it's retroactive is completely

1 speculative. If this were in effect today, we
2 were nowhere near the CPI trigger, and there's
3 no, you know, specific reason to believe that
4 when this is passed, the CPI will not be below
5 this, so that everyone will have the
6 expectation, when their leases are renewed, that
7 this law is in effect.

8 Secondly, it's not permanent. After
9 the two-year period is over, there's nothing
10 whatsoever to stop a landlord from completely
11 recouping, with interest, through a rent
12 increase. We're not talking about the rest of
13 the rent control, which applies to very, very
14 small portion of D.C. housing. But the -- with
15 respect to the vast majority of the housing,
16 rental housing, landlords could completely
17 recoup it.

18 Even assuming, though, that there is a
19 substantial impairment, this issue with the
20 contracts has come up a lot. They're citing
21 cases in 1978, you know, 1922, whatever, the
22 Melendez case, which is in the minority. The

1 provisions temporarily restraining rent
2 increases and preventing landlords from
3 enforcing rental contract leases were litigated
4 extensively. Those kinds of provisions were
5 enacted by many states and localities during
6 COVID.

7 If you look at the substantial majority
8 of those cases rejected, and I'm going to cite
9 two of them today because the language -- a
10 contracts-clause challenge to those provisions.

11 And the reason is that the -- in terms of the
12 justification that has to be shown, it's the
13 rational basis test. It's -- any significant
14 public purpose, you know, will justify this in
15 terms of the contracts clause analysis.

16 And let me cite just two cases.
17 There's one from United -- from the District
18 Court in Maryland, which challenged the local
19 laws of number of jurisdictions in Maryland
20 during COVID, restricting landlords from
21 increasing rent or assessing late fees. This is
22 Willowbrook Apartment Associates v. The Mayor of

1 Baltimore, 536 F Supp Third 428. The Court
2 found that those provisions, for purposes of the
3 contracts-cause analysis, substantially impaired
4 the rights of the landlords, but found that the
5 challenges could not meet the second and third
6 elements of the test because it was such a low
7 burden.

8 The -- several -- to quote the courts,
9 "The acts here easily pass that, merely
10 contending there is a better way they not carry
11 their burden." It's basically the rational
12 basis test, and, "As explained above, the Acts
13 here easily pass that test. There's nothing in
14 the record to suggest the acts were irrational
15 or illegitimate. And although Plaintiffs have
16 suggested ways they could've been tailored more
17 precisely, this Court is constrained to defer to
18 the Defendant's legislative judgments." And
19 here, the District Court of Maryland is citing
20 the U.S. Supreme Court case of Energy Reserves
21 Group.

22 Similarly, the Court in -- and, I mean,

1 this is one of -- you know, just, again, there
2 are so many cases coming out of the COVID era,
3 but this is out of the Eastern District of New
4 York, Federal Court in Brooklyn, Community
5 Housing Improvement Program, 492 F Supp Third
6 33, challenging the entire rent-stabilization
7 law, including the COVID-era amendments. Again,
8 finding substantial impairment, but saying that
9 where the affected contract is between private
10 parties, courts must accord substantial
11 deference to legislature's conclusion about how
12 to effectuate those purposes, and upheld the law
13 against the contract's challenge on that basis,
14 finding, you know, a valid legislative purpose.

15 Now, with respect to legislative
16 purpose, which, again, we're -- it's rational
17 basis, very, very low bar, the landlord lobby
18 suggests that it's impossible to even, you know,
19 consider that test because there's no
20 legislative findings with the ballot initiative.

21 The fact of the matter is that in D.C., unlike
22 California and some of the Western states, the

1 legislative format, proper legislative form for
2 a ballot initiative, does not include
3 legislative findings.

4 From that, the landlord lobby asks this
5 board to infer that, therefore, there's no
6 possibility that any ballot initiative that
7 requires justification, legislative purpose, as
8 part of a constitutional analysis, which, of
9 course, is common, talk about Penn Central in a
10 minute, you know, could not pass muster. That
11 is an untenable position. It is clear that
12 they're talking about, well, it's implicit, you
13 know, that they -- no. The courts have ruled,
14 the D.C. Court of Appeals has ruled time and
15 again, as the chairman pointed out, that the
16 regulatory power, not involving appropriations,
17 of the people, the District voters, is co-
18 extensive with that of the D.C. counsel. That
19 is an explicit principle of D.C. law that has
20 been reaffirmed time and again, and they are
21 asking this board to reject it. And that just,
22 you know, will not fly.

1 I -- just back to the substantial
2 impairment, I do want to make one other point I
3 forgot to make. In addition to the fact that
4 it's not in effect, it's not retroactive, it's
5 not permanent, there -- the idea that they can't
6 avail themselves of the hardship petition
7 process in the existing law is bogus. Nothing
8 in this initiative amends that law. The thing
9 (inaudible) notwithstanding, you don't read that
10 to mean there's no -- you know, that the
11 procedural things don't apply. It means that,
12 you know, the fact that most of the rent-control
13 law doesn't apply to housing, notwithstanding
14 that, this temporary rent freeze for very, very
15 high CPI situations, you know, would come into
16 effect. So that -- that's not true that there's
17 no hardship relief.

18 Let me just quickly -- the Penn Central
19 analysis, there's seven factors. I won't go
20 into all that. It's the -- but the key one is
21 very -- you know, is very similar to the
22 contracts clause, and that is, if there's a

1 legitimate -- you know, a legitimate state
2 purpose, then the Court finds that there's no --
3 you know, there's no taking. And I will read
4 from this same case, from the U.S. -- the
5 Maryland District Court in Willowbrook, which
6 also undertook a takings analysis, the due
7 process clause, and found that, "The Supreme" --
8 and I'll read from the decision, "The Supreme
9 Court's precedents requires substantial
10 deference to government actions taken to protect
11 the public. As the Supreme Court has found, a
12 regulation which," quote, "arises from a public
13 program that adjusts the benefits and burdens of
14 economic life to promote the common good does
15 not constitute a taking requiring government
16 compensation." And here, the U.S. District
17 Court of Maryland is citing Connolly v. Pension
18 Benefit PBGC, 475 U.S. 211.

19 So obviously, this is not -- you know,
20 we don't have hours to argue this, but I would
21 just urge the fact that the attorney general and
22 the general counsel of -- the District of

1 Columbia Counsel found no, you know,
2 constitutional infirmity in this, nor did the
3 landlord lobby, until they discovered that their
4 other argument, you know, wasn't working. And
5 we would just urge the board to go with the
6 majority of the cases that were decided during
7 the COVID era and reject these constitutional
8 challenges. Thank you very much, Mr. Chairman,
9 members of the board. Happy to answer any
10 questions.

11 CHAIR THOMPSON: Well, that was
12 extremely helpful and very much appreciated. I
13 guess my main question is, are you able to
14 submit a written statement with the substance of
15 what you said and the citations that you
16 mentioned to help us out here?

17 MR. SANDLER: Yes, we'll do it. Of
18 course, we'll submit anything that's helpful to
19 the board.

20 CHAIR THOMPSON: Okay. And that would
21 be most appreciated. I think maybe the point
22 I'm trying to make is, we don't -- I mean, now

1 that these two arguments have been made, and for
2 whatever reason they weren't made with as much
3 emphasis before. I guess that really doesn't
4 matter.

5 We're looking at these two arguments,
6 and we don't want to just brush them aside, you
7 know? We've got to do our homework and
8 understand, you know, why they don't apply if
9 they don't apply. So you know, you cited some
10 really good cases, and I -- you know, I read --
11 I reread Penn Central. I don't know if I had
12 read it in law school or not, but it approved
13 the government -- I don't know if "taking" is
14 the right word, but, you know, designation -

15 MR. SANDLER: (inaudible) taken.

16 CHAIR THOMPSON: -- (inaudible)
17 historic. I'm glad because it's a beautiful
18 train station, you know? Would have looked like
19 New York Penn otherwise, but -- and a lot of the
20 cases that the opponents cite for the test, when
21 you look at them, they in fact upheld the
22 government program regarding rents or otherwise.

1 And they're citing those cases really more by
2 distinction and more for their test, but when
3 you look at the result, it's favorable to you
4 and you're right. They did cite, like, a 1922
5 case and, like, a 1938 case, and I just don't
6 know what to make of those.

7 So I'd love to see your analysis and
8 citations to these more recent cases, like the
9 District of Maryland case, and just to help us
10 write this up. I'm not prejudging it. I don't
11 know how we're going to come out, but we just
12 have to -- we just have to take it
13 conscientiously and do our homework.

14 MS. STROUD: And when would you like
15 that to be submitted, Mr. Chair?

16 CHAIR THOMPSON: I don't have a
17 deadline. I mean, it's really -- I mean, I
18 think probably what we're going to do
19 momentarily is take this under advisement
20 pending additional briefing, so it's not --
21 we're not -- we would ask your -- kindly ask for
22 your understanding that we have a lot of other

1 things to do in the next, you know, two or three
2 months. But, you know, if you give us an
3 obligation, we'll fulfill it, but -- so, you
4 know, if you get this to us in five days, fine.

5 We'll look at it and turn it around. But if
6 you need -- if you tell me you need a month,
7 that's fine too, because got other things to do.

8 MR. SANDLER: Five days is more than
9 enough time. Thank you, Mr. Chairman.

10 CHAIR THOMPSON: Right.

11 MS. STROUD: Thank you. So we're
12 taking this matter under advisement.

13 CHAIR THOMPSON: Another question I had
14 for General Counsel Stroud is, is it possible to
15 ask the OAG and the general counsel of the DC
16 Council to supplement their letters? Are they
17 -

18 MS. STROUD: We can certainly ask.

19 CHAIR THOMPSON: Are they vowed to
20 issue written statements on proper subject
21 matter?

22 MS. STROUD: Advisory opinions on

1 proper subject proceedings.

2 CHAIR THOMPSON: And they haven't --
3 neither of them addressed this issue in either
4 of their letters, and I -

5 MS. STROUD: Except to say that they
6 met all of -- they met -- of all other proper
7 subject requirement side of the law
8 appropriating funds.

9 CHAIR THOMPSON: Yeah. They did it in
10 a -

11 MS. STROUD: Yeah.

12 CHAIR THOMPSON: -- in a sort of a
13 broad, sweeping manner, and I know they have
14 other things to do too, but I think it would be
15 most helpful if they each took some time to do a
16 little research and -- because they'll be coming
17 at this independently. I mean, I expect the
18 proponent, obviously, to conclude that there's
19 no problem here, but I would appreciate an
20 independent opinion from each of those sources
21 to help us then turn to the job that we have to
22 do.

1 MS. STROUD: Okay.

2 CHAIR THOMPSON: So -

3 MS. STROUD: So we will certainly ask
4 of the general counsel for the council and the
5 Office of the Attorney General to provide
6 supplementary advisory opinions with respect to
7 the question of the constitutional objections
8 raised by the opponents to the measure in their
9 submissions to the board.

10 CHAIR THOMPSON: Yeah, exactly.

11 And for the opponents that are
12 listening, we'll -- you know, you'll obviously
13 have the opportunity to review those statements
14 as they're received and comment further to make
15 sure that we're hearing -- continuing to hear
16 from both sides on this. And then we'll try to
17 turn it around -- turn it around as fast as we
18 can, maybe at our next regular board meeting, if
19 we have to address (inaudible).

20 So with that, I -- I'll make a motion
21 that we take this matter under advisement
22 pending receipt of these additional written

1 statements, and resume deliberation at a later
2 time, if possible, at a regular board meeting.

3 MS. STROUD: So additional written
4 statements, as well as, if they do agree to our
5 request, further supplemental advisory opinions
6 from the Office of the General Counsel for the
7 council, as well as the Office of the Attorney
8 General?

9 CHAIR THOMPSON: Correct. Correct.

10 MS. STROUD: Okay.

11 Is there a second?

12 MEMBER GREENFIELD: Yes, I second.

13 MS. STROUD: Okay. And with that, we
14 will take a roll call vote.

15 Mr. Chair?

16 CHAIR THOMPSON: Aye.

17 MS. STROUD: And Madam Greenfield?

18 MEMBER GREENFIELD: Aye.

19 MS. STROUD: Okay. And with that, we
20 will -- the board will take the matter under
21 advisement pending the submission of
22 supplementary filings with respect to the

1 question of constitutional objections raised to
2 the measure and the -- any opinions that are
3 submitted further by the Office of the Attorney
4 General and the general counsel for the DC
5 Council. And following that, the board will
6 issue a ruling based on the entirety of the
7 record at its April meeting, if we're done by
8 then.

9 CHAIR THOMPSON: If possible.

10 MS. STROUD: If possible. The -

11 CHAIR THOMPSON: Did you have a final
12 comment, Mr. Sandler?

13 MR. SANDLER: Just -- it -- well, just
14 as a procedural matter, Mr. Chairman, isn't it -
15 - wouldn't it be the normal course not to wait
16 until the next regular board meeting, but just
17 when the board has sufficient briefing on this,
18 to just do kind of a delayed executive session?

19 I mean, we -- we're obviously concerned about
20 the delay, particularly given these arguments
21 weren't timely raised to the earlier version,
22 which had the identical provision.

1 MS. STROUD: So the board could issue a
2 ruling prior to the meeting. And so I guess the
3 procedure would be to go into closed session to
4 deliberate, and we could do that after the
5 meeting, to say that the board is going to take
6 the opportunity to deliberate pending the
7 submission of the documents that we discussed.

8 MR. SANDLER: Thank you.

9 CHAIR THOMPSON: Yeah, and I'll just
10 add that it's, I guess, within the discretion of
11 the chair, so -

12 MS. STROUD: Right.

13 CHAIR THOMPSON: -- we do have all
14 these (inaudible) and we can immediately go into
15 closed session, Karyn and I, and decide and then
16 announce it. That's fine. I'm just guessing it
17 might align with the next regular board meeting,
18 so I just mention that because it might be
19 coincidental and efficient for us to take it up
20 at that time.

21 MS. STROUD: And there's a question
22 from Ms. Wadlington, if -

1 CHAIR THOMPSON: Yeah.

2 Ms. Wadlington?

3 MS. WADLINGTON: Thank you, Mr. Chair
4 and members of the board. I do have a couple
5 questions about that process for feedback. We
6 would like that opportunity to respond, and as
7 you shared, that once the materials are
8 provided, that the -- those witnesses today can
9 have an opportunity to respond. So I do want to
10 ask about that timing, and secondly, I am
11 familiar with the board's regular scheduled
12 meeting cadence, but if you're proposing to not
13 meet on that cadence, then -- or that frequency,
14 then how will the public be notified and be able
15 to participate in that regard?

16 MS. STROUD: We will issue a notice if
17 there is any proceeding outside of a regular
18 board meeting. So if it's a special board
19 meeting, and it probably won't need to be, then
20 we will issue notice, and then we will inform
21 certainly the parties that submitted testimony
22 with respect to this matter.

1 CHAIR THOMPSON: Yeah, we'll -- and
2 we'll make sure you get all -- anything that's
3 submitted and have the opportunity to reply. I
4 know you all have different constituencies, but
5 you might join forces and submit a combined
6 opposition statement regarding these two issues.

7 MS. WADLINGTON: Thank you for that.

8 MS. STROUD: And with that, we'll move
9 to the next proper subject hearing, which is for
10 the District of Columbia Living Wage for All
11 Amendment Act of 2026. And by way of
12 background, on December 9th of last year, an
13 earlier version of this initiative was submitted
14 to the board. The Office of the Attorney
15 General and the General Counsel for the Council
16 of the District of Columbia issued advisory
17 opinions that it was not a proper subject matter
18 for initiative because it required the
19 allocation of additional revenue to implement.
20 And, you know, the board on its own analysis
21 found that the initiative -- actually, the board
22 did not make a determination on the initiative

1 because it was subsequently withdrawn prior to
2 the board weighing in on it.

3 Let me just check one thing. No. Yes.

4 Okay. On February 2nd, the proposer, a D.C.
5 registered voter, filed the current measure and
6 supporting documents at the board's offices.
7 According to the summary statement, the measure
8 would increase the minimum wage to \$25 per hour
9 by July 1st of 2029. The measure would also
10 increase the tip minimum wage until July 1st,
11 2031, when the mandatory base wage for tip
12 workers would match the regular minimum wage.
13 It intends to eliminate a credit for tips
14 received by tip workers. Under the measure,
15 service charges collected by tip workers -- tip
16 worker employers from customers will belong to
17 the employees.

18 On February 3rd, the board's Office of
19 General Counsel sought advisory opinions from
20 the OAG and the CGC as to whether the measure
21 satisfies proper subject requirements such that
22 it should be accepted by the board. On February

1 25th, both the OAG and the CGC provided advisory
2 opinions to the board on the Living Wage
3 Initiative submitted on February 2nd. The OAG
4 concluded that the measure was a proper subject
5 for initiative because it addressed the
6 deficiency the OAG had identified in the
7 previous version of the initiative.

8 Specifically, the OAG found that the language
9 expressly exempts employees of the District and
10 its contractors from future increases in the tip
11 minimum wage. Accordingly, they determined the
12 measure to be a proper subject, and the General
13 Counsel for the council also found that the
14 measure was a proper subject for initiative.

15 And with that, if there -- we didn't
16 receive any comments from any proposers -

17 CHAIR THOMPSON: Opponents, you mean?

18 MS. STROUD: -- from the opponents to
19 the measure, and we didn't receive any comments
20 from people in favor of the measure, but I just
21 wanted to see if anyone was present. Let's see.

22 Is there -

1 CHAIR THOMPSON: The proposer here?

2 MS. STROUD: Is the -- let me just
3 check. One moment. I believe that the attorney
4 for the living wage -- Mr. Hurwitz. Yes, Mr. --
5 Mr. Hurwitz is present. He is counsel for the
6 proposal of the measure.

7 MR. HURWITZ: Hi there. Can you hear
8 me?

9 MS. STROUD: (inaudible). Yes, we can.
10 And if you could just state your name and
11 business address for the record.

12 MR. HURWITZ: I'm Darrin Hurwitz,
13 representing DC Living Wage for All, 1666
14 Connecticut Avenue Northwest, Suite 550. Zip is
15 20009. And we appreciate the Attorney General
16 and Council General Counsel's advisory opinions
17 concluding that the Living Wage for All
18 Amendment is a proper subject of initiative.
19 Given the absence of any public comments, I
20 don't have anything to add to the advisory
21 opinions, but I'm happy to take any questions if
22 there are any.

1 CHAIR THOMPSON: Yeah, yeah. Thank you
2 very much. I -- the two opinions we received
3 determined that this is a proper subject matter,
4 specifically because it -- this initiative
5 corrects the deficiency in the prior version,
6 which would have required the District
7 government and its contractors to increase their
8 minimum hourly wages. So that's been cured by
9 the exception, and, I mean, the other initiative
10 made me stop and think, am I supposed to think
11 of a constitutional problem that this might
12 have, notwithstanding that neither of our
13 letters address the issue. And I -- my brain
14 couldn't think of one, so I don't -- doesn't
15 seem to be a takings or a contract-clause issue.

16 I -- I'll try not to think too hard. So I'm
17 good, and I'm -- I don't see any reason to
18 hesitate to go ahead and move that we recognized
19 this initiative, the District of Columbia Living
20 Wage for All Amendment Act of 2026, is a proper
21 subject matter.

22 MEMBER GREENFIELD: Yeah. I second.

1 MS. STROUD: Okay. And with that,
2 we'll take a roll-call vote with respect to the
3 acceptance of the District of Columbia Living
4 Wage for All Amendment Act of 2026 is a proper
5 subject for initiative.

6 Mr. Chair?

7 CHAIR THOMPSON: Aye.

8 MS. STROUD: Madam Greenfield?

9 MEMBER GREENFIELD: Aye.

10 MS. STROUD: Okay.

11 And with that, the measure is accepted
12 as a proper subject. And how we will proceed --
13 I'm toggling through document after document.
14 Well, we will -- it will proceed along the
15 ballot measure processing schedule in accordance
16 with District law.

17 CHAIR THOMPSON: Can I just interrupt?

18 We've been going about an hour and a half. Can
19 we take a five-minute break? Everybody might
20 need that. So with that, we'll adjourn for
21 approximately five minutes, and we'll just put
22 ourselves and everybody on mute for just a -

1 MS. STROUD: Let's say come back at
2 12:05, in seven minutes, actually.

3 (Whereupon, the above-entitled matter
4 went off the record.)

5 CHAIR THOMPSON: All right. Thanks,
6 everybody, for your patience. We're back on the
7 record with the next item on our -

8 MS. STROUD: And Mr. Chair -

9 CHAIR THOMPSON: -- agenda.

10 MS. STROUD: -- if I could, I just
11 wanted to say what would happen in the -- since
12 we accepted the D.C. Living Wage for All
13 Amendment Act of 2026. Within 20 days, we're
14 going to prepare the board's formulations.
15 We're going to request a fiscal impact statement
16 from the Office of the Chief Financial Officer
17 with respect to the measure. We're going to --
18 yeah. Those -- so those are the steps that
19 we're going to take, and that's just the next
20 steps in the path for the measure that was
21 accepted today.

22 And the next item on my agenda is

1 rulemaking with respect to Title III of the D.C.
2 Municipal Regulations. This is a notice of
3 second emergency and proposed rulemaking, and
4 what is going to -- what the board did was, we
5 published the rulemaking on January 14th that
6 had to do with ranked choice voting and some
7 other items, and this rulemaking covers the same
8 topics, but also additional ones.

9 And most importantly, the Petition
10 Administration Clarification Emergency Amendment
11 Act of 2026, which was enacted on an emergency
12 basis by the counsel, and so we updated the
13 rulemaking to reflect that new legislation, and
14 also some of the feedback that was timely
15 received prior to the close of the 30-day review
16 period with respect to the rulemaking that was
17 published on an emergency basis at the board's
18 last meeting on January 14th.

19 And we will be doing another rulemaking
20 in April to address some other matters,
21 including how recounts and audits will be
22 handled in the RCV context. We're going to

1 issue some rules that clarify the process for
2 filling vacancies on ANCs and some other
3 important matters. But the purpose of these
4 amendments today is to establish regulations
5 consistent with Sections 2A, B2 and C, of D.C.
6 Law 25-295, the ranked choice voting, and Open
7 the Primary Elections to Independent Voters Act
8 of 2024, as well as, again, the Petition
9 Administration Clarification Amendment Act of
10 2026. And this rulemaking also clarifies
11 aspects of the nominating petition and ballot
12 measure processing procedures.

13 Should the board approve the submission
14 of this rulemaking to the D.C. Register, it will
15 appear in the March 13th edition of the D.C.
16 Register, but they will become effective today.

17 And we will submit them for publication of the
18 D.C. Register, but we will also post them on our
19 website so that members of the public can see it
20 and know what they will be commenting on, should
21 they wish to submit comments prior to the 30-day
22 review period, to the end of the 30-day review

1 period.

2 And so with that, I would ask the board
3 for a motion to submit the proposed rulemaking
4 to the Office of Documents and Administrative
5 Issuances, which is housed within the Office of
6 the Secretary for Publication in the D.C.
7 Register. And happy to answer any questions you
8 might have about the rulemaking.

9 CHAIR THOMPSON: I don't have any
10 questions. I thought the edits were very clear.

11 There's two or three core edits that are
12 repeated, like, five or six times, so it's
13 pretty straightforward, especially regarding the
14 clarification on not using correction fluid or
15 tape on circulator sheets. So with that, I'd
16 move that we submit the proposed rulemaking for
17 publication to the D.C. Register.

18 MS. STROUD: And I would request a
19 roll-call vote for that.

20 Mr. Chair?

21 Oh, a second.

22 Oh, we can't hear you, Karyn. You're

1 on mute.

2 MEMBER GREENFIELD: Okay. I second it.

3 MS. STROUD: And so with that, we'll
4 take the roll-call vote.

5 Mr. Chair?

6 CHAIR THOMPSON: Aye.

7 MS. STROUD: Member Greenfield?

8 MEMBER GREENFIELD: Aye.

9 MS. STROUD: And with that, we will be
10 submitting the second revised rulemaking to the
11 D.C. Register for publication, where it should
12 appear on March 13th, which will launch a 30-day
13 review and comment period.

14 The next item on my agenda are
15 enforcement hearings, and as you can see, we
16 have a few. By way of background -- let's --
17 the majority of the enforcement hearings that
18 we're going to be hearing today involve the
19 board's partnership with ERIC, the Electronic
20 Registration Information Center. There is only
21 one that does not involve our participation in
22 the voter participation project that ERIC has as

1 part of its program, and that one is in the
2 matter of Eric Cleckley which involves a false
3 statement on a circulator affidavit in
4 connection with a petition that was submitted in
5 support of an attempt at ballot access in the
6 July 15th, 2025 special election.

7 The board is a member of the Electronic
8 Registration Information Center. ERIC is a
9 nonprofit, nonpartisan, list-maintenance
10 organization that is created by and comprised of
11 state election officials, and it helps us to
12 maintain more accurate voter rolls. ERIC has a
13 voter participation report program that allows
14 its state members to request reports after each
15 general election, that will allow them to
16 identify potential illegal voting activity,
17 specifically voters who may have cast ballots in
18 more than one state, more than one ballot in the
19 same state, or federal district, as we are, or
20 who have -- may have voted on behalf of either a
21 deceased voter or in the name of another voter.

22 Voting in two jurisdictions is a

1 violation of federal and District law, and it
2 carries penalties of fines of not more than
3 \$10,000 or imprisonment of not more than five
4 years. And such a violation also falls under
5 the board's authority to impose civil fines of
6 up to \$2,000 for each violation of any provision
7 of the elections laws. After the 2024 general
8 election, the board requested the voter
9 participation report from ERIC, and we've been
10 processing this report in partnership with the
11 other ERIC member states, and we've been taking
12 actions -- taking action on these reports since
13 we received it in February and March of 2025.
14 Processing the report requires us to coordinate
15 and collaborate with the states involved, i.e.
16 the states where voters who voted in D.C. also
17 voted.

18 The matters we are discussing today are
19 those connected with double-voting in Maryland,
20 the final state that we're working with in this
21 project. After the data services division
22 finished its work in November 2025 to determine

1 whether individuals identified in the reports,
2 who potentially voted in both D.C. and Maryland,
3 corresponded with individuals in our
4 registration records by comparing various data
5 points and confirmed there was sufficient
6 information to proceed, the Office of the
7 General Counsel reviewed and re-verified the
8 information and began to schedule pre-hearing
9 conferences with the individuals at issue. In
10 some instances, it was determined that a voter,
11 who had voted, had not voted in their own name
12 in Maryland and D.C., but rather had signed
13 their name on and voted a ballot that had been
14 mailed to their residence address, but was
15 addressed to another individual.

16 For today's matters, these conferences
17 -- these pre-hearing conferences took place in
18 January. We sent notices of the pre-hearing
19 conferences to all individuals via email and/or
20 first-class mail at each address we had for the
21 individual on December 19th, on or about
22 December 19th. Some individuals appeared at the

1 pre-hearing conferences and others did not. For
2 those that did appear, representatives from the
3 Office of the General Counsel presented them
4 with the material information that was provided
5 by data services, that indicated potential
6 double-voting in the jurisdiction.

7 With respect to some of these, we've
8 entered into stipulated agreements regarding how
9 we would recommend that the board proceed. With
10 respect to others, we were not able to resolve
11 the matter due to a lack of responsiveness. For
12 those that did not appear at the pre-hearing
13 conference, we reached out to them again via
14 email and certified mail on or around February
15 12th, informing them of today's hearing and
16 giving them another opportunity to have a pre-
17 hearing conference.

18 Although they have not been responsive,
19 we have placed their matters on today's agenda
20 in case they do appear. And so with respect to
21 those individuals, we'll call their name and
22 give them an opportunity to be heard with

1 respect to these matters, and then take
2 appropriate action depending on whether they
3 have appeared or not. And so with that, the
4 first item on -- the first enforcement
5 proceeding involves a Brian Campbell.

6 Mr. Campbell, if -- yes.

7 And I see that Mr. Campbell is present?

8 MR. CAMPBELL: Yes. Can you hear me?

9 MS. STROUD: Yes, we can hear you, Mr.
10 Campbell.

11 So just by way of background, Mr.
12 Campbell, we received information that he voted
13 by mail in both Maryland and D.C. We had a
14 voter-information page from D.C. that was
15 obtained from our voter registration database,
16 Voter Focus, with his signature. We have the
17 voter history page, indicating that he voted in
18 D.C.'s general election, that was also obtained
19 from Voter Focus, and we have the copies of the
20 Maryland and D.C. ballot-return envelopes from
21 the November 2024 general election.

22 And after the pre-hearing conference,

1 we entered into a stipulated agreement, whereby
2 Mr. Campbell acknowledged that he cast -- he
3 doesn't contest the evidence that he cast mail
4 ballots in both the Maryland and D.C. general
5 elections, and he did cooperate fully with the
6 board's Office of General Counsel in the
7 investigation into his illegal voting activity.

8 And he discussed that -- you know, the
9 circumstances surrounding the double-voting,
10 indicating that at the time of the election, he
11 had two properties, one in D.C. and one in
12 Maryland, and there was confusion as to whether
13 or not he could vote in both jurisdictions.

14 We indicated that he could not, and he
15 acknowledged that, and has since taken steps to
16 cancel his voter registration in Maryland. He
17 has been advised of the maximum penalty for
18 double-voting and related offenses, and as a
19 result of our conversation and his cooperation,
20 and the fact that he did not, you know, intend
21 to violate elections laws, I agreed to not
22 recommend that he be referred for prosecution,

1 but that he pay a civil fine. And he is aware
2 that the maximum penalty that he could be fined
3 is \$2,000. And I so just wanted to, you know,
4 enter the stipulation into the record. He was
5 informed that he could seek legal
6 representation.

7 And the stipulated agreements follow
8 the same path of the parties are aware of the
9 fact of that they could be fined up to the
10 maximum penalty for erroneous voting. And when
11 they have taken steps to cooperate and when they
12 have, as Mr. Campbell has done, cancel his voter
13 registration so that the similar situation will
14 not happen again, we have entered in stipulated
15 agreements where we would not recommend
16 referral. And such was the case here. And so
17 the recommendation was for a \$100 fine.

18 And Mr. Chair, we have several matters
19 that -- where we've entered into stipulated
20 agreements, and if you -- if it's your pleasure,
21 I could hold, you know, off, or you could make
22 your decision as to each after we've heard the

1 first of this group.

2 CHAIR THOMPSON: Why don't we just vote
3 one at a time?

4 MS. STROUD: Okay.

5 CHAIR THOMPSON: So I move at this
6 time.

7 MS. STROUD: Okay.

8 CHAIR THOMPSON: We accept the
9 stipulation -

10 MS. STROUD: Yes.

11 CHAIR THOMPSON: -- and impose this
12 fine of \$100.

13 MS. STROUD: Okay. And -

14 MR. CAMPBELL: Thank you so much. I
15 appreciate it, board.

16 MS. STROUD: Okay. And there's a -- is
17 there a second?

18 MEMBER GREENFIELD: Yes, there's a
19 second.

20 MS. STROUD: Okay. And with that,
21 we'll take a roll call vote.

22 Mr. Chair?

1 CHAIR THOMPSON: Aye.

2 MS. STROUD: Member Greenfield?

3 MEMBER GREENFIELD: Aye.

4 MS. STROUD: Okay. And with that the
5 board accepts a stipulated agreement, and Mr.
6 Campbell will pay the civil fine and a written
7 order will issue in this matter soon.

8 CHAIR THOMPSON: Right. Thank you, Mr.
9 Campbell.

10 MS. STROUD: And we have Miah Robinson,
11 and Ms. Robinson also cast ballots in person.
12 And Ms. Robinson is here. I can see her.

13 Ms. Robinson -- and what I did not do
14 with respect to Mr. Campbell was I'm going to
15 have you state your name and address for the
16 record, Ms. Robinson.

17 MS. ROBINSON: Yes, good morning. My
18 name is Miah Robinson, and I reside at 2585
19 Naylor Road, Apartment 201, Washington, D.C.
20 20020.

21 MS. STROUD: Okay. And with respect to
22 Ms. Robinson -

1 And, Ms. Robinson, is your counsel
2 present? Is Gayle Carly (sic) present?

3 MS. ROBINSON: Yes, ma'am, I believe
4 so.

5 MS. STROUD: (Inaudible) Ms. Terry
6 present. Okay.

7 And if you could state your name and
8 business address for the record, Ms. Terry?

9 MS. TERRY: Yes. Good morning, Counsel
10 Stroud and distinguished members of the board.
11 My name is Gayle Terry, G-A-Y-L-E, T-E-R-R-Y,
12 for the record. I'm an associate attorney of
13 Robert A. Ades & Associates at 80 M Street SE,
14 Suite 330, Washington, D.C. 20003.

15 MS. STROUD: Okay. And with respect to
16 Ms. Robinson's matter, that's -- on November
17 5th, Ms. Robinson voted in person at the
18 Maryland 2024 general election. The voter
19 authority card that was issued with respect to
20 Ms. Robinson voting in Maryland is timestamped
21 10:30 a.m. on that morning, and it associates
22 her name with a residential address in Maryland.

1 Also on that date, she voted in person in the
2 D.C. 2024 general election at 1:28 p.m.

3 Ms. Robinson did not contest the
4 evidence that she voted in person in 2024 in
5 Maryland and D.C. and cooperated. She also
6 cancels her voter registration in Maryland on
7 January 23rd. I recommended a fine of \$500 in
8 this instance because the in-person voting
9 occurred on the same day, so 10:30 in Maryland,
10 about 1:40 in the District of Columbia. And,
11 you know, again, the facts are the same. She
12 participated in a pre-hearing conference, does
13 not contest the evidence presented, was
14 represented by Counsel in this matter. And
15 those are the facts around the double voting
16 activity with respect to Ms. Robinson.

17 And if we could hear from her counsel
18 or her at this point, I think that would be
19 appropriate.

20 CHAIR THOMPSON: Yeah. Ms. Terry,
21 would you like to comment?

22 MS. TERRY: If I may, Mr. Chairman, I

1 will defer to my client. I think you should
2 probably hear from her regarding the
3 circumstances and the emotional stress and
4 distress mentally that may have caused this
5 double voting. Certainly no criminal or
6 fraudulent intent.

7 CHAIR THOMPSON: Okay. As long as
8 you're okay with that. Yep.

9 MS. TERRY: Yes, sir.

10 CHAIR THOMPSON: So Ms. Robinson, would
11 you like -

12 MS. ROBINSON: Yes.

13 CHAIR THOMPSON: You don't have to
14 comment, but if you'd like to, you can.

15 MS. STROUD: Yes. And she was made
16 aware of her right against self-incrimination
17 and of course is represented by Counsel today.

18 Okay, Ms. Robinson.

19 MS. ROBINSON: Yes. Well, thank you
20 for the opportunity. Just complete
21 transparency, 2024 I experienced a tremendous
22 tragedy when I ended up losing my brother, my

1 son, my son's girlfriend, and my cousin at -- in
2 one instance. And at that same time, I ended up
3 becoming a grandmother but primary caregiver of
4 a five-day-old baby. Dealing with the grief and
5 tragedy, I had extreme PTSD and dealt with a lot
6 of cognitive impairment. It caused a strain on
7 my marriage, and the relationship got really
8 tumultuous and eventually ended up in a DV
9 situation.

10 I was back and forth between D.C.,
11 which is where I am now at my mom's residence in
12 Ella (phonetic) Road, and the marital home in
13 Maryland. And that went on for several months
14 of back and forth. And in November, it
15 gradually became physical, and so I ended up
16 having to basically abruptly leave Maryland and
17 move back -- move with my mom permanently. And,
18 I mean, it was really like one morning I woke up
19 a Maryland resident, a situation occurred, and I
20 ended up a D.C. resident by the end of that
21 night. So unfortunately, like, that time frame
22 was a very confusing and very just grief

1 stricken time frame.

2 And I -- for lack of better words, I
3 really -- when I lost my son, I lost my mind and
4 really, honestly, don't even remember voting in
5 the District of Columbia. But I don't want to
6 make any excuses. I take full responsibility
7 and accountability. And again, with no
8 malicious intent or any intent to be fraudulent
9 I just think just moving out of trauma and
10 really a lot of ignorance and miseducation
11 regarding my voting rights and, I guess,
12 probably confusion as to exactly where I should
13 vote or should have voted at that time because
14 of the extenuating circumstances.

15 But I'm very grateful and thankful to
16 Ms. Stroud for educating me about my
17 responsibilities as a voter because I realized I
18 was really ignorant to a lot of my
19 responsibilities specifically as far as, like,
20 canceling my Maryland voter registration. I was
21 under the assumption that it was coincided with
22 my license situation, and I assumed that, you

1 know, cancellation occurred at the time when I
2 transferred my license over. But since then, I
3 have taken the appropriate steps to cancel my
4 Maryland registration and ensure that I am
5 accurately and appropriately registered in the
6 District. And so I just ask for your grace in
7 this situation, and I'm just grateful and
8 thankful for an opportunity to do better and be
9 better. Thank you.

10 CHAIR THOMPSON: Thank you. Ms.
11 Robinson. I'm very sorry for your troubles, and
12 I wish you all the best with that. And, also,
13 thank you so much for your candor, for taking
14 responsibility. It's appreciated. And I assume
15 that you accept the stipulation and the
16 recommendation of Ms. Stroud for a \$500 fine?

17 MS. ROBINSON: Yes, I do. And thank
18 you for your grace.

19 CHAIR THOMPSON: Okay. All right.

20 MS. STROUD: And so with that, I would
21 ask for a motion to accept the stipulated
22 agreement, which would mean that she would pay a

1 fine and a written order would issue. And as I
2 spoke to Ms. Robinson and her counsel, that
3 could be pursuant to a payment arrangement over
4 time.

5 CHAIR THOMPSON: Okay. Well, that's
6 appreciated. The Chair moves that we accept the
7 stipulation and impose a \$500 fine.

8 MEMBER GREENFIELD: Second.

9 MS. STROUD: Okay. And I'll take a
10 roll call, but with respect to that.

11 Mr. Chair?

12 CHAIR THOMPSON: Aye.

13 MS. STROUD: Member Greenfield?

14 MEMBER GREENFIELD: Aye.

15 MS. STROUD: And with that, Ms.

16 Robinson is assessed a \$500 fine that she will
17 have the opportunity to pay in installments, and
18 the written order will specify the details of
19 that arrangement.

20 Okay. And -

21 CHAIR THOMPSON: One thing I picked up
22 on in all these proceedings is the critical

1 importance of belonging to the ERIC system. I
2 mean, this is how we find out about double
3 voting, whether it's by mail or in person, as it
4 was in Ms. Robinson's case. If a state -

5 MS. TERRY: Mr. Chair?

6 CHAIR THOMPSON: -- doesn't belong, we
7 wouldn't -

8 MS. TERRY: (inaudible) -

9 CHAIR THOMPSON: -- we wouldn't know.
10 Is that Ms. Terry?

11 MS. TERRY: Yes. I apologize. I
12 didn't mean to interrupt. I did want to state
13 that Ms. Robinson is willing to pay the fine in
14 total within the next seven days.

15 CHAIR THOMPSON: Okay.

16 MS. STROUD: Okay. And so we will --
17 the order will specify how you can make that --
18 complete that payment arrangement. Thank you
19 for that.

20 The next item is in the matter of
21 Clarence Douglas, and a senior attorney advisor
22 Christine Pembroke will present that matter.

1 MS. PEMBROKE: Can everyone hear me?

2 MS. STROUD: Is the light on?

3 CHAIR THOMPSON: Is the light on?

4 MS. PEMBROKE: It's on, so I hope you
5 can.

6 MS. STROUD: Yeah.

7 MS. PEMBROKE: So as the general
8 counsel was explaining, this is another ERIC
9 matter. It was a situation in which we became
10 aware of an individual, who was registered to
11 vote in D.C., voting in Maryland and in D.C.
12 And when we went to look at the mail ballot
13 return envelope for the D.C. ballot, there was
14 another individual's name very clearly written
15 on the mail ballot return envelope. It was the
16 name of Clarence Douglas, which was not the
17 individual to whom the ballot was issued.

18 We reached out to Mr. Douglas. We set
19 up a pre-hearing conference. He was not able to
20 join the pre-hearing conference, but he did call
21 me immediately afterwards, and I explained to
22 him the situation and why we had opened an

1 investigation against him. He cooperated fully
2 in the investigation and also entered into a
3 stipulated agreement where he acknowledged that
4 he had signed the ballot inadvertently.

5 It was a ballot that was sent to his
6 residence, and he didn't realize that it was
7 made out to another individual. And he signed
8 his own name clearly on the signature line. The
9 signature matched other signature samples we had
10 for him, and he didn't otherwise vote in that
11 election. He assumed that the mail ballot he
12 had voted was his, and that was his vote in that
13 2024 general election. So -

14 CHAIR THOMPSON: Is he present? Is he
15 here?

16 MS. PEMBROKE: I'm sorry?

17 CHAIR THOMPSON: Is he present today?

18 MS. PEMBROKE: I don't believe he is,
19 but we can double check. He'd indicated to me
20 that he would not be able to attend the
21 proceeding, and I would also mention to the
22 board that his absence should not be a

1 reflection of his taking responsibility for this
2 in any way. There are personal reasons that I
3 don't think are appropriate to share on the
4 record as to why he would not be able to attend
5 this meeting.

6 So with that, I would ask that the
7 board accept the stipulated agreement into the
8 record, and by that agreement, the general
9 counsel agreed to cap her recommendation of a
10 fine at \$100.

11 CHAIR THOMPSON: Yeah. I will so move,
12 and I just wanted to comment that it seems like
13 the average case of voting twice by mail, a lot
14 of -- sometimes people get confused, they don't
15 mean to, which is this circumstance. And I
16 think it's appropriate to fine -- issue a fine
17 of at least \$100, I think at least during this
18 era where mail ballots are still relatively new.

19 But it might increase in the future. We may
20 decide to -- that we need to send a stronger
21 deterrent message in that regard. But I just --
22 to juxtapose it with the last case, though,

1 where you vote twice live, that's a different
2 scenario. And I appreciate the \$500 fine in
3 that case. That's probably the minimum, too, in
4 that circumstance. It could be quite a bit
5 higher if there's any degree of intent behind
6 voting twice in person. So just some editorial
7 comments, but, yeah, with that, I'd move that we
8 adopt the stipulation and impose a fine of \$100
9 on Mr. Douglas.

10 MS. STROUD: Is there a second?

11 MEMBER GREENFIELD: Second.

12 MS. STROUD: Okay. And with that,
13 we'll take a roll call vote. Mr. Chair?

14 CHAIR THOMPSON: Aye.

15 MS. STROUD: Member Greenfield?

16 MEMBER GREENFIELD: Aye.

17 MS. STROUD: And with that, a fine of
18 \$100 is assessed against Mr. Douglas and there
19 will be no referral. The next matter is Makisha
20 Moten (phonetic).

21 MS. PEMBROKE: She may be under the
22 name M.J. Cassel (phonetic).

1 MS. STROUD: Okay. Ms. Pembroke, you
2 can proceed.

3 MS. PEMBROKE: Okay.

4 MS. STROUD: And the board may proceed
5 ex parte if the parties are not present under
6 its regulations.

7 MS. PEMBROKE: So, again, this was
8 another Eric matter. In this case, it was a
9 situation of an individual who voted in Maryland
10 on October 28th at about noon time, and the next
11 day, at about 4:00 in the afternoon, also voted
12 at a D.C. vote center. When we reviewed the
13 information and confirmed that, we reached out
14 to Ms. Moten, because the last ballot cast was
15 in D.C., so that was the jurisdiction in which
16 the offense of double voting occurred. Ms.
17 Moten responded and she cooperated fully with
18 the investigation. She provided an explanation
19 as to why she might have double voted. She did
20 not recall double voting.

21 And, again, without disclosing too much
22 of her personal situation on the public record,

1 the explanation that she provided was, I think,
2 plausible and credible. And she did follow up
3 by canceling her D.C. voter registration. She
4 had property in both jurisdictions. And so to
5 obviate the risk that this might happen again
6 because of her personal situation or condition,
7 I should say, she did cancel her D.C. voter
8 registration. She entered into a stipulation
9 saying she did not do this intentionally. And
10 by that stipulation, the general counsel agreed
11 to cap her recommendation of a fine at \$150,
12 which is less than in the other case of in-
13 person voting.

14 But I would just say in this situation,
15 there was evidence that Ms. Moten presented,
16 which would explain that she would not have
17 known at the time she appeared in D.C. that she
18 voted previously in Maryland. So with that, I
19 would just ask that the board accept the
20 stipulated agreement into the record.

21 CHAIR THOMPSON: And is she present?

22 MS. PEMBROKE: It doesn't appear that

1 she is. She was informed of the meeting and she
2 did not confirm with me whether or not she would
3 be here.

4 CHAIR THOMPSON: Okay. The chair moves
5 that we adopt a stipulation and impose a fine of
6 \$150.

7 MEMBER GREENFIELD: I second.

8 MS. STROUD: Okay. I'll take a roll
9 call, but with respect to that, Mr. Chair?

10 CHAIR THOMPSON: Aye.

11 MS. STROUD: Member Greenfield?

12 MEMBER GREENFIELD: Aye.

13 MS. STROUD: Okay. And with that, the
14 fine of \$150 will be assessed against Makisha
15 Moten and there will be no referral.

16 The next item on my agenda is in the
17 matter of Eric Cleckley, and this will be
18 presented by attorney advisor, Jorge Quintana.
19 And this is the situation where a circulator --
20 where someone submitted a false statement on a
21 circular affidavit with respect to a petition
22 that he did not circulate.

1 Mr. Quintana.

2 MR. QUINTANA: Mr. Chair, members of
3 the board, and other panelists, Mr. Cleckley,
4 who I think is here, was a candidate in the
5 special eight, ward eight, council member race held
6 last year. As part of that, Mr. Cleckley came
7 and -- if I may, I see Check ETC is it -- is his
8 email? No? Okay.

9 As part of that -- of his process of
10 being a candidate, he came to the office and
11 picked up a receipt of ballot access documents
12 by way of background. That includes the
13 petition and instructions on properly filling
14 out the petition. Specifically, the circulator
15 instructions on those forms stated, "You,"
16 referring to the circulator, "must personally
17 witness the signing of each signature that
18 appears on the petition." The affidavit portion
19 required the circulator to swear or affirm that
20 the circulator personally witnessed the signing
21 of each signature here on the petition.

22 As part of the process, he submitted

1 his petitions. They were posted for viewing as
2 provided by law. There was a challenge to his
3 petitions. As part of that process, the
4 registrar reviewed and noticed a discrepancy on
5 one of the sheets, specifically sheet 7 of his
6 petition. In that petition, the printed name of
7 the circulator was a Minika Posey (phonetic),
8 but the candidate, Eric Cleckley, actually
9 signed the -- actually signed where he affirmed.

10 Based on that, the OGC sent a letter to
11 him informing him of his right to remain silent,
12 that anything held at our pre-hearing conference
13 or at a board hearing could be used against him.

14 Mr. Cleckley withdrew his nomination, his
15 petition. Following the election, we began our
16 investigation. We scheduled a pre-hearing
17 conference. Mr. Cleckley appeared and was very
18 forthcoming and helpful. He said that he did
19 indeed sign it, even though he didn't collect
20 those signatures himself, he was there. It was
21 just a confusion being a first time candidate
22 and having to sign these off. Based on that,

1 the office entered into a stipulated counsel,
2 which the board has, and we would move for its
3 admission.

4 CHAIR THOMPSON: Yeah. Thank you very
5 much for that. I read the stipulation, looked
6 at the evidence. I think \$150 is a very
7 reasonable civil fine in the circumstance. It
8 could have been a lot higher. So with that, I
9 move that we adopt the stipulation and the \$150
10 fine.

11 MEMBER GREENFIELD: I second.

12 MS. STROUD: Okay. And with that, the
13 roll call vote. Mr. Chair?

14 CHAIR THOMPSON: Aye.

15 MS. STROUD: Madam Greenfield?

16 MEMBER GREENFIELD: Aye.

17 MS. STROUD: And with that, the board
18 assesses a \$150 fine against Mr. Cleckley, and
19 there will be no referral.

20 The next item is in the matter of
21 Felicia Brown (phonetic). Okay. And Ms. Brown
22 is a flight attendant, and I did speak with her

1 earlier. We did enter into a stipulated
2 agreement. And the circumstances surrounding
3 her double voting are as follows. One moment.
4 So Ms. Brown voted in person in Maryland on
5 October 28th. The voter authority card that
6 issued with respect to her voting in Maryland is
7 timestamped 5:09 and associates her name with a
8 residential address in Maryland. She voted by
9 mail in D.C. on November 2nd, and the board
10 received that ballot.

11 And on the outside of the D.C. ballot
12 return envelope is language that says that, I,
13 the signer, swears or affirms, under penalty of
14 perjury, that they're a qualified registered
15 voter in D.C. who is eligible to cast a ballot
16 in this election. She swore or affirmed that
17 she was voting only once and had -- has not
18 voted and will not vote in any other
19 jurisdiction for this election. And she
20 understands that the false statements may result
21 in conviction in a fine of up to \$10,000 and/or
22 five years imprisonment. And voting more than

1 once may also result in a fine up to \$2,000.

2 Ms. Brown does not contest that she
3 cast ballots in both Maryland and D.C. She
4 cooperated fully. She has provided proof that
5 she canceled her voter registration in Maryland,
6 and she was advised of the maximum penalty for
7 double voting under federal and D.C. law. As
8 part of the stipulated agreement, I agreed to
9 limit her -- my recommendation to imposition of
10 a civil fine of \$150. And, again, the board can
11 proceed ex parte. We entered into this
12 agreement, which she adopted and signed, and it
13 is submitted for the record. And so -

14 CHAIR THOMPSON: \$100?

15 MS. STROUD: 150 for Ms. Brown.

16 CHAIR THOMPSON: 150.

17 MS. STROUD: But, of course, it's the -
18 - just the recommendation.

19 CHAIR THOMPSON: Oh, I'm looking at the
20 wrong one. Sorry. Okay. Got you.

21 MS. STROUD: Yep. Okay.

22 CHAIR THOMPSON: 150. All right. The

1 chair so moves that we adopt the stipulation in
2 the fine of \$150.

3 MEMBER GREENFIELD: I second.

4 MS. STROUD: Okay. And with that, I'll
5 take a roll call vote. Mr. Chair?

6 CHAIR THOMPSON: Aye.

7 MS. STROUD: Member Greenfield?

8 MEMBER GREENFIELD: Aye.

9 MS. STROUD: And with that, we will --
10 the board will assess the fine of \$150 against
11 Ms. Felicia Brown for double voting and the
12 matter will not be referred.

13 The next matter is Louise Valentine-
14 Simmons. Okay. And so with respect to Ms.
15 Valentine-Simmons, we -- she did appear at a
16 pre-hearing conference and she indicated that
17 she did not vote, despite the evidence that the
18 board had with respect to double voting, which
19 included a copy of the Maryland ballot return
20 envelope from the 2024 general election, a copy
21 of the D.C. ballot return envelope from the '24
22 general election. She signed the Maryland

1 ballot on 10 -- October 2nd and the D.C. ballot
2 return envelope on October 26th of 2024. We
3 also have the voter information page with the
4 signature obtained from Voter Focus, a copy of
5 the voter registration application with Ms.
6 Valentine-Simmons' signature. And we also have
7 a voter history page indicating that she voted
8 in the D.C. November 2024 general election.

9 When she appeared at the pre-hearing
10 conference, she indicated that, although she
11 sees the -- she saw the evidence with -- which
12 had the signatures on both the Maryland and D.C.
13 ballot return envelopes, both of which match
14 each of the signatures that the board has on
15 file, she denied casting a ballot. She denied
16 voting twice in both jurisdictions. And since
17 the pre-hearing conference, although we reached
18 out with respect to today's hearing, she has not
19 responded to any further contact, including that
20 sent by mail. And so with respect to this
21 matter, I would recommend that this matter be
22 referred to the Office of the Attorney General

1 for further investigation and potential
2 prosecution. And I would ask for a motion from
3 -- and I would ask that the board accept that
4 recommendation.

5 CHAIR THOMPSON: Yeah. Having reviewed
6 the evidence myself and it appearing that there
7 was double voting, I move that we refer this to
8 the Attorney General's Office for further
9 investigation.

10 MS. STROUD: Okay.

11 MEMBER GREENFIELD: I second that.

12 MS. STROUD: Okay. And with that, I'll
13 take a roll call vote. Mr. Chair?

14 CHAIR THOMPSON: Aye.

15 MS. STROUD: Member Greenfield?

16 MEMBER GREENFIELD: Aye.

17 MS. STROUD: Okay. And with that, this
18 matter involving Louise Valentine-Simmons will
19 be referred to the Office of the Attorney
20 General for further investigation and potential
21 criminal prosecution. And with respect to
22 matters 8 through 15, these were individuals

1 that we reached out to with respect to pre-
2 hearing conferences and with respect to today's
3 hearing. We reached out by regular first class
4 mail, certified mail after the failure to appear
5 at the pre-hearing conference. And we have
6 heard nothing from these individuals. No
7 response to email, no response to any mail. And
8 so -- and we also did not get any returned mail
9 with respect to these individuals. So mail was
10 not returned as undeliverable to the board with
11 respect to these individuals.

12 And so we will -- I will call out their
13 names and see if they are present. If -- you
14 know, on the chant that they are here today.

15 And so we'll begin with Aisha Owens (phonetic).

16 Okay. Jacqueline Threadgill (phonetic)? Okay.

17 Joanne Elvis (phonetic)? Serena G-Y-I? Philip

18 Anthony Harris? Destiny Kalaguchi (phonetic)?

19 LaShawn (phonetic) Lopez? Erlene (phonetic)

20 Washington?

21 Okay. So with respect to these

22 individuals, Mr. Chair, I would ask that we

1 continue these matters so that we can continue
2 to try to reach out to them. And then if we are
3 still unable to reach out to them, then we will
4 probably refer them for further investigation
5 and contact to the Office of the Attorney
6 General. But for now, I would move that we
7 collectively move matters eight through 15 on
8 today's agenda in section C, enforcement
9 proceedings, we continue these matters until the
10 next board meeting.

11 CHAIR THOMPSON: Okay. The chair so
12 moves.

13 MEMBER GREENFIELD: Second.

14 MS. STROUD: Okay. And with that, I'll
15 take a roll call vote.

16 CHAIR THOMPSON: Aye.

17 MS. STROUD: And, Madam Chair? I mean,
18 Member Greenfield?

19 MEMBER GREENFIELD: Aye.

20 MS. STROUD: And with that, we will
21 continue the matters involving Aisha Owens,
22 Jacqueline Threadgill, Joanne Elvis, Serena Gyi,

1 Philip Anthony Harris, Destiny Kalaguchi,
2 LaShawn Lopez, and Erlene Washington.

3 Okay. The final matter on my agenda is
4 litigation status. The first matter is Stacia
5 Hall v. The Board. That's in the U.S. District
6 Court for D.C. This is a remand from an appeal
7 where a D.C. court -- a D.C. court reversal of
8 the U.S. District Court's denial on the basis
9 of standing of a challenge to legislation
10 allowing non-citizens to vote in local
11 elections. On December 10th, the board moved to
12 dismiss the Amended Complaint that was filed. A
13 consent motion to extend the response reply
14 dates was granted on December 17th. Plaintiffs
15 filed their response to the motion to dismiss on
16 January 20th. And the board has been granted an
17 extension of time to reply and must file by
18 March 10th.

19 The second matter is Charles Wilson v.
20 Muriel Bowser. The plaintiffs here challenge
21 the board's finding that initiative 83 met
22 proper subject requirements and its formulation

1 of the measure. A status hearing will be held
2 on March 13th. The case is fully briefed. And
3 so we expect to either hear an order from the
4 Court soon or certainly will have more
5 information on March 13th.

6 The next matter is Long v. The Board,
7 et al, in the U.S. District Court. This is a
8 case where Mr. Long is seeking \$10,000 in
9 damages for an overdraft fee caused by a stopped
10 payment on a \$500 check issued for his service
11 as an election worker. To date, the superior
12 court has not docketed any activity.

13 The next matter is Sobin v. The Board.
14 That's in the U.S. District Court. In January
15 of 2025, Mr. Sobin submitted a complaint in the
16 U.S. District Court for D.C. in which he
17 alleges that the board's petition circulation
18 process requiring candidates to gather
19 signatures violates the Americans with
20 Disabilities Act, and that an advisory
21 neighborhood commission election to be held and
22 his single-member district is illegal. On

1 February 20th, the Court dismissed this case.

2 The final matter is the U.S.

3 Department of Justice v. The Board. That's in
4 the U.S. District Court. This is an action by
5 the Department of Justice to obtain from the
6 board confidential personal identifying
7 information on D.C. voters. Motions to dismiss
8 or -- are due on March 13th. Responses to the
9 Motion to Dismiss are due on April 3rd, and
10 replies are due on April 17th. And that
11 concludes my litigation status report and my
12 report in its entirety.

13 CHAIR THOMPSON: Okay. Thank you very
14 -

15 MEMBER GREENFIELD: Thank you.

16 CHAIR THOMPSON: It was a lot. We're
17 not done yet. But wait, there's more, as they
18 say. And the more is our campaign finance
19 report by director Cecily Collier-Montgomery.

20 MS. COLLIER-MONTGOMERY: (inaudible)
21 finance for the month of February to be posted
22 at the OCF website, www.ocf.dc.gov before the

1 close (inaudible). I will, however, at this
2 time highlight a few items of interest for
3 members on the topic. First, in our fair
4 election program division, during the month of
5 February, the Office of Campaign Finance
6 authorized several disbursements as well as
7 certified three candidates to -- into the fair
8 election program. For the 2026 election
9 (inaudible), as of this date, there are 17
10 certified participating candidates in the fair
11 election program, and the Office of Campaign
12 Finance has authorized disbursements of a total
13 sum of \$5,314,324 and -- ooh. I'm sorry. Thank
14 you. And 5 cents from the Fair Elections Fund
15 in base amount and matching payments.

16 For the 2026 special election cycle, as
17 of this date, there is one certified
18 participating candidate in the Fair Elections
19 Program for the 2026 special election cycle.
20 And the office has authorized the disbursement
21 of the total sum of 100,000 -- one -- I'm sorry.
22 \$109,455 from the Fair Elections Fund in base

1 amount and matching payments. During the month
2 of February, there were three candidates who
3 were certified to participate in the program and
4 the June 16th, 2026, primary election and 23
5 disbursements were authorized of public funds.
6 The list of disbursements is available in our
7 report, and the newly-certified candidates are
8 as follows.

9 First, Lisa Raymond for DC for council
10 at large, principal campaign committee. The
11 candidate, Lisa Raymond, was certified on
12 February the 10th as a participating candidate
13 in the Fair Elections Program and the June 2026
14 primary election for the covered office of at-
15 large member of the council. The first half
16 base amount payment in the amount of \$20,000,
17 and matching payment of 100,019 -- \$119,795 were
18 authorized for disbursement on February the
19 10th.

20 McDuffie (phonetic) for mayor principal
21 campaign committee. The candidate, Kenyan
22 (phonetic) McDuffie, was certified as the

1 participating candidate in the Fair Elections
2 Program on February the 10th and the June 16th,
3 2026, primary election for the covered office of
4 mayor of the District of Columbia. The first
5 half base amount payment in the amount of
6 \$80,000 and matching payment of \$1,034,530.55
7 were authorized for disbursement on February the
8 10th.

9 The Chavis for D.C. principal campaign
10 committee. The candidate, Kevin Bass Chavis,
11 was certified on February the 12th as a
12 participating candidate in the program and the
13 June 16th, 2026, primary election for the
14 covered office of at-large member of the
15 council. The first half base amount payment in
16 the amount of \$20,000 and matching payment of
17 \$88,076.06 were authorized for disbursement on
18 February the 12th, 2026.

19 There were no final audit parts --
20 reports which were issued by the division during
21 the month of February 2026. The status of the
22 ongoing 2020, 2022, 2024, and 2025 post-election

1 full field audits is listed in the report.
2 Also, I would indicate that all our final audit
3 reports are available at the OCF website for
4 review by the public. I would also mention that
5 in our Fair Elections Program, March 18th, which
6 is also the final deadline for the filing of
7 nominating petition is also the last day for
8 candidates to qualify for the Fair Elections
9 Program in the primary election. And the
10 qualification process, of course, requires the
11 submission of whatever the threshold
12 requirements are for the particular office
13 sought.

14 In our public information and records
15 management division, there were no report dates
16 which were due during the month of February.
17 However, the OCF report provides the filing
18 status of the reports of receipts and
19 expenditures which were due on January the 1st
20 by the Constituent Service and Statehood Fund
21 programs, and on January 31st by the principal
22 campaign committees and political committees.

1 For new candidates and committees who
2 are participating in the 2026 election cycle, in
3 the traditional program, we currently have a
4 total of 125 candidates who have registered.
5 And the following candidates registered during
6 February 2026. For the office of mayor, Hope
7 Solomon on February the 9th; Charles Breedlove
8 on February the 17th; Alexis Littlefield
9 (phonetic) on February the 19th; Yaida
10 (phonetic) Ford on February the 26th. For the
11 office of council chairman, Calvin Gurley on
12 February the 10th; Patricia Stamper on February
13 the 27th. For the office of U.S. senator, Paul
14 Stross (phonetic) on February the 17th. For
15 U.S. representative, Samuel Greenfield on
16 February the 4th; Franklin Garcia on February
17 the 9th; Cyprien Avenoff (phonetic) on February
18 the 17th.

19 For national and local party committee
20 members, Democrats United to Free DC Slate
21 registered on February the 10th. There are 26
22 candidates. Anaiah Mitchell (phonetic)

1 registered on February the 10th. Act Now DC
2 Slate registered on February the 23rd and there
3 are three candidates associated with that slate;
4 Mike Pineda (phonetic) registered on February
5 the 23rd, and Salim Adofo registered on February
6 the 27th. For council at-large member in the
7 special election 2026, Shanae Emmanuel
8 (phonetic) registered on February the 3rd;
9 Douglas Sloan registered on February the 3rd;
10 Elizabeth Reddick (phonetic) registered on
11 February the 4th; Addison Sarter (phonetic)
12 registered on February the 5th; Jacque Patterson
13 (phonetic) registered on February the 12th;
14 Cynthia Phillips (phonetic) registered on
15 February the 20th; and De'Andre Anderson
16 (phonetic) registered on February the 23rd.

17 In our Fair Elections Program
18 candidates, we currently have 45 registered
19 candidates. And for the office of mayor, during
20 the month of February -- I'm sorry. For the
21 office of council chairperson, Jack Evans
22 registered to participate in the primary

1 election on February the 2nd, 2026. For council
2 at-large for the special election, Donnie
3 Crawford (phonetic) registered on February the
4 12th, and Nina Teller (phonetic) registered on
5 February the 17th for the general election, for
6 state board member of the Education Board for
7 Ward 3. Eric Goulet (phonetic) registered on
8 February the 10th, 2026. There were no new
9 political committees who registered during the
10 month of February.

11 Also, I would point out that the PERM
12 (phonetic) division referred 36 committees to
13 the OCF General Counsel for the failure to
14 timely file the January 31st report of receipts
15 and expenditures. In our training program, 53
16 candidates and treasurers completed the OCF
17 entrance conference for the month of February
18 2026. In our reports analysis and audit
19 division, which is the traditional audit
20 division for the Office of Campaign Finance, the
21 office conducted 82 desk reviews and also issued
22 11 audit letters, requests for additional

1 information, as a result of the desk reviews
2 which were conducted. The traditional audit
3 program also issued an -- a final audit report
4 for the DCLC PAC. It was a periodic random
5 compliance audit report, which was issued on
6 February the 27th, and the report basically
7 audited the January 31st, 2026, report of
8 receipts and expenditures.

9 There are three periodic random audits
10 which are ongoing in the division. One is of a
11 constituent service fund, and it is of the
12 January the 1st, 2026, report. It's the
13 Felder's Fund for citizen service. The audit
14 field work is in progress. The political action
15 committees, there are two that are being audited
16 for the January 31st, 2026, report of receipts
17 and expenditures, and that would be the
18 Committee for Better Public Transfer PAC, and
19 the records are due on March the 2nd, and the
20 Bike, Walk & Bus PAC. The records are due on
21 March 2nd, 2026.

22 And I would ask the general counsel now

1 to present the report for the Office of the
2 General Counsel.

3 MS. STROUD: Thank you, Director.

4 Good afternoon, Mr. Chairman and
5 distinguished Board Member Greenfield. During
6 the month of February 2026, the Office of the
7 General Counsel received 35 referrals, completed
8 five informal hearings, and issued five orders,
9 which included the following: Four orders were
10 issued in which a total of \$14,500 in fines were
11 imposed, and one order was issued in which no
12 fine was imposed.

13 During the month of February 2026, the
14 Office of Campaign Finance imposed fines against
15 the following respondents: A fine of \$4,000 was
16 imposed against the principal campaign committee
17 of Nate Fleming for Ward 7. A fine of \$4,000
18 was imposed against the principal campaign
19 committee of Eric Clarkley (sic) for Ward 8. A
20 fine of \$3,250 was imposed against principal
21 campaign committee Friends of VJ for Ward 7.
22 And finally, a fine of \$3,250 was imposed

1 against the Committee to Recall, Charles Allen.

2 During the month of February, the
3 Office of Campaign Finance collected a fine
4 payment of \$550 from the Committee to Elect,
5 Kathy Henderson. During the month of February
6 2026, there were no open investigations, there
7 were no requests for interpretive opinion, and
8 no show-cause proceedings were conducted. And
9 that should conclude my report, which also will
10 be posted at the OCF website by close of
11 business today, the 4th of March 2026.

12 MS. COLLIER-MONTGOMERY: Oh, and that
13 concludes the report for the Office of Campaign
14 Finance.

15 CHAIR THOMPSON: All right. Also want
16 to acknowledge and thank everybody at OCF for
17 all the hard work they're doing.

18 MS. COLLIER-MONTGOMERY: Thank you.

19 CHAIR THOMPSON: There are a lot of
20 candidates in the field. We may set a record
21 this primary for just the number of candidates
22 combined in all of these races. And for OCF,

1 that means a lot of committees that are formed.

2 MS. COLLIER-MONTGOMERY: Yes.

3 CHAIR THOMPSON: And I -- in most
4 cases, I think they're availing themselves of
5 the fair elections program, so that's a whole
6 nother -

7 MS. COLLIER-MONTGOMERY: Yes.

8 CHAIR THOMPSON: -- level of review and
9 audit. And, you know, they're just doing a
10 tremendous job. It's -- it sounds very routine
11 and sort of straightforward, but it's an intense
12 amount of very detailed work that I guess has
13 only just begun, I'm sorry to say. With audits
14 afterwards, it's a long way to go for OCF as
15 well. So thank you.

16 MS. COLLIER-MONTGOMERY: Thank you.

17 CHAIR THOMPSON: All right. All right,
18 our stomachs are rumbling, but that's okay.
19 We're -- we got time for public comment, so
20 every -- anyone that's still there -- and
21 amazingly, there's still 27 attendees. Thank
22 you for hanging around. I see a hand from

1 Nikolas Schiller, so I'll call on Nikolas first.

2 MR. SCHILLER: Can you -

3 CHAIR THOMPSON: Yeah. Oh, there we
4 go.

5 MR. SCHILLER: There we go. The
6 legality of seeking a additional advisory
7 opinions. The statute says that you -- within
8 one day, you can request advisory opinions, and
9 then they have 15 days to receive them. It
10 seems, based on a strict reading or even a flat
11 reading of the law and the regulation, that the
12 board is supposed to make a determination, and
13 then, based on that determination, either the
14 proponent can take the case to court or the
15 formulation is made, and then the opposition can
16 -- once it's published in the register, they can
17 file a challenge in the courts, and then a
18 subsequent advisory opinion can be sought for
19 the D.C. Superior Court to make that
20 determination. It doesn't appear in the law
21 that you're allowed to seek additional advisory
22 opinions concerning a proposed ballot

1 initiative.

2 There's that, and then also the fact
3 that Section 2 has not been marginally changed
4 since October 30th. In the advisory opinion
5 from the attorney generals, they acknowledge
6 that this is the third version of the ballot
7 initiative that was submitted to them, and at --
8 not at any time was this issue brought up. So
9 it seems to me that this delay in choice to make
10 -- to not make the determination today is
11 outside of the law, and that, should the
12 determination be made, there's already built-in
13 mechanisms for challenges to be filed, both by
14 the proposer and by the opposition, and to seek
15 additional advisory opinions does not compute
16 with what the law says, that you're allowed to
17 request advisory opinions, and you're -- within
18 one day of receipt, and you're supposed to
19 receive them within 15 days, not, oh, you know
20 what, we got some new information; we want
21 another advisory opinion.

22 Because based on this, the Board of

1 Elections can keep requesting additional
2 advisory opinions ad nauseam. At what point
3 does it stop? It's clear in here that there's a
4 process in place, and the process was just
5 deviated today. And that's all I just want to
6 know why it was deviated, and what deadline
7 should a campaign expect to have these
8 determinations be made? Will it be made in
9 closed door, behind the scenes, or will be made
10 at the next monthly meeting? Because it just
11 doesn't seem like this is the way the laws is
12 intended to be working. Thank you for your
13 time.

14 CHAIR THOMPSON: Appreciate that.
15 We'll look into whether we're even allowed to
16 request a supplemental or additional advisory
17 opinion. If we're not, we won't. If we're
18 allowed to do that, we will.

19 MS. STROUD: And we can look into that.
20 I don't see that there is a bar or prohibition
21 against the board asking for an opinion with
22 respect to the additional constitutional

1 objections that were raised. I don't see there
2 as being a bar. The board has reached out to
3 the Office of the Attorney General for its
4 perspective on various matters, and I don't see
5 this being any different from that. And, yeah,
6 I mean, that's all I have to say about that.

7 And then the board is not required to -
8 - you said that, if I heard you correctly, the
9 board is required to rule today. I don't view
10 the board as having to issue opinion -- an
11 opinion today. It could take it under
12 advisement, and it could do that without even
13 asking for the additional, like, information or
14 setting up the opportunity for both sides to
15 provide further briefing on this matter for the
16 benefit of the board making its decision. So
17 the board is not required to rule on this matter
18 today.

19 But for the sake of propriety, I would
20 ask that the board move to enter into executive
21 -- or to closed session with respect to
22 deliberating on this matter and consulting with

1 its counsel pursuant to DC Official Code Section
2 2-575 (4)(A) and (13) so it can deliberate with
3 respect to the question of whether or not the
4 measure meets proper subject requirements.

5 CHAIR THOMPSON: All right. We'll make
6 that motion at the end of the comment period.

7 Are there any other hands? Going once,
8 going twice. Well, thank you so much. Before
9 we adjourn, I'll go ahead and move that we, the
10 board, proceed into closed session pursuant to
11 the statute that was mentioned, 2.575 (b)(4)(A)
12 and (13). I wrote that down. And we will do
13 that, of course, solely with respect to the
14 proper subject matter determination regarding
15 the DC Housing Modernization and Accessibility
16 Act of 2026.

17 MS. STROUD: Is there a second?

18 MEMBER GREENFIELD: I second.

19 MS. STROUD: Okay. And I'll take a
20 roll call vote with respect to that.

21 CHAIR THOMPSON: Chair votes aye.

22 MS. STROUD: Okay. And Member

1 Greenfield?

2 MEMBER GREENFIELD: Aye.

3 MS. STROUD: Okay. And with that, the
4 board has entered into closed session with
5 respect to the question of whether or not the DC
6 Housing Modernization and Accessibility Act of
7 2026 meets proper subject requirements.

8 CHAIR THOMPSON: Okay. Well, thank
9 you, everybody, for all of that. And we got a
10 lot to do over the next month, and we'll -- if
11 we don't see you at a special meeting
12 beforehand, we'll see you at the next regular
13 meeting in early April. With that, I move that
14 we adjourn.

15 Karyn?

16 MEMBER GREENFIELD: Second.

17 CHAIR THOMPSON: All in favor? Aye.
18 We are adjourned.

19 (Whereupon, the above-entitled matter
20 went off the record.)

21

22

1 C E R T I F I C A T E

2 This is to certify that the foregoing transcript
3 was duly recorded and accurately transcribed
4 under my direction; further, that said
5 transcript is a true and accurate record of the
6 proceedings; and that I am neither counsel for,
7 related to, nor employed by any of the parties
8 to this action in which this matter was taken;
9 and further that I am not a relative nor an
10 employee of any of the parties nor counsel
11 employed by the parties, and I am not
12 financially or otherwise interested in the
13 outcome of the action.

14

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20 Andrew Stromberg

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<hr/> \$ <hr/>	10th 22:13 121:11,18 125:12,19 126:2,8 128:12,21 129:1 130:8	47:10
\$1,034,530.55 126:6	11 130:22	2's 24:13
\$10,000 88:3 114:21 122:8	120,000 39:3	2,812 5:11
\$100 93:17 94:12 106:10,17 107:8,18 115:14	125 128:4	2-575B4A 19:6
\$109,455 124:22	12:05 82:2	20 82:13
\$119,795 125:17	12th 90:15 126:11,18 129:13 130:4	20003 96:14
\$14,500 132:10	13 9:19 19:6	20008 49:8
\$150 109:11 110:6,14 113:6,9,18 115:10 116:2,10	135 40:10	20009 79:15
\$2,000 88:6 93:3 115:1	13th 13:10 84:15 86:12 122:2,5 123:8	20020 95:20
\$20,000 125:16 126:16	14th 12:8 83:5,18	20036 38:14
\$25 77:8	15 118:22 120:7	201 95:19
\$3,250 132:20,22	150 38:21 115:15,16,22	2020 126:22
\$4,000 132:15,17	15th 87:6	2022 126:22
\$5,314,324 124:13	1615 23:7	2023 33:10
\$500 97:7 101:16 102:7,16 107:2 122:10	1666 79:13	2024 84:8 88:7 91:21 96:18 97:2, 4 98:21 105:13 116:20 117:2,8 126:22
\$550 133:4	16th 4:3 125:4 126:2,13	2025 9:20 87:6 88:13,22 122:15 126:22
\$80,000 126:6	17 124:9	2026 4:21 6:7,18 8:1,7 9:13,20 12:3,10 14:10 16:15,20,22 19:13 21:2 44:18 76:11 80:20 81:4 82:13 83:11 84:10 124:8,16,19 125:4,13 126:3,13,18,21 128:2,6 129:7 130:1,8,18 131:7,12,16,21 132:6,13 133:6,11
\$88,076.06 126:17	17th 121:14 123:10 128:8,14,18 130:5	2029 77:9
<hr/> 1 <hr/>	18th 4:7 10:5 127:5	2031 77:11
1 29:15 41:21,22	1905 42:18	20th 12:11,14 21:8 22:7 121:16 123:1 129:15
1,468 5:10	1921 40:10	211 65:18
1-1001.16 17:14	1922 59:21 68:4	21st 12:20
10 41:21 53:8 117:1	1924 40:12	22 9:4
100 40:2	1938 68:5	225 40:2
100,000 124:21	1978 59:21	23 125:4
100,019 125:17	1980s 33:1	23rd 14:1 97:7 129:2,5,16
1000.5 29:16	1999 28:12	24 116:21
1005 38:14	19th 21:2 89:21,22 128:9	2448 49:6
1025 38:12	1:28 97:2	25-295 84:6
103,834 5:21	1:40 97:10	256 40:10
10:30 96:21 97:9	1st 77:9,10 127:19 131:12	
10:33 2:2	<hr/> 2 <hr/>	
	2 24:8 27:6 39:7 45:3 46:6,13	

2585 95:18**25th** 78:1**26** 8:7 128:21**264** 40:11**26th** 117:2 128:10**27th** 128:13 129:6 131:6**28th** 108:10 114:5**2A** 84:5**2nd** 77:4 78:3 114:9 117:1 130:1
131:19,21

3

3 5:4 53:8 130:7**3,000** 24:2**30-day** 83:15 84:21,22 86:12**301** 58:10**316** 5:16**31st** 127:21 130:14 131:7,16**33** 62:6**330** 96:14**35** 132:7**36** 130:12**38** 2:4**3rd** 23:7 77:18 123:9 129:8,9

4

4 27:11 55:12**4,280** 5:12**428** 61:1**45** 129:18**450,000** 38:22**475** 65:18**492** 62:5**4:00** 108:11**4th** 128:16 129:11 133:11

5

5 21:14 44:15 45:13 53:8 124:14**500** 28:13**53** 130:15**536** 61:1**550** 79:14**57** 5:14**5:00** 10:6**5:09** 114:7**5th** 96:17 129:12

6

6 21:16 23:16 27:11 55:19**60** 21:21**6th** 22:11

7

7 112:5 132:17,21**7-2304** 39:14**700** 44:13**714** 58:10**75** 39:3**7:00** 11:13

8

8 118:22 132:19**80** 96:13**82** 130:21**83** 5:13 121:21**86** 12:1**8:30** 11:14

9

9 33:20**90** 40:1**960** 6:3**9:00** 11:14**9th** 76:12 128:7,17

A

a.m. 2:2 96:21**ability** 25:15 54:10 55:7**above-entitled** 82:3**abruptly** 99:16**absence** 79:19 105:22**Absent** 24:22**absorb** 41:10**accept** 17:15 94:8 101:15,21
102:6 106:7 109:19 118:3**acceptance** 81:3**accepted** 49:16 77:22 81:11
82:12,21**acception** 49:16**accepts** 95:5**access** 54:17 87:5 111:11**Accessibility** 16:19 19:13,17
21:1 44:17**accompanied** 17:20**accomplish** 35:19**accord** 62:10**accordance** 19:5 81:15**account** 41:16**accountability** 100:7**accurate** 8:3 87:12**accurately** 101:5**acknowledge** 3:7 133:16**acknowledged** 92:2,15 105:3**act** 6:9,13,15 12:2,9 14:10,12
16:15,19,22 17:18 18:4,5 19:13,
17 20:14 21:2 29:3,10,12,18
35:15,17 39:11 44:17 45:16 46:3
47:2,3,21 76:11 80:20 81:4 82:13
83:11 84:7,9 122:20 129:1**action** 6:14 33:16 34:10 45:10
88:12 91:2 123:4 131:14

actions 65:10 88:12
active 9:20
actively 7:8 9:10
activist 49:10
activity 87:16 92:7 97:16 122:12
acts 15:10 61:9,12,14
actual 41:5
ad 56:6
Adam 48:22 49:5
Adams 9:6
add 74:10 79:20
Addison 129:11
addition 12:15 40:18 64:3
additional 7:10 23:17 41:3 68:20 71:22 72:3 76:19 83:8 130:22
Additionally 5:13 39:20 45:20
address 23:3,6 28:9 31:13 38:7, 12 44:8 49:3,6 56:11 57:5 71:19 79:11 80:13 83:20 89:14,20 95:15 96:8,22 114:8
addressed 32:9 70:3 78:5 89:15
addresses 8:18
Ades 96:13
adjourn 81:20
adjudicatory 4:9
adjustment 45:17
adjustments 46:5
adjusts 65:13
Administration 83:10 84:9
administrative 24:18,22 41:15 85:4
administrator 40:6
admission 113:3
Adofo 56:22 57:3,4,8,11 129:5
adopt 2:10,12,15 12:21 15:22 107:8 110:5 113:9 116:1
adopted 16:14 32:21 33:4 115:12
adoption 11:22 13:2 15:13 58:19
advised 92:17 115:6
advisement 68:19 69:12 71:21 72:21
advisor 19:1 103:21 110:18
advisory 5:8 22:8 69:22 71:6 72:5 76:16 77:19 78:1 79:16,20 122:20
Affairs 23:15
affect 36:18
affected 10:2 62:9
affidavit 87:3 110:21 111:18
affirm 111:19
affirmed 112:9 114:16
affirms 114:13
affordable 21:20,22 25:4 26:3 49:6
aforementioned 18:8
aftermath 13:1
afternoon 108:11 132:4
agencies 24:13
agency 9:5
agenda 2:10,12 11:19 16:16 19:12 82:9,22 86:14 90:19 110:16 120:8 121:3
agree 51:20 72:4
agreed 92:21 106:9 109:10 115:8
agreement 92:1 95:5 101:22 105:3 106:7,8 109:20 114:2 115:8,12
agreements 24:20 42:2 90:8 93:7,15,20
ahead 4:12 7:19 80:18
Aisha 119:15 120:21
Alexis 128:8
align 74:17
alleges 122:17
Allen 133:1
allocation 76:19
allowances 50:22
allowing 30:8 121:10
altering 34:2
alternatives 31:9
alters 46:6
amend 17:17 47:4
amended 34:16 47:17 121:12
Amendment 6:13 16:21,22 25:7 41:1,12 42:21 45:4 76:11 79:18 80:20 81:4 82:13 83:10 84:9
amendments 62:7 84:4
amends 64:8
American 6:15
Americans 122:19
amount 124:15 125:1,16 126:5, 15,16
amounts 54:3
Anaiah 128:22
analysis 23:18 43:10 49:18 60:15 61:3 63:8 64:19 65:6 68:7 76:20 130:18
ANC 9:19,20 10:3 11:2
ANCS 84:2
and/or 13:13 89:19 114:21
Anderson 129:15
anniversary 24:11
announce 74:16
annual 45:13 46:5
answering 42:8
answers 34:22
Anthony 119:18 121:1
Apartment 38:10,15 60:22 95:19
Apartments 38:4
apologize 103:11
appeal 51:1 121:6
Appeals 18:7 47:6 48:2 58:9 63:14
appeared 89:22 91:3 109:17 112:17 117:9
appearing 118:6

appears 111:18
applicable 18:6
applicants 5:22
application 117:5
applies 45:14 50:16 59:13
apply 64:11,13 67:8,9
appreciated 66:12,21 101:14 102:6
approach 36:9
appropriately 30:2,15 101:5
appropriating 17:10 70:8
appropriations 55:11 63:16
approval 17:12
approve 84:13
approved 20:3,4 47:17 67:12
approximately 24:2 81:21
April 73:7 83:20 123:9,10
arbitrarily 41:18
area 21:22
argue 65:20
argument 37:20 66:4
arguments 50:7 53:11 67:1,5 73:20
arises 65:12
arrangement 102:3,19 103:18
arrive 10:8
Article 29:15 41:21
ascertain 56:21
asks 63:4
aspect 55:22
aspects 84:11
assess 7:5 8:12 18:12 116:10
assessed 102:16 107:18 110:14
assesses 113:18
assessing 60:21
assist 7:13
associate 96:12

associates 60:22 96:13,21 114:7
association 5:5 23:15,21 24:6 38:4,11,15 44:6,12
Associations 9:7
assume 101:14
assumed 100:22 105:11
assuming 59:18
assumption 100:21
at- 125:14
at-large 126:14 129:6 130:2
attempt 87:5
attend 11:13 105:20 106:4
attendant 113:22
attended 3:13 4:22 5:8 10:13
attendees 2:4
attorney 18:21 22:9 43:17 49:18 50:4 65:21 71:5 72:7 73:3 76:14 79:3,15 96:12 103:21 110:18 117:22 118:8,19 120:5
attorneys 49:13 51:18
audit 126:19 127:2 130:18,19,22 131:2,3,5,13
audited 131:7,15
audits 83:21 127:1 131:9
authorities 40:3
authority 40:5,13 47:3,7,9,19 48:4,10 88:5 96:19 114:5
authorize 18:3
authorized 39:11 124:6,12,20 125:5,18 126:7,17
authorizes 39:21
automatic 6:8 41:3 45:13 47:12
avail 64:6
Avenoff 128:17
Avenue 23:7 38:13 49:7 79:14
average 106:13
AVR 6:9
awaiting 6:13
aware 93:1,8 98:16 104:10

awareness 8:22
Aye 16:10,12 72:16,18 81:7,9 86:6,8 95:1,3 102:12,14 107:14, 16 110:10,12 113:14,16 116:6,8 118:14,16 120:16,19

B

B2 84:5
baby 99:4
back 14:19 15:14 43:14 49:11 64:1 82:1,6 99:10,14,17
background 12:7 17:2 18:15 20:20 76:12 86:16 91:11 111:12
bad 44:19 54:12
balance 43:19
balanced 43:21
balancing 31:4
ballot 4:12 10:20 20:3 24:7 25:18 26:19 28:18 29:9,14 31:21 32:21 34:13,20 35:16,18 37:15 48:13 51:4,10 52:2,13,14 54:17,21 55:2 62:20 63:2,6 81:15 84:11 87:5,18 89:13 104:12,13,15,17 105:4,5,11 108:14 111:11 114:10,11,15 116:19,21 117:1,13,15
ballot-return 91:20
ballots 7:15,16 87:17 92:4 95:11 106:18 115:3
Baltimore 61:1
ban 14:21
bar 10:17 62:17
bargain 30:9 31:7
base 77:11 124:15,22 125:16 126:5,15
based 41:5 58:16 73:6 112:10,22
basically 33:6 61:11 99:16 131:6
basis 60:13 61:12 62:13,17 83:12,17 121:8
Bass 126:10
battle 51:13
bearing 25:8

beautiful 67:17
began 89:8 112:15
begin 17:1 119:15
beginnings 42:19
begun 6:22 9:17
behalf 9:5 24:6 87:20
belong 77:16 103:6
belonging 103:1
Benefit 65:18
benefits 33:7 65:13
Berkeley 32:22 33:20
Bike 131:20
bird 14:13,22
bird's 14:14,20 15:2
Birds 12:2,9 14:10 16:15
bit 43:5,21 107:4
blanket 24:14
block 8:17 40:9
board 2:5,7,8 3:5,7,10,20 4:10
 5:10 12:8,18 13:2,14 16:13 17:14
 18:11 19:2,3,4,21 21:6 23:12
 28:17 29:5,8,17 31:22 43:3 49:18
 51:18 53:10 63:5,21 66:5,9,19
 71:9,18 72:2,20 73:5,16,17 74:1,
 5,17 75:4,18 76:14,20,21 77:2,22
 78:2 83:4 84:13 85:2 87:7 88:8
 90:9 94:15 95:5 96:10 105:22
 106:7 108:4 109:19 111:3 112:13
 113:2,17 114:9 115:10 116:10,18
 117:14 118:3 119:10 120:10
 121:5,11,16 122:6,13 123:3,6
 130:6 132:5
board's 12:14,20 13:7,20 15:13
 17:3 21:6 22:7 28:19 29:16 75:11
 77:6,18 82:14 83:17 86:19 88:5
 92:6 121:21 122:17
body 35:3 36:2
BOE 7:14 8:1,9
BOE's 8:13
bogus 64:7
Bonds 5:6
borne 25:10

bound 47:15
Bowser 121:20
brain 42:11,17 80:13
branches 39:10
break 81:19
Breedlove 128:7
Brian 91:5
bridge 23:20
briefed 32:11 122:2
briefing 43:8,13,16 68:20 73:17
briefly 39:6
bring 49:11 53:4
broad 37:5 70:13
Brooklyn 62:4
brother 98:22
Brown 113:21 114:4 115:2,15
 116:11
brush 67:6
budget 22:5 36:18
budgetary 18:5
Building 38:4,11,15 44:5,11
buildings 38:18
burden 25:6 61:7,11
burdens 25:9 65:13
Bus 131:20
busier 4:15
busiest 4:4
business 4:1 23:3,6 28:9 38:7
 44:8 79:11 96:8 133:11
businesses 52:20
businessman 52:17
busy 2:11 4:2,13
buy 53:11

C

C-A-D-Y 12:4
cadence 75:12,13

Cady 12:3
calculations 53:21
calculator 53:18
California 32:22 62:22
call 9:17 16:7 21:16 54:19 56:16
 72:14 90:21 94:21 102:10 104:20
 107:13 110:9 113:13 116:5
 118:13 119:12 120:15
called 25:21 33:12 43:3
Calvin 128:11
campaign 123:18 124:5,11
 125:10,21 126:9 127:22 130:20
 132:14,16,18,21 133:3,13
Campbell 91:5,6,7,8,10,12 92:2
 93:12 94:14 95:6,9,14
cancel 92:16 93:12 101:3 109:7
canceled 5:14 115:5
canceling 5:17 100:20 109:3
cancellation 101:1
cancel 97:6
candidate 9:22 10:4 54:20,22
 111:4,10 112:8,21 124:18 125:11,
 12,21 126:1,10,12
candidates 4:11 10:6 54:17
 122:18 124:7,10 125:2,7 127:8
 128:1,4,5,22 129:3,18,19 130:16
 133:20,21
candor 101:13
Cantrill 46:17
cap 45:12 106:9 109:11
capacity 28:15
capital 24:19
capping 33:6,7
card 96:19 114:5
cards 5:13
carefully 31:11
caregiver 99:3
Carly 96:2
Carolina 26:9
carries 88:2

- carry** 61:10
- case** 20:3 25:12 26:1,13 32:14
33:11,12 34:8 56:13 58:10 59:22
61:20 65:4 68:5,9 90:20 93:16
103:4 106:13,22 107:3 108:8
109:12 122:2,8 123:1
- cases** 28:2 59:21 60:8,16 62:2
66:6 67:10,20 68:1,8
- Cassel** 107:22
- cast** 87:17 92:2,3 95:11 108:14
114:15 115:3
- casting** 117:15
- categorical** 31:5 45:12
- caused** 98:4 99:6 122:9
- Cecily** 123:19
- center** 9:8,17 86:20 87:8 108:12
- centers** 7:21
- central** 25:12 45:5,22 56:12 58:3
63:9 64:18 67:11
- cents** 124:14
- certified** 22:6 90:14 119:4 124:7,
10,17 125:3,11,22 126:11
- cetera** 37:9
- CGC** 77:20 78:1
- chair** 2:3,6,14,19 3:21 10:11
15:17 16:9,10 19:10,15 20:19
23:11 27:13,15 29:4 32:2,4 33:19,
22 34:21 35:12,21 36:22 37:17
42:9,16 48:15 54:2,6 66:11,20
67:16 68:15,16 69:10,13,19 70:2,
9,12 71:2,10 72:9,15,16 73:9,11
74:9,11,13 75:1,3 76:1 78:17 79:1
80:1 81:6,7,17 82:5,8,9 85:9,20
86:5,6 93:18 94:2,5,8,11,22 95:1,
8 97:20 98:7,10,13 101:10,19
102:5,6,11,12,21 103:5,6,9,15
104:3 105:14,17 106:11 107:13,
14 109:21 110:4,9,10 111:2
113:4,13,14 115:14,16,19,22
116:1,5,6 118:5,13,14 119:22
120:11,16,17 123:13,16 133:15,
19
- chairman** 57:20 63:15 66:8 69:9
73:14 97:22 128:11 132:4
- chairperson** 129:21
- challenge** 4:8 27:4 51:17 60:10
62:13 112:2 121:9,20
- challenged** 26:14 60:18
- challenges** 61:5 66:8
- challenging** 62:6
- Chamber** 5:3
- chance** 2:11,16 15:19
- change** 15:7 52:7
- changed** 50:10,21
- chant** 119:14
- character** 45:10 58:17
- characterize** 35:18
- charge** 50:13
- charges** 77:15
- Charles** 121:19 128:7 133:1
- Charlie** 2:22 3:2,13,16
- charter** 17:7,18 20:6 39:20 45:2
- Chase** 5:5
- Chastleton** 40:11
- Chavis** 126:9,10
- check** 8:7 77:3 79:3 105:19 111:7
122:10
- Chevy** 5:5
- chief** 22:6 26:15 82:16
- choice** 5:2 6:18 10:14 11:9 83:6
84:6
- choosing** 54:11
- Christine** 103:22
- circular** 110:21
- circulate** 110:22
- circulated** 27:6
- circulation** 13:7 122:17
- circulator** 85:15 87:3 110:19
111:14,16,19,20 112:7
- circumstance** 106:15 107:4
113:7
- circumstances** 41:17 92:9 98:3
100:14 114:2
- citations** 66:15 68:8
- cite** 60:8,16 67:20 68:4
- cited** 28:2 32:19 33:10 67:9
- citing** 59:20 61:19 65:17 68:1
- citizen** 6:6 9:6 131:13
- citizenship** 6:16
- city** 24:4 33:10 45:6 54:13
- Civic** 9:7
- civil** 15:7 88:5 93:1 95:6 113:7
115:10
- claims** 50:3
- Clarence** 103:21 104:16
- clarification** 83:10 84:9 85:14
- clarifies** 84:10
- clarify** 84:1
- Clarkley** 132:19
- class** 119:3
- classes** 9:16,18
- clause** 29:2,15,20 31:19 32:7,17
33:16 37:21 41:22 42:5 48:8
58:11 60:15 64:22 65:7
- clear** 15:20 46:15 63:11 85:10
- Cleckley** 87:2 110:17 111:3,6
112:8,14,17 113:18
- client** 98:1
- clients** 24:3
- close** 54:19 83:15 124:1 133:10
- closed** 74:3,15
- co-** 63:17
- Coastal** 26:9
- code** 17:13 19:6 38:14 39:14
- cognitive** 99:6
- coin** 54:20
- coincided** 100:21
- coincidental** 74:19
- collaborate** 7:4 88:15
- colleagues** 3:6 27:17
- collect** 112:19

collected 77:15 133:3
collectively 120:7
Collier-montgomery 123:19,20
 133:12,18
Columbia 13:16 16:20 17:9
 21:17 39:22 66:1 76:10,16 80:19
 81:3 97:10 100:5 126:4
combined 76:5 133:22
comment 27:22 71:14 73:12
 86:13 97:21 98:14 106:12
commenting 44:2 84:20
comments 3:1 14:3 19:20 28:19,
 21,22 29:1,4 56:5,7 78:16,19
 79:19 84:21 107:7
Commerce 5:3
commercial 38:17,21 39:4
commission 122:21
commissioners 5:8
committee 5:4 17:22 18:1 28:16
 125:10,21 126:10 128:19 131:18
 132:16,19,21 133:1,4
committees 127:22 128:1 130:9,
 12 131:15
common 36:11 63:9 65:14
communities 6:5 7:17
community 5:5 6:21 7:4 62:4
comparing 89:4
compelled 26:4
compensation 25:3,21 26:7,18
 27:5 65:16
complaint 121:12 122:15
complete 8:3 98:20 103:18
completed 130:16 132:7
completely 58:22 59:10,16
complex 43:4
compliance 131:5
comply 20:5
component 42:20
comprehensive 26:20
comprised 87:10
compromise 8:16 37:13
concern 35:5 55:20
concerned 73:19
concerns 23:18 27:10 32:9
 40:20 41:12,20 42:12
conclude 18:19 53:10 70:18
 133:9
concluded 48:4 78:4
concludes 10:9 123:11 133:13
concluding 22:12 79:17
conclusion 22:15 62:11
condition 109:6
conditions 41:6,15 58:17
condolences 3:8
conduct 7:3
conducted 8:19 130:21 131:2
 133:8
conference 90:13,17 91:22
 97:12 104:19,20 112:12,17
 116:16 117:10,17 119:5 130:17
conferences 89:9,16,17,19 90:1
 119:2
confidential 123:6
confirm 110:2
confirmed 47:6 89:5 108:13
confiscatory 45:19
conflicts 17:16,18 47:1 48:11
conform 15:9
confused 106:14
confusing 99:22
confusion 92:12 100:12 112:21
Congress 9:8 40:14 47:6
Congress's 48:3
connected 88:19
Connecticut 38:13 79:14
connection 12:19 87:4
Connolly 65:17
conscientiously 68:13
consent 121:13
consenting 26:8
consideration 25:19 26:20 31:8
considered 25:12
consistent 84:5
consists 17:22
constituencies 76:4
constituent 127:20 131:11
constitute 41:8 65:15
constitution 17:19 26:11 29:10,
 15,19 31:11 35:17 36:1 45:3 56:4
constitution's 29:2
constitutional 27:3 40:19 43:4,
 10 46:14,19 48:7 49:9 50:3 51:17,
 19 53:11 57:21 63:8 66:2,7 71:7
 73:1 80:11
constitutionality 20:12
constitutionally 31:10 34:19
constrained 61:17
consumer 21:14
contact 117:19 120:5
contending 61:10
contest 92:3 97:3,13 115:2
context 34:13 37:14 83:22
continue 8:12 120:1,9,21
continues 9:9
continuing 5:20 6:4,11 8:1 71:15
contract 29:2,14,20 31:19 32:7,
 17 33:15 37:21 42:4 60:3 62:9
contract's 62:13
contract-clause 80:15
contractors 78:10 80:7
contracts 30:4,6,11 31:15,18
 34:2 41:22 42:4,13 48:8 50:20
 58:11 59:20 60:15 64:22
contracts-cause 61:3
contracts-clause 58:7 60:10
contractual 29:22 58:13
contrast 31:5

- contributions** 17:21
- control** 29:7 30:18,22 32:15,20
33:1,4,6 34:14 48:1 52:4 59:13
- conversation** 92:19
- conviction** 114:21
- cooperate** 92:5 93:11
- cooperated** 97:5 105:1 108:17
115:4
- cooperation** 92:19
- coordinate** 88:14
- copies** 91:19
- copy** 12:16 116:19,20 117:4
- core** 55:20 85:11
- Corp** 40:11
- Correct** 33:21 72:9
- correction** 85:14
- corrects** 80:5
- corresponded** 89:3
- cost** 40:16 41:5 52:4
- costs** 41:11
- could've** 61:16
- council** 5:6,7 26:9 34:9 35:3
36:7,11,20 37:1,7,10,14 39:21
47:4,15,20 48:5 49:22 51:2,3,12,
14 52:4,9 55:22 56:2 69:16 71:4
72:7 73:5 76:15 78:13 79:16
111:5 125:9,15 126:15 128:11
129:6,21 130:1
- council's** 43:17 47:8,14 48:10
55:16
- counsel** 10:16 15:10 18:5,21,22
20:8 21:17 22:8,10,14 27:22
28:20 43:18 50:4 55:21 56:10,20
57:12 63:18 65:22 66:1 69:14,15
71:4 72:6 73:4 76:15 77:19 78:13
79:5 83:12 89:7 90:3 92:6 96:1,9
97:14,17 98:17 102:2 104:8 106:9
109:10 113:1 130:13 131:22
132:2,7
- Counsel's** 11:17 55:16 79:16
- counsel-approved** 22:5
- couple** 55:8 75:4
- court** 13:15,19 18:7 25:11,22
33:13 43:7 46:15,16 47:6 48:2
58:9 60:18 61:1,17,19,20,22 62:4
63:14 65:2,5,11,17 121:6,7 122:4,
7,12,14,16 123:1,4
- Court's** 65:9 121:8
- courtesy** 12:15
- courts** 27:1 31:3 33:15 40:6 41:7
45:6 61:8 62:10 63:13
- cousin** 99:1
- covered** 44:1 125:14 126:3,14
- covers** 83:7
- COVID** 33:5 60:6,20 62:2 66:7
- COVID-ERA** 62:7
- CPI** 45:13 47:12 59:2,4 64:15
- Crawford** 130:3
- created** 87:10
- creating** 40:4
- credible** 109:2
- credit** 77:13
- criminal** 98:5 118:21
- critical** 102:22
- criticizing** 51:11
- cure** 34:1,3
- cured** 55:10 80:8
- current** 3:3 77:5
- customers** 77:16
- cutting** 36:8
- cybersecurity** 8:10,11
- cycle** 4:3,5 6:7,19 8:1 9:13
124:16,19 128:2
- Cynthia** 129:14
- Cyprien** 128:17
-
- D**
-
- D.C.** 5:3,4,14,15,17 6:5 9:7 10:17
12:13 13:8,9 16:19 17:11,13 18:4,
7,22 19:5,16 21:1 22:2,10,14
23:8,15 24:1 27:2 30:22 34:14
38:13 43:17 44:5,11,17 45:2 47:4,
5,7,14,20 48:2,5 49:6,7 53:6
55:21 58:8,9 59:14 62:21 63:14,
18,19 77:4 82:12 83:1 84:5,14,15,
18 85:6,17 86:11 88:16 89:2,12
91:13,14,20 92:4,11 95:19 96:14
97:2,5 99:10,20 104:11,13
108:12,15 109:3,7,17 114:9,11,15
115:3,7 116:21 117:1,8,12 121:6,
7 122:16 123:7 126:9
- D.c.'s** 91:18
- dais** 19:7
- damages** 26:21 122:9
- Darrin** 79:12
- data** 88:21 89:4 90:5
- database** 8:3 91:15
- date** 4:6 5:21 24:10 97:1 122:11
124:9,17
- dated** 21:8
- dates** 121:14 127:15
- Dave** 28:11
- David** 28:7
- day** 4:6 11:4,12 97:9 108:11
127:7
- days** 40:2 69:4,8 82:13 103:14
- DC** 28:7,15,16 36:11 39:13 55:16,
22 56:1 69:15 73:4 79:13 125:9
128:20 129:1
- DCAR** 23:16,21
- DCBIA** 44:14,20
- DCLC** 131:4
- De'andre** 129:15
- deadline** 8:6 10:3 68:17 127:6
- dealing** 11:21 99:4
- dealt** 99:5
- dearly** 3:11
- debate** 44:20
- deceased** 87:21
- December** 76:12 89:21,22
121:11,14
- decide** 29:5,6 43:8 54:11,21 55:8
74:15 106:20

decided 66:6
deciding 55:1
decision 19:7 65:8 93:22
decisions 46:8
decisive 31:10
dedicated 6:10 7:14
default 54:15
defects 18:9
defend 51:19
Defendant's 61:18
defer 27:11 31:3 57:12 61:17 98:1
deference 62:11 65:10
deficiency 78:6 80:5
deficient 52:15
define 15:1
defined 17:7
defining 39:17
degree 107:5
delay 73:20
delayed 73:18
delegated 47:7 48:10
delegation 48:3
deliberate 19:5 34:4 74:4,6
deliberation 31:2 72:1
deliberative 35:1,9 36:8
deliver 15:3
democratic 5:4 51:16
Democrats 128:20
demonstrate 58:12
demonstrations 7:3
Dems 5:4
denial 121:8
denied 117:15
Department 15:4 58:10 123:3,5
departure 27:2
depending 91:2
derives 20:6
design 47:9
designating 39:18
designation 25:17 39:8 67:14
desk 130:21 131:1
Destiny 119:18 121:1
details 102:18
determination 13:21 43:11 76:22
determine 18:12 29:8 88:22
determined 78:11 80:3 89:10
determines 17:16
determining 25:16
deterrent 106:21
developed 6:20
differ 24:14
difference 37:13
difficult 34:18
digital 10:21
directly 17:5,11 33:18
director 10:15 11:10 123:19 132:3
director's 4:18,21
Disabilities 122:20
disapproval 17:12
disbursement 124:20 125:18 126:7,17
disbursements 124:6,12 125:5,6
disclosing 108:21
disconnected 41:18
discovered 66:3
discrepancy 112:4
discretion 41:15 47:12 48:11 74:10
discretionary 47:19
discrimination 18:3
discuss 44:16
discussed 74:7 92:8
discussing 88:18
dismiss 121:12,15 123:7,9
dismissed 123:1
dissenting 26:15
distinct 45:21
distinction 26:16 31:10 68:2
distinguish 28:22
distinguished 96:10 132:5
distress 98:4
distribution 14:21
district 7:2 13:15 16:20 17:4,9,17,18 21:17 23:21 24:13 39:1,2,21 40:7 46:16 49:14 50:17 51:18 60:17 61:19 62:3 63:17 65:5,16,22 68:9 76:10,16 78:9 80:6,19 81:3,16 87:19 88:1 97:10 100:5 101:6 121:5,8 122:7,14,16,22 123:4 126:4
district's 17:7 24:15 29:13 30:17 39:12,20 40:13
division 9:4,9,12,14 38:20 88:21 124:4 126:20 127:15 130:12,19,20 131:10
docketed 122:12
document 81:13
documentary 6:16
documents 21:6 74:7 77:6 85:4 111:11
domains 8:18
Donnie 130:2
door 43:10
double 97:15 98:5 103:2 105:19 108:16,19,20 114:3 115:7 116:11,18 118:7
double-voting 88:19 90:6 92:9,18
Douglas 103:21 104:16,18 107:9,18 129:9
dozen 11:5
draft 12:16 51:5
drafting 15:9

dramatic 27:1
drill 20:11
due 15:10 24:19 26:22 41:12,20
 42:11,20 65:6 90:11 123:8,9,10
 127:16,19 131:19,20
dusty 42:17
DV 99:8

E

earlier 36:15 73:21 76:13 114:1
earning 41:9
easily 53:15 61:9,13
Eastern 62:3
economic 26:21 33:7 41:13,17
 45:7 65:14
edition 84:15
editorial 107:6
edits 85:10,11
educate 11:8
educating 100:16
education 7:19 9:2,3 10:12
 130:6
educational 6:22 7:20
effect 12:11 22:3,4 40:8 59:1,7
 64:4,16
effective 24:10 84:16
effects 33:5
effectuate 62:12
effectuates 25:2
efficient 74:19
effort 6:11
efforts 36:16
Eidinger 49:1,4,5 54:3,7
Elect 133:4
elected 36:7 39:10
election 6:7,19 8:1,21 9:12,13,
 14,16,18 87:6,11,15 88:8 91:18,
 21 92:10 96:18 97:2 105:11,13
 112:15 114:16,19 116:20,22
 117:8 122:11,21 124:4,8,11,16,19

125:4,14 126:3,13 127:9 128:2
 129:7 130:1,2,5
elections 2:7 5:10 6:6,17 10:5
 23:13 43:3 84:7 88:7 92:5,21
 121:11 124:14,18,22 125:13
 126:1 127:5,8 129:17
electors 13:18 17:8
Electronic 86:19 87:7
elements 61:6
elevating 34:6
eligibility 21:21
eligible 7:1 114:15
eliminate 77:13
Elizabeth 129:10
Ella 99:12
Elvis 119:17 120:22
email 9:1 13:3 89:19 90:14 111:8
 119:7
emails 8:17
emergencies 40:1
emergency 39:9,13,17,19 40:4,
 8,9 83:3,10,11,17
emergency's 39:18
emerging 8:20
Emmanuel 129:7
emotional 98:3
emphasis 67:3
employees 77:17 78:9
employers 77:16
enact 37:2 39:22 47:4
enacted 14:12 21:11 31:1,12
 47:13 60:5 83:11
encourage 53:16
encouraged 8:4
end 7:19 14:1 15:6 84:22 99:20
ended 98:22 99:2,8,15,20
endpoint 8:15
ends 30:10
Energy 15:4 61:20

enforceable 52:6
enforced 30:5
enforcement 15:4 86:15,17 91:4
 120:8
enforcing 60:3
engagement 7:6
engendered 26:14
enlarging 14:14,20
ensure 8:2 10:7 101:4
enter 19:4 93:4 114:1
entered 90:8 92:1 93:14,19 105:2
 109:8 113:1 115:11
entire 62:6
entirety 73:6 123:12
entrance 130:17
entrusted 47:20
envelope 104:13,15 114:12
 116:20,21 117:2
envelopes 91:20 117:13
Environment 15:5
equal 54:19
equipment 7:4,17
equity 54:4,5
era 33:5 62:2 66:7 106:18
Eric 38:3,10 86:19,22 87:2,8,12
 88:9,11 103:1 104:8 108:8 110:17
 112:8 130:7 132:19
Erika 44:4,11
Erlene 119:19 121:2
erroneous 93:10
establish 58:10 84:4
established 26:10
establishing 39:22
estate 24:1 47:5 48:1 49:20
 52:19
et al 122:7
evaluated 45:6
Evans 4:17,19 10:15 11:10
 129:21

evening 27:19
evenings 11:12
event 3:13 19:8
events 5:1,2 7:9,11 9:5,10
eventually 99:8
evidence 34:5 92:3 97:4,13
 109:15 113:6 116:17 117:11
 118:6
evidentiary 30:19
exact 13:3
examines 46:1
examining 45:7
exceeds 21:14 40:13 45:13
excellent 44:3
exception 49:15 80:9
excessive 15:3
exclusively 39:9
excuses 100:6
executive 4:18,20 19:4 39:10,12,
 13,19 73:18
exemption 40:16
exempts 78:9
existing 6:1 29:21 30:11,17,22
 31:15,17 34:14 42:2 45:17 64:7
expand 7:6
Expansion 6:9
expect 43:7 70:17 122:3
expectation 25:14 59:6
expectations 26:21 45:9,22
expenditures 18:2 127:19
 130:15 131:8,17
experienced 98:21
expert 49:9
expired 40:9
explain 109:16
explained 61:12 104:21
explaining 7:2,13 104:8
explanation 108:18 109:1

explicit 35:14 63:19
explicitly 35:15
expressly 35:20 39:11 78:9
extend 121:13
extension 121:17
extensive 57:22 63:18
extensively 60:4
extent 42:13
extenuating 100:14
extreme 99:5
extremely 66:12

F

fabulous 10:15
face 46:21 48:12
facilitate 9:15
fact 46:12 62:21 64:3,12 65:21
 67:21 92:20 93:9
factors 25:12 34:6 64:19
facts 97:11,15
fail 37:9
fails 30:17
failure 119:4 130:13
fair 41:10 50:16 124:3,7,10,14,18,
 22 125:13 126:1 127:5,8 129:17
fairness 25:9
falls 88:4
false 40:4 87:2 110:20 114:20
familiar 75:11
family 3:9,22
fashion 34:20
fast 71:17
fatal 36:12
favor 54:17,20 78:20
favorable 68:3
fearless 3:15
February 4:21,22 5:9 6:4 9:3
 12:14 22:11,13 77:4,18,22 78:3

88:13 90:14 123:1,21 124:5
 125:2,12,18 126:2,7,11,18,21
 127:16 128:6,7,8,9,10,12,14,16,
 17,21 129:1,2,4,5,8,9,11,12,13,
 15,16,20 130:1,3,5,8,10,17 131:6
 132:6,13 133:2,5
federal 6:17 24:13 33:13,15 62:4
 87:19 88:1 115:7
Federation 9:7
fee 122:9
feedback 11:1 75:5 83:14
Feeding 12:2,9 14:10 16:15
feel 43:20
fees 60:21
feet 38:21 39:4
feeze 40:7
Felder's 131:13
Felicia 113:21 116:11
fellow 2:8
field 53:4 127:1 131:14 133:20
figure 35:10 56:13
file 4:6 10:9 13:18 117:15 121:17
 130:14
filed 17:20 21:3,5 77:5 121:12,15
filing 9:22 10:4 127:6,17
filings 72:22
filled 9:22
filling 84:2 111:13
final 73:11 88:20 121:3 123:2
 126:19 127:2,6 131:3
finalize 4:10
finally 47:1 132:22
finance 123:18,21 124:5,12
 130:20 132:14 133:3,14
financial 22:5,6 46:8 82:16
find 103:2
finding 33:15 62:8,14 121:21
findings 30:19 31:2,13,18 34:11
 37:9,12 41:14 62:20 63:3
finds 65:2

fine 16:4 69:4,7 74:16 93:1,17
94:12 95:6 97:7 101:16 102:1,7,
16 103:13 106:10,16 107:2,8,17
109:11 110:5,14 113:7,10,18
114:21 115:1,10 116:2,10 132:12,
15,17,20,22 133:3

fined 93:2,9

fines 88:2,5 132:10,14

finished 88:22

first-class 89:20

fiscal 12:18 22:3 82:15

five-day-old 99:4

five-minute 81:19

fixed 46:17 55:14

Fleming 132:17

flight 113:22

flip 54:20

floor 23:7

fluid 85:14

fly 50:12 63:22

focus 29:1 56:8 58:3 91:16,19
117:4

focused 27:17,20 37:18 42:11

focusing 32:5

foie 15:1

folks 51:10 52:8 53:4

follow 93:7 109:2

fondly 3:19

food 15:3,5

footnote 33:20

force 12:2,9 14:10 16:15 41:10

force-feeding 14:13,22 15:1

forces 76:5

Ford 128:10

foremost 54:9

forget 54:4

forgot 64:3

form 13:5,13 35:2 63:1

format 63:1

forms 13:5 111:15

formula 47:16

formulated 13:14

formulation 121:22

formulations 11:22 12:12,16
13:6 14:4 15:12 16:14 82:14

forthcoming 112:18

forum 34:17

found 7:12 41:4 61:2,4 65:7,11
66:1 76:21 78:8,13

Fourteenth 41:11 42:21

frame 99:21 100:1

framework 46:4,7 47:10

Franklin 128:16

frankly 33:2 34:12

fraudulent 98:6 100:8

Free 128:20

freeze 21:12 30:9 31:6 39:16
40:4 41:2 64:14

freezes 30:6 41:3 45:13

frequency 75:13

frequently 7:15

Friday 33:11

friends 3:6,9,22 57:4 132:21

frivolous 46:21

fulfill 69:3

full 43:8 100:6 127:1

fully 92:5 105:1 108:17 115:4
122:2

fulsome 34:4

function 20:10 55:21

fund 21:19 124:14,22 127:20
131:11,13

funded 22:4

funds 17:10 18:6 70:8 125:5

future 21:12 30:6 78:10 106:19

G

G-A-Y-L-E 96:11

G-Y-I 119:17

Garcia 128:16

Gary 2:6

Gassaway 47:5

gatekeeper 20:9

gather 122:18

gave 5:1

Gayle 96:2,11

GC 55:17

general 10:16 11:17 13:7 18:21
20:8 22:8,9,10,13 43:17 49:19
50:4 55:16 65:21,22 69:14,15
71:4,5 72:6,8 73:4 76:15 77:19
78:12 79:15,16 87:15 88:7 89:7
90:3 91:18,21 92:4,6 96:18 97:2
104:7 105:13 106:8 109:10
116:20,22 117:8,22 118:20 120:6
130:5,13 131:22 132:2,7

General's 118:8

get all 76:2

Gilchrist 2:22 3:2

girlfriend 99:1

give 17:2 20:19 55:10 69:2 90:22

giving 56:15 90:16

glad 67:17

goal 25:5

good 2:4 4:20 16:5 20:16 23:11
29:7 38:9 44:10,19 48:18 54:12
55:4 57:8 65:14 67:10 80:17
95:17 96:9 132:4

Goulet 130:7

Goulston 28:12

government 8:21 22:2 23:14
25:4 41:19 45:10 65:10,15 67:13,
22 80:7

grace 101:6,18

grade 43:5

gradually 99:15

grandmother 99:3
granted 40:14 121:14,16
grapple 32:6 43:12
gras 15:1
grateful 100:15 101:7
great 10:16
Greater 38:19
Greenfield 2:8,13,18 16:3,11,12
 35:11 42:15 44:4 48:20 72:12,17,
 18 80:22 81:8,9 86:2,7,8 94:18
 95:2,3 102:8,13,14 107:11,15,16
 110:7,11,12 113:11,15,16 116:3,
 7,8 118:11,15,16 120:13,18,19
 123:15 128:15 132:5
grief 99:4,22
grounds 13:19 24:21
group 61:21 94:1
groups 7:5
guess 32:12 34:1,21 35:9 42:12,
 22 43:1 66:13 67:3 74:2,10
 100:11
guessing 74:16
guidance 43:21
Gurley 128:11
Gyi 120:22

H

half 81:18 125:15 126:5,15
hall 5:6,7 121:5
Hampshire 23:7
hand 12:5
handle 57:3
handled 83:22
hands-on 7:3
happen 13:1 82:11 93:14 109:5
happy 27:14 31:22 48:13 66:9
 79:21 85:7
hard 4:16 80:16 133:17
hardship 24:19 30:8,20 31:1
 40:16 45:17 46:5 64:6,17

Harris 119:18 121:1
hear 18:16 22:16 23:1 28:6 55:3
 56:5 57:6,9,14,16 71:15 79:7
 85:22 91:8,9 97:17 98:2 104:1
 122:3
heard 16:18 48:9 52:8,12 90:22
 93:22 119:6
hearing 27:7 71:15 76:9 86:18
 90:15,17 112:13 117:18 119:2,3
 122:1
hearings 4:9 16:17 17:1 34:11
 37:8,12 86:15,17 132:8
heavy 43:6,20 57:21
Heights 9:8
held 10:2 111:5 112:12 122:1,21
hell 52:9
helpful 66:12,18 70:15 112:18
helping 11:8
helps 87:11
Henderson 133:5
hesitate 80:18
high 21:13 64:15
higher 107:5 113:8
highlight 124:2
highlighted 40:21
highlights 39:7
Hilgendorf 22:20,21,22 23:5,6,
 11,13 27:16 28:5
hired 9:15
Hirsh 40:10
historic 67:17
history 91:17 117:7
hold 34:10 93:21
holdup 55:12
home 9:6 17:17 29:3,10,12,18
 35:14,17 39:11 47:2,3,20 99:12
homework 67:7 68:13
hominem 56:6
honestly 100:4

honor 3:14 54:9
hope 104:4 128:6
hoping 27:21 43:18
hour 77:8 81:18
hourly 80:8
hours 65:20
housed 85:5
households 21:18
housing 16:19 19:12,16 20:14
 21:1,19,20 22:1 24:17 25:4,7
 26:3,22 44:17,20 45:16 46:3
 59:14,15,16 62:5 64:13
HPTF 21:19
Human 18:4
Hunter 3:14
Hurwitz 79:4,5,7,12
hypothetical 53:12

I

i.e. 88:15
idea 54:12 58:22 64:5
identical 73:22
identified 78:6 89:1
identify 8:20 22:19 87:16
identifying 39:17 123:6
ignorance 100:10
ignorant 100:18
Ill 83:1
illegal 87:16 92:7 122:22
illegitimate 61:15
immediately 30:7 74:14 104:21
impact 12:18 45:8 46:1 82:15
impair 29:21
impaired 61:3
impairing 42:3
impairment 29:22 30:10,13
 41:22 42:13 58:13,14,16,21 59:19
 62:8 64:2 99:6

impairs 31:17
impermissible 33:17
impermissibly 18:6
implement 76:19
implementing 6:8,19
implicit 35:5,13 63:12
importance 56:15 103:1
important 25:4 26:3 84:3
importantly 83:9
impose 39:15 88:5 94:11 102:7
 107:8 110:5
imposed 132:11,12,14,16,18,20,
 22
imposes 41:2,13
imposition 115:9
impossible 62:18
imprisonment 88:3 114:22
improper 26:5
Improvement 62:5
improvements 24:19 50:12
in- 109:12
in-person 7:9,19 97:8
inadvertently 105:4
inaudible 22:19 38:15 41:12
 64:9 67:15,16 71:19 74:14 79:9
 96:5 103:8 123:20 124:1,9
include 5:22 30:22 63:2
included 5:2 9:5 47:9 116:19
 132:9
includes 11:11 23:17 46:4,5
 111:12
including 7:11,15 13:20 15:1
 25:13 29:13 62:7 83:21 117:19
income 21:18,22 53:5
incorporated 29:3
increase 21:15 24:9 50:9 59:12
 77:8,10 80:7 106:19
increased 40:16
increases 30:9 31:7 42:1 60:2
 78:10
increasing 60:21
incredibly 50:15
indefinitely 41:11
independent 70:20 84:7
independently 47:14 70:17
index 21:14
indicating 91:17 92:10 117:7
indicators 8:16
individual 25:8 38:2 89:15,21
 104:10,17 105:7 108:9
individual's 104:14
individualized 30:20 41:4
individuals 89:1,3,9,19,22 90:21
 118:22 119:6,9,11,22
industry 44:5,11 49:20
inequality 53:5
infer 63:5
infirmity 66:2
inflation 21:13 41:3
inflationary 41:11
influence 49:21
inform 75:20
informal 132:8
information 6:5 7:1,14,18 8:8,13
 10:7,19 86:20 87:8 89:6,8 90:4
 91:12 108:13 117:3 122:5 123:7
 127:14 131:1
informational 6:20
informed 93:5 110:1
informing 90:15 112:11
infrastructure 8:13
initial 58:2
initiative 11:20 12:1 13:19,22
 14:12 17:3,6,7,15 18:9 23:19 24:8
 25:18 26:19 27:6,8 28:18 29:7,9,
 14,18,19 30:4,16 31:5,16,22
 32:22 34:13,20 35:2,16 36:4
 37:15 39:8,15 40:3,12 41:1,13
 42:3 45:1,11 47:1,11 48:12 51:4,
 5,10,13 52:2,13,15 53:20 54:22
 56:3 62:20 63:2,6 64:8 76:13,18,
 21,22 78:3,5,7,14 79:18 80:4,9,19
 81:5 121:21
initiative's 46:22
initiatives 11:20 20:2 35:7,19,22
 54:10
inserting 15:2
inspections 15:6
installments 102:17
instance 97:8 99:2
instances 89:10
instructions 8:7 111:13,15
intelligence 8:19
intend 92:20
intends 77:13
intent 98:6 100:8 107:5
intentionally 109:9
interest 27:11 34:6 59:11 124:2
interests 24:2 41:19
interference 45:8,21
interpreted 48:3
interpretive 133:7
interrupt 81:17 103:12
investigated 8:17
investigation 92:7 105:1,2
 108:18 112:16 118:1,9,20 120:4
investigations 133:6
investment 25:16 45:21
investment-backed 45:9,22
investments 46:7
invites 27:3
involve 86:18,21
involved 88:15
involves 34:5 87:2 91:5
involving 26:2 52:1 63:16
 118:18 120:21
irrational 61:14
irreputable 41:18
Issuances 85:5

issue 10:13 19:8 27:18 32:6
39:12 45:4 55:11,19 58:8 59:19
69:20 70:3 73:6 74:1 75:16,20
80:13,15 84:1 89:9 95:7 102:1
106:16

issued 12:10 22:11,14 76:16
96:19 104:17 114:6 122:10
126:20 130:21 131:3,5 132:8,10,
11

issues 40:19 56:12 57:21 58:5
76:6

item 11:19 82:7,22 86:14 91:4
103:20 110:16 113:20

items 16:16 83:7 124:2

IV 17:17 47:2

J

Jack 47:5,22 129:21

Jacque 129:12

Jacqueline 119:16 120:22

January 12:7,11,20 21:2,8 22:7
83:5,18 89:18 97:7 121:16 122:14
127:19,21 130:14 131:7,12,16

Joanne 119:17 120:22

job 10:16 56:7 70:21

Joe 57:17

join 76:5 104:20

Jones 38:3,6,9,10

Jorge 110:18

Joseph 56:20

judgment 47:8,15

judgments 31:3 61:18

July 77:9,10 87:6

June 4:3 125:4,13 126:2,13

jurisdiction 90:6 108:15 114:19

jurisdictions 5:16 60:19 87:22
92:13 109:4 117:16

justice 25:10,22 26:8,15 53:5
123:3,5

justification 31:16 60:12 63:7

justified 58:14,15

justify 60:14

justifying 58:18

juxtapose 106:22

K

Kalaguchi 119:18 121:1

Karrick 46:17

Karyn 2:8 74:15 85:22

Kathy 133:5

Kennedy 26:8

Kenyan 125:21

Kevin 126:10

key 64:20

kill 52:14

kind 33:13 34:10,17 36:18 43:4
53:1 54:19,22 73:18

kindly 68:21

kinds 36:19 43:6 60:4

L

labeled 46:13

lack 26:20,22 90:11 100:2

lacks 31:18

land 22:1

landlord 40:15 50:9 53:2 58:1
59:10 62:17 63:4 66:3

landlords 26:4 50:16,17 53:22
59:16 60:2,20 61:4

landmark 25:11,16

language 13:4 60:9 78:8 114:12

large 125:10,15

largely 5:7

Lashawn 119:19 121:2

late 60:21

launch 13:10 86:12

law 30:14 32:15 34:8 42:2,16,17,
19 43:8 49:9 51:20 52:3 55:5 59:7
62:7,12 63:19 64:7,8,13 67:12
70:7 81:16 84:6 88:1 112:2 115:7

laws 17:9,10,11 29:21 30:22 47:4
48:1 60:19 88:7 92:21

lawyers 50:14

lay 13:1

lead 11:13

leader 3:15

Leadership 28:15

leading 10:16

leased 22:1 24:12

leases 30:5 59:6 60:3

leave 99:16

legal 23:17 55:15 56:12 57:12
93:5

legislate 34:18

legislating 37:14,15

legislation 6:12 32:21 34:15
36:6,10,15 37:2,5 40:1 47:18 50:1
56:18 83:13 121:9

legislation's 58:18

legislative 13:5,13 15:8,9 17:5
21:11 29:13 30:19 31:2,3,12,18
34:3 35:3 36:2,9 37:8 47:3,8,11
48:10 61:18 62:14,15,20 63:1,3,7

legislature's 62:11

legitimate 30:1,15 31:13 41:19
58:15 65:1

lengthy 34:15 35:8

lessors 30:8

letter 112:10

letters 69:16 70:4 80:13 130:22

level 53:3

levels 21:18

Lewis 28:7,8,11,12 32:3,5,18
33:21 34:9 35:12 36:13 37:1,3
38:1 40:17

liberty 42:19,20

license 100:22 101:2

life 65:14

lifting 43:20

light 104:2,3

- likelihood** 27:4
- limit** 18:4 115:9
- limitation** 35:6,13,14
- limited** 35:20
- limiting** 42:1
- limits** 35:18
- Lisa** 125:9,11
- list** 7:22 36:21 125:6
- list-maintenance** 8:2 87:9
- listed** 127:1
- listening** 71:12
- litigated** 60:3
- litigation** 121:4 123:11
- Littlefield** 128:8
- live** 24:3 107:1
- lived** 52:19
- liver** 14:17,18,20
- living** 16:21 76:10 78:2 79:4,13, 17 80:19 81:3 82:12
- lobby** 51:2,12 52:9 58:1 62:17 63:4 66:3
- lobbyists** 50:2
- local** 6:6,12 60:18 121:10 128:19
- localities** 60:5
- located** 44:13
- Lochner** 42:18
- long** 3:4 11:12 36:21 51:6 98:7 122:6,8
- longstanding** 24:15 46:16
- looked** 67:18 113:5
- Lopez** 119:19 121:2
- losing** 98:22
- loss** 3:8 41:1
- lost** 53:12 100:3
- lot** 11:10 59:20 67:19 68:22 99:5 100:10,18 106:13 113:8 123:16 133:19
- lots** 36:14
- Louise** 116:13 118:18
- love** 68:7
- low** 61:6 62:17
- Lucas** 26:9
-
- M**
-
- M.J.** 107:22
- Madam** 16:11 72:17 81:8 113:15 120:17
- made** 46:9,15 54:8 67:1,2 80:10 98:15 105:7
- mail** 89:20 90:14 91:13 92:3 103:3 104:12,15 105:11 106:13, 18 114:9 117:20 119:4,7,8,9
- mailed** 5:13 89:14
- main** 32:13 66:13
- maintain** 87:12
- maintenance** 7:22
- majority** 53:6 59:15 60:7 66:6 86:17
- make** 3:1 4:12 8:5 12:3 19:3 20:5 34:11 35:4 37:12 43:1 56:16 64:2, 3 66:22 68:6 71:14,20 76:2,22 93:21 100:6 103:17
- making** 37:4,8 50:5 54:20
- Makisha** 107:19 110:14
- malicious** 8:18 100:8
- manage** 38:20 39:2
- management** 127:15
- mandatory** 77:11
- manner** 70:13
- manual** 9:15
- March** 2:5 4:7 10:5 13:10 14:1 84:15 86:12 88:13 121:18 122:2,5 123:8 127:5 131:19,21 133:11
- marital** 99:12
- marketing** 41:14
- marriage** 99:7
- Maryland** 39:1 60:18,19 61:19 65:5,17 68:9 88:19 89:2,12 91:13, 20 92:4,12,16 96:18,20,22 97:5,6, 9 99:13,16,19 100:20 101:4 104:11 108:9 109:18 114:4,6,8 115:3,5 116:19,22 117:12
- Massachusetts** 49:7
- massive** 54:3
- match** 77:12 117:13
- matched** 105:9
- matching** 124:15 125:1,17 126:6,16
- material** 90:4
- materials** 6:20,21 7:1,10,20 32:19 75:7
- matter** 20:8 27:7 39:5 42:6 43:11 49:17 50:5 51:7 62:21 67:4 69:12, 21 71:21 72:20 73:14 75:22 76:17 80:3,21 82:3 87:2 90:11 95:7 96:16 97:14 103:20,22 104:9 107:19 108:8 110:17 113:20 116:12,13 117:21 118:18 121:3,4, 19 122:6,13 123:2
- matters** 11:20 83:20 84:3 88:18 89:16 90:19 91:1 93:18 118:22 120:1,7,9,21
- maximum** 21:15 92:17 93:2,10 115:6
- mayor** 39:12 60:22 125:20 126:4 128:6 129:19
- Mcduffie** 125:20,22
- meaning** 45:16
- means** 2:9 64:11
- measure** 12:1,13,19,22 13:3,14, 21 17:15,16 18:1,7,10,14,16,17, 19,22 20:4,13,22 21:4,11 22:2,12, 17 45:1 46:1,20 47:17 48:6 53:14 71:8 73:2 77:5,7,9,14,20 78:4,12, 14,19,20 79:6 81:11,15 82:17,20 84:12 122:1
- measures** 16:17 17:22 18:11
- mechanically** 47:14
- mechanism** 40:15 41:4,16
- mechanisms** 31:1 45:18
- median** 21:22
- meet** 61:5 75:13
- meeting** 2:6,17 5:6 71:18 72:2

73:7,16 74:2,5,17 75:12,18,19
83:18 106:5 110:1 120:10

meetings 10:3

Melendez 33:12 59:22

member 2:8,13,18 3:3,4 5:6 6:10
16:3,12 28:15 35:11 42:15 44:4
48:20 72:12,18 80:22 81:9 86:2,7,
8 87:7 88:11 94:18 95:2,3 102:8,
13,14 107:11,15,16 110:7,11,12
111:5 113:11,16 116:3,7,8
118:11,15,16 120:13,18,19
123:15 125:15 126:14 129:6
130:6 132:5

members 2:21 11:2 23:12 24:3
38:20 39:2 66:9 75:4 84:19 87:14
96:10 111:2 124:3 128:20

membership 7:6 38:17

memory 3:14

mentally 98:4

mention 74:18 105:21 127:4

mentioned 34:1 41:21 45:4 46:6,
12 66:16

mercy 53:1

merit 58:6

message 106:21

met 4:11 10:1 12:10 18:13 70:6
121:21

met all 70:6

method 26:5

Metro 58:9

Metropolitan 38:5,11,16,19

Miah 95:10,18

middle 4:2

Mike 129:4

million 38:21 39:3

mind 54:9 55:9 56:14 100:3

Minika 112:7

minimum 77:8,10,12 78:11 80:8
107:3

minority 59:22

minute 28:20 63:10

minutes 2:15 81:21 82:2

miseducation 100:10

mission 24:1

Mitchell 128:22

mock 7:15,16

Modernization 16:19 19:12,16
21:1 44:17

modified 51:14

mom 99:17

mom's 99:11

moment 28:18 79:3 114:3

momentarily 68:19

money 52:3

Monica 4:17

monitor 6:11 8:12

monitored 8:15

monitoring 6:14 8:11

month 4:13,22 9:3 11:6 69:6
123:21 124:4 125:1 126:21
127:16 129:20 130:10,17 132:6,
13 133:2,5

months 69:2 99:13

moreaffordablec.org 53:17

Morgan 9:6

morning 2:4 4:20 23:11 38:9
44:10,16 57:8 95:17 96:9,21
99:18

Moten 107:20 108:14,17 109:15
110:15

motion 71:20 85:3 101:21 118:2
121:13,15 123:9

Motions 123:7

move 2:12,15 15:22 76:8 80:18
85:16 94:5 99:17 106:11 107:7
113:2,9 118:7 120:6,7

moved 5:14 44:12 121:11

moves 102:6 110:4 116:1 120:12

moving 4:1 24:7 100:9

mulled 15:20

multi-family 38:18,22 39:3

multiple 23:18 34:16

Municipal 83:2

Muriel 121:20

muster 36:2,4 63:10

mute 81:22 86:1

N

NAIOP 28:16

names 119:13

NAOIP 28:7

Nate 132:17

national 128:19

nature 34:2

navigating 33:13

Naylor 95:19

necessity 31:8

needed 39:8

negate 18:4

negotiations 52:18

neighborhood 5:8 10:22 122:21

net 46:18

network 8:15

neutral 20:10

new- 5:22

newly-certified 125:7

newspaper 13:7

nice 11:1

nicely 10:19

night 15:20 99:21

Nina 130:4

nominating 4:7 84:11 127:7

nomination 112:14

non- 6:5 46:20

non-citizen 6:2,3

non-citizens 121:10

non-immune 46:11

nonpartisan 87:9
nonprofit 87:9
noon 108:10
normal 14:21 73:15
Northwest 23:7 28:13 38:13
 44:13 49:7 79:14
Notably 40:12
note 43:2,15
noted 29:3 57:20
notice 75:16,20 83:2
noticed 112:4
notices 89:18
notified 75:14
notify 13:2
notwithstanding 45:15 64:9,13
 80:12
November 88:22 91:21 96:16
 99:14 114:9 117:8
nuanced 34:16
nullifies 30:4 31:7
number 12:1 25:12 33:4 60:19
 133:21

O

OAG 22:11 69:15 77:20 78:1,3,6,
 8
objections 13:16,18 71:7 73:1
objects 13:12
obligation 69:3
obligations 29:22
obtain 25:15 123:5
obtained 91:15,18 117:4
obviate 109:5
obvious 19:21
occurred 97:9 99:19 101:1
 108:16
OCF 123:22 127:3,17 130:13,16
 133:10,16,22
October 108:10 114:5 117:1,2

offense 108:16
offenses 92:18
offers 25:18
office 10:8 18:20 22:7,9 38:4,11,
 12,18 43:16 71:5 72:6,7 73:3
 76:14 77:18 82:16 85:4,5 89:6
 90:3 92:6 111:10 113:1 117:22
 118:8,19 120:5 124:5,11,20
 125:14 126:3,14 127:12 128:6,11,
 13 129:19,21 130:20,21 132:1,6,
 14 133:3,13
officer 22:6 82:16
offices 21:6 44:12 77:6
Official 17:13 19:6 39:14
officials 87:11
OGC 12:12 15:12 55:15 112:10
ongoing 24:14 47:11 126:22
 131:10
online 5:19 7:13
ooh 124:13
open 10:1 42:7 84:6 133:6
opened 104:22
operate 46:3
operates 47:13
operating 41:6
operations 8:10 9:15
opined 26:2
opinion 22:11,14 26:1,8,15 27:8
 70:20 133:7
opinions 19:1 20:15 22:8 55:15
 69:22 71:6 72:5 73:2 76:17 77:19
 78:2 79:16,21 80:2
opponent 22:20
opponents 18:16 22:17 56:5
 67:20 71:8,11 78:17,18
opportunities 7:7
opportunity 3:16 24:5 28:14
 42:7 56:15 57:1 71:13 74:6 75:6,9
 76:3 90:16,22 98:20 101:8 102:17
opposition 48:18 76:6
oral 23:19

orally 12:8 19:7
order 10:9 12:11 19:8,11 21:8
 24:18 32:10 95:7 102:1,18 103:17
 122:3 132:11
orders 39:13 132:8,9
ordinance 26:2 32:20 33:1
ordinances 33:4,9
ordinarily 35:8
organization 18:1 25:5 38:17
 87:10
organizations 7:5
outcomes 45:19
outlined 39:13
outreach 4:22 6:4 7:6,9,11 9:2,4,
 9 10:12
outset 29:4
overdraft 122:9
overlaps 42:12
Owens 119:15 120:21
owned 24:12
owner's 25:13
owners 25:8 33:7 41:9,10 46:2
 54:1

P

P-R-O-C-E-E-D-I-N-G-S 2:1
p.m. 10:6 97:2
PAC 131:4,18,20
packets 10:7
panelists 111:3
paperwork 10:8
paradox 36:5
paramount 56:14
parcel 25:14
part 11:12 36:8 39:6 56:6 63:8
 87:1 111:6,9,22 112:3 115:8
parte 108:5 115:11
participate 17:5 75:15 125:3
 129:22

participated 9:4 97:12
participating 124:10,18 125:12
 126:1,12 128:2
participation 86:21,22 87:13
 88:9
parties 62:10 75:21 93:8 108:5
partners 6:22
partnership 86:19 88:10
parts 4:5 126:19
party 58:11 128:19
pass 36:2,4,14 40:15 61:9,13
 63:10
passed 2:14,20,22 59:4
passes 51:14 52:10
passing 32:8 49:22 57:22
passionately 55:4
path 24:22 82:20 93:8
patience 82:6
Patricia 128:12
Patterson 129:12
Paul 128:13
pay 43:5 50:9,13 93:1 95:6
 101:22 102:17 103:13
payment 102:3 103:18 122:10
 125:16,17 126:5,6,15,16 133:4
payments 124:15 125:1
payroll 49:14
PBGC 65:18
Pembroke 103:22 104:1,4,7
 105:16,18 107:21 108:1,3,7
 109:22
penalties 15:8 88:2
penalty 92:17 93:2,10 114:13
 115:6
pending 68:20 71:22 72:21 74:6
Penn 25:11 45:5,22 56:12 63:9
 64:18 67:11,19
Pension 65:17
people 53:16 63:17 78:20 106:14
percent 21:14,16,21 45:14 53:8
period 4:8 8:14 13:11,20 14:1
 24:10 30:7 59:9 83:16 84:22 85:1
 86:13
periodic 131:4,9
periods 21:13
perjury 114:14
PERM 130:11
permanent 26:12,17 59:8 64:5
permanently 31:6 99:17
permissible 48:2
permit 31:14
permitted 17:4 21:15 42:1
person 14:13 24:12 44:2 95:11
 96:17 97:1,4 103:3 107:6 109:13
 114:4
personal 25:2 106:2 108:22
 109:6 123:6
personally 10:13 111:16,20
perspective 28:1 51:19
petition 24:17 30:20 64:6 83:9
 84:8,11 87:4 110:21 111:13,14,
 18,21 112:6,15 122:17 127:7
petitions 4:7 45:17 46:6 112:1,3
phase-in 30:7
Philip 119:17 121:1
Phillips 129:14
phishing 8:17
phonetic 3:14 12:4 33:12 99:12
 107:20,22 112:7 113:21 119:15,
 16,17,18,19 125:20,22 128:9,10,
 14,17,22 129:4,8,10,11,13,14,16
 130:3,4,7,12
phrase 42:18
physical 99:15
picked 102:21 111:11
picture 48:18
Pineda 129:4
place 13:10 89:17
places 46:21
plaintiffs 61:15 121:14,20
plan 9:10 22:5
planning 6:7
plausible 109:2
play 42:22
playing 53:3
pleasure 93:20
point 32:15 33:2,18 37:4 54:7
 55:6,10 64:2 66:21 97:18 130:11
pointed 63:15
points 89:5
Police 58:9
policy 20:17 29:7 44:19,20
policymaking 34:18 47:19
political 127:22 130:9 131:14
portal 5:21,22
portion 59:14 111:18
Posey 112:7
position 19:22 20:15 52:21 53:1
 58:6 63:11
positions 9:21
possibility 63:6
possibly 35:1
post 84:18
post-election 126:22
posted 112:1 123:21 133:10
potential 8:12 87:16 90:5 118:1,
 20
potentially 89:2
power 29:13 39:9 46:22 49:21
 63:16
powerful 50:1
practices 9:1
pre- 90:16 119:1
pre-hearing 89:8,17,18 90:1,12
 91:22 97:12 104:19,20 112:12,16
 116:16 117:9,17 119:5
precedent 27:2 30:12 33:18
 46:16

precedents 65:9
precisely 61:17
preferences 44:21
prejudging 68:10
premier 23:22
preparation 7:22 9:13
prepare 82:14
prepared 5:12 10:9 12:12 14:7 15:9,12 16:2
present 12:4 17:10 22:21 24:5 27:1 42:7 78:21 79:5 91:7 96:2,6 103:22 105:14,17 108:5 109:21 119:13 132:1
presentation 23:20
presentations 5:1,3
presented 10:19 32:11 90:3 97:13 109:15 110:18
presents 13:21 46:20 48:6
president 25:18
presumption 54:15
pretty 2:11 34:15 48:18 85:13
prevent 41:9 46:18
preventing 60:2
prevents 49:22
previous 28:22 78:7
previously 21:7 40:6,17 41:21 58:1 109:18
price 21:14
primary 4:3 10:4 25:13 84:7 99:3 125:4,14 126:3,13 127:9 129:22 133:21
principal 38:16 125:10,20 126:9 127:21 132:16,18,20
principle 26:14 63:19
print 7:10
printed 112:6
prior 8:6 12:15 21:9 32:9 74:2 77:1 80:5 83:15 84:21
private 42:2 62:9
proactive 39:15
problem 26:4,6 70:19 80:11
procedural 18:15 20:10 64:11 73:14
procedure 74:3
procedures 84:12
proceed 18:9,14 23:10 28:10 38:8 44:9 81:12,14 89:6 90:9 108:2,4 115:11
proceeding 75:17 91:5 105:21
proceedings 70:1 102:22 120:9 133:8
process 8:2 17:3,5,8 18:10 26:22 30:20 33:13 34:3 35:1,9 41:12,20 42:12,20 45:2 51:1,4,16 52:1 64:7 65:7 75:5 84:1 111:9,22 112:3 122:18 127:10
processed 5:11,21
processing 81:15 84:12 88:10, 14
produce 34:11
product 14:22
Production 21:19
program 24:16 62:5 65:13 67:22 87:1,13 124:4,8,11,19 125:3,13 126:2,12 127:5,9 128:3 129:17 130:15 131:3
programs 21:20 127:21
progress 131:14
prohibit 14:13 24:8
Prohibiting 12:2,9 14:9 16:14
prohibits 29:20
project 86:22 88:21
promote 24:2 65:14
proof 6:16 115:4
proper 12:10 13:22 16:16 18:13 20:7 22:12 27:7 29:9,11 31:20 43:11 45:1 48:12 49:17 50:5 51:6 63:1 69:20 70:1,6 76:9,17 77:21 78:4,12,14 79:18 80:3,20 81:4,12 121:22
properly 17:19 39:16 111:13
properties 38:18 92:11
property 25:2,8,13 33:8 41:9,16 46:2 109:4
proponent 70:18
proponents 48:21,22
proposal 30:18 79:6
propose 17:9 35:6 36:6,7,10 54:10
proposed 13:21 17:11,14 18:14 20:2 23:19 24:7 25:1 26:19 27:6 30:3 39:7 40:12 46:1 83:3 85:3,16
proposer 12:17 13:3 18:19 21:2 48:21 51:5 56:20,22 77:4 79:1
proposers 27:21 43:18 78:16
proposes 45:11
proposing 20:14 50:15 75:12
prosecution 92:22 118:2,21
protect 24:1 45:18 65:10
protected 26:11
protection 8:16
provide 6:16,22 7:20 15:3,7 18:15,18 19:2 35:1 71:5
provided 8:21 9:16 12:16 27:5 50:11 75:8 78:1 90:4 108:18 109:1 112:2 115:4
providers 24:17 25:7 26:22
providing 7:18
provision 25:3 45:15 73:22 88:6
provisions 22:3 50:19 60:1,4,10 61:2
PTSD 99:5
public 20:16 25:9,10 30:1,15 31:13 34:6 58:15,18 60:14 65:11, 12 75:14 79:19 84:19 108:22 125:5 127:4,14 131:18
publication 13:9 84:17 85:6,17 86:11
published 12:13 13:6 83:5,17
purports 24:8
purpose 14:14 30:2,3,16 58:15, 18 60:14 62:14,16 63:7 65:2 84:3
purposes 23:20 31:13 61:2 62:12

pursuant 17:13 24:20 102:3**pushback** 53:8,9**put** 52:13 81:21

Q

qualification 127:10**qualified** 13:17 114:14**qualify** 127:8**question** 25:21 30:13 32:13
33:17 34:22 44:18,22 46:14,19
66:13 69:13 71:7 73:1 74:21**questions** 7:16 27:14 32:1 42:8,
9 43:4,6 48:7,14,16 66:10 75:5
79:21 85:7,10**quickly** 40:18,20 64:18**Quintana** 110:18 111:1,2**quorum** 2:9**quote** 25:7,13 45:14,15 61:8
65:12

R

race 111:5**races** 133:22**raise** 24:18 27:10 40:20 41:19
50:3**raised** 12:5 37:19 55:13 71:8
73:1,21**raises** 45:3**random** 131:4,9**Randy** 14:5,8,16,17,19 15:15**Rank** 6:18**ranked** 5:1 10:14 11:8 83:6 84:6**rational** 60:13 61:11 62:16**Raymond** 125:9,11**RCV** 5:2 6:19 7:2,7,12,14,15 9:11
83:22**re-verified** 89:7**reach** 120:2,3**reached** 22:15 90:13 104:18
108:13 117:17 119:1,3**read** 16:4 28:1 32:13 42:18 64:9
65:3,8 67:10,12 113:5**reading** 27:19**reads** 14:11**reaffirmed** 63:20**real** 23:22 33:8 47:5,22 49:20
52:19**realign** 21:20**reality** 37:10 49:11,12**realize** 105:6**realized** 100:17**realm** 36:16 56:2**Realtors** 23:15,22**reason** 52:14 58:4 59:3 60:11
67:2 80:17**reasonable** 25:15 30:2,14 37:20
45:8 46:18 52:11,12 58:16 113:7**reasons** 31:21 33:2 36:17 106:2**recall** 108:20 133:1**recapture** 30:9**receipt** 17:14 71:22 111:11**receipts** 18:2 127:18 130:14
131:8,16**receive** 78:16,19**received** 10:18 11:1 12:18 71:14
77:14 80:2 83:15 88:13 91:12
114:10 132:7**recent** 33:14 68:8**recently** 2:22 3:17 19:19 44:12**recognize** 11:16**recognized** 40:7 41:7 80:18**recognizing** 2:20**recommend** 90:9 92:22 93:15
117:21**recommendation** 19:3 93:17
101:16 106:9 109:11 115:9,18
118:4**recommended** 97:7**record** 23:4 28:9 30:19 38:7
43:15 44:9 46:10 49:3 57:6 61:14
73:7 79:11 82:4,7 93:4 95:1696:8,12 106:4,8 108:22 109:20
115:13 133:20**records** 89:4 127:14 131:19,20**recounts** 83:21**recoup** 59:17**recouping** 59:11**recover** 40:16**recovery** 41:5**Reddick** 129:10**Reds** 3:14**reduce** 21:14,18**refer** 118:7 120:4**reference** 32:8 43:2**referenced** 57:22**referral** 93:16 107:19 110:15
113:19**referrals** 132:7**referred** 92:22 116:12 117:22
118:19 130:12**referring** 111:16**refine** 9:9**reflect** 31:4 83:13**reflection** 106:1**refuse** 17:15**refused** 27:9**regard** 16:18 75:15 106:21**regime** 30:18**regional** 21:13**register** 5:20 6:17 12:14 13:8,9
84:14,16,18 85:7,17 86:11**registered** 5:10,13,15,16 6:3
10:1 13:11,17 77:5 101:5 104:10
114:14 128:4,5,21 129:1,2,4,5,8,
9,10,12,13,14,16,18,22 130:3,4,7,
9**registrar** 112:4**registration** 5:9,11,12,19 6:2,9
8:3,5,6,8 86:20 87:8 89:4 91:15
92:16 93:13 97:6 100:20 101:4
109:3,8 115:5 117:5

- registrations** 5:15,17 6:1,2
- regular** 2:5 4:1 71:18 72:2 73:16
74:17 75:11,17 77:12 119:3
- regularly** 10:2
- regulate** 30:6
- regulation** 31:12 45:7 48:4 65:12
- regulations** 29:17 41:8,17
46:11,17 83:2 84:4 108:6
- regulatory** 25:20 41:8 47:7,10
63:16
- Rehnquist** 26:15
- reinforce** 9:1
- reject** 28:17 29:17 31:22 63:21
66:7
- rejected** 21:7,9 26:16 36:16 60:8
- rejection** 49:15
- related** 92:18
- relationship** 58:13 99:7
- relevant** 8:20 55:5,6
- relief** 24:18 25:1 27:1 30:8 31:1
41:5 64:17
- remain** 112:11
- remand** 121:6
- remember** 3:19 51:22 100:4
- reminders** 8:22
- removal** 47:19
- render** 19:7
- renewed** 59:6
- rent** 21:15 24:9,14,16 25:1 29:6
30:17,22 31:6,7 32:15,20 33:1,3,6
34:14 39:16 40:4,5,7 41:2,7 42:1
44:19 45:12 46:4,17 47:7 48:1,4
50:9 52:18 53:8,17,18 59:11,13
60:1,21 64:14
- rent-control** 26:2 64:12
- rent-controlled** 21:16
- rent-stabilization** 24:16 62:6
- rental** 24:9 45:16 46:3 59:16 60:3
- renter** 50:8 52:22
- renters** 53:7
- renting** 50:17
- rents** 21:12 24:19 30:6 33:6
67:22
- repeal** 6:12
- repealed** 47:17
- repeated** 85:12
- repeatedly** 25:22
- replaces** 47:11
- replies** 123:10
- reply** 76:3 121:13,17
- report** 4:18,21 10:10 11:17,18
18:2 87:13 88:9,10,14 123:11,12,
19 125:7 127:1,15,17 130:14
131:3,5,6,7,12,16 132:1 133:9,13
- reporting** 8:14,17
- reports** 34:12 87:14 88:12 89:1
126:20 127:3,18 130:18
- represent** 44:14
- representation** 93:6
- representative** 128:15
- representatives** 90:2
- represented** 25:17 97:14 98:17
- representing** 38:17 79:13
- request** 29:5,8 72:5 82:15 85:18
87:14
- requested** 7:18 22:8 38:3 88:8
- requesting** 13:16
- requests** 130:22 133:7
- require** 6:15 25:20 26:7
- required** 19:2 31:19 76:18 80:6
111:19
- requirement** 70:7
- requirements** 4:11 6:8 9:22
12:10 18:13 22:1 77:21 121:22
127:12
- requires** 63:7 65:9 88:14 127:10
- requiring** 65:15 122:18
- reread** 67:11
- research** 70:16
- Reserves** 61:20
- reside** 95:18
- residence** 89:14 99:11 105:6
- resident** 6:12 23:16 44:15 99:19,
20
- residential** 96:22 114:8
- residents** 7:2 50:17 53:6
- resides** 48:5
- resolutions** 39:22
- resolve** 46:14 90:10
- respect** 14:3 17:2 20:7 54:9 58:2,
20 59:15 62:15 71:6 72:22 75:22
81:2 82:17 83:1,16 90:7,10,20
91:1 95:14,21 96:15,19 97:16
102:10 110:9,21 114:6 116:14,18
117:18,20 118:21 119:1,2,9,11,21
- respectful** 55:7
- respectfully** 28:17 31:21 35:12
- respond** 75:6,9
- responded** 108:17 117:19
- respondents** 132:15
- response** 119:7 121:13,15
- Responses** 123:8
- responsibilities** 100:17,19
- responsibility** 100:6 101:14
106:1
- responsive** 90:18
- responsiveness** 90:11
- rest** 25:6 59:12
- restraining** 60:1
- restricting** 60:20
- restriction** 25:1
- restrictions** 24:14 41:14
- restrictive** 31:9
- restricts** 48:9
- result** 68:3 92:19 114:20 115:1
131:1
- resulting** 14:22
- resume** 72:1

retroactive 31:6,14 39:16 58:22
64:4

retroactively 30:4 31:17 34:2
42:1

return 25:15 41:10 46:18 104:13,
15 114:12 116:19,21 117:2,13

returned 119:8,10

revenue 76:19

reversal 121:7

review 2:11,16 10:6 13:15 15:19
30:21 41:4 71:13 83:15 84:22
86:13 127:4

reviewed 20:8 89:7 108:12 112:4
118:5

reviews 8:20 130:21 131:1

revise 21:22

revised 19:18 22:12 86:10

revision 55:11

Revisions 39:14

rewriting 31:15

rights 6:13 18:4 35:6 61:4 100:11

rigid 47:16

risk 8:20 109:5

risks 42:3

Road 95:19 99:12

Robert 96:13

Robinson 95:10,11,12,13,16,17,
18,22 96:1,3,17,20 97:3,16 98:10,
12,18,19 101:11,17 102:2,16
103:13

Robinson's 96:16 103:4

role 17:3 20:4

roll 16:7 72:14 94:21 102:10
107:13 110:8 113:13 116:5
118:13 120:15

roll-call 81:2 85:19 86:4

rolls 5:9 87:12

Ross 33:20

round 32:8

routine 8:19 15:5

Rule 17:18 29:3,10,12,18 35:15,
17 39:11 47:2,3,21

ruled 12:8 63:13,14

rulemaking 83:1,3,5,7,13,16,19
84:10,14 85:3,8,16 86:10

rules 84:1

ruling 73:6 74:2

rulings 18:7

S

safe 9:1

safety 15:5

sale 14:21

Salim 56:22 57:4 129:5

sample 10:20

samples 105:9

Samuel 128:15

Sandler 56:11,20 57:7,14,15,18
66:17 67:15 69:8 73:12,13 74:8

Sarter 129:11

satisfies 77:21

save 6:15 53:19

Saves 25:8

Scalia 26:1

scenario 107:2

schedule 81:15 89:8

scheduled 10:3 75:11 112:16

scheduling 7:8 9:10,18

school 42:17,19 67:12

scope 26:20

screen 14:7

scroll 14:8

scrutiny 46:12

Secretary 85:6

section 17:13 19:6 24:8,10,13
27:5 29:16 39:7 41:21 45:3 46:6,
13 47:10 55:12,19 120:8

sections 23:18 27:10 84:5

security 8:22

seek 13:14 93:5

seeking 122:8

seeks 17:17

sees 117:11

self-executing 47:12

self-incrimination 98:16

senate 6:14

senator 128:13

send 3:8 106:20

sender 8:18

senior 9:6,8 103:21

separate 26:1

Serena 119:17 120:22

served 3:5 21:18

serves 23:22 30:1

service 50:10 77:15 122:10
127:20 131:11,13

services 88:21 90:5

session 11:13 19:5 73:18 74:3,
15

sessions 10:14 11:11

set 104:18 133:20

settled 26:21 30:12

Shanae 129:7

share 6:5 14:5 18:20 106:3

shared 75:7

Shawn 22:20 23:6,13

sheet 112:5

sheets 85:15 112:5

short 11:18 12:21 13:4,13 14:9
15:11,14,22

show-cause 133:8

showing 10:20 31:8

shown 30:13 60:12

sic 96:2 132:19

side 36:11 43:10 70:7

- sides** 43:22 71:16
- Sierra** 26:13
- sign** 112:19,22
- signature** 91:16 105:8,9 111:17, 21 117:4,6
- signatures** 112:20 117:12,14 122:19
- signed** 89:12 105:4,7 112:9 115:12 116:22
- signer** 114:13
- significance** 47:22
- significant** 30:1 58:5,14 60:13
- signing** 111:17,20
- silent** 112:11
- similar** 33:5 37:3 64:21 93:13
- Similarly** 61:22
- Simmons** 116:14
- simple** 53:14
- simply** 47:18
- simulations** 14:6
- Sinclair** 40:11
- single-member** 122:22
- sir** 98:9
- situation** 93:13 99:9,19 100:22 101:7 104:9,22 108:9,22 109:6,14 110:19
- situations** 64:15
- size** 14:21
- slate** 128:20 129:2,3
- Sloan** 129:9
- small** 59:14
- SMD** 10:2
- Sobin** 122:13,15
- sold** 22:1
- solely** 25:6
- Solomon** 128:7
- solving** 26:6
- son** 99:1 100:3
- son's** 99:1
- sort** 34:7 43:1,2,9 70:12
- sought** 77:19 127:13
- sources** 70:20
- South** 26:9
- space** 38:21 39:4
- speak** 28:14 38:3 57:1 113:22
- speaker** 29:1
- speaking** 28:14
- special** 10:5 50:19,21 75:18 87:6 111:5 124:16,19 129:7 130:2
- specific** 7:11 41:16 59:3
- specifically** 32:16 78:8 80:4 87:17 100:19 111:14 112:5
- speculative** 59:1
- spend** 52:3
- spent** 27:18
- Spicer** 47:5,22
- spoke** 102:2
- square** 38:21 39:4
- squarely** 32:10
- stabilization** 24:17 46:4
- Stacia** 121:4
- stacked** 11:3
- staff** 2:21 3:3,4 6:10 8:22 9:17 12:12 15:12 23:12
- stages** 9:21
- Stamper** 128:12
- standard** 20:9 54:15,16
- standing** 121:9
- start** 2:20 19:16 56:11 58:7
- state** 5:4 19:21 23:3,21 28:8 38:6 44:8 49:2 57:5 65:1 79:10 87:11, 14,18,19 88:20 95:15 96:7 103:4, 12 130:6
- stated** 18:22 40:17 55:15 111:15
- Statehood** 127:20
- statement** 12:19,22 13:4,12 14:11 15:11,15 16:1 17:21 18:1 21:10 23:17 28:2 32:14 40:22 66:14 76:6 77:7 82:15 87:3 110:20
- statements** 27:20 69:20 71:13 72:1,4 114:20
- states** 5:18 40:10 60:5 62:22 88:11,15,16
- stating** 13:16
- station** 67:18
- status** 8:5 121:4 122:1 123:11 126:21 127:18
- statute** 20:5
- statutorily** 19:2
- statutory** 40:13
- step** 36:1
- steps** 82:18,20 92:15 93:11 101:3
- stipulated** 90:8 92:1 93:7,14,19 95:5 101:21 105:3 106:7 109:20 113:1 114:1 115:8
- stipulation** 93:4 94:9 101:15 102:7 107:8 109:8,10 110:5 113:5,9 116:1
- stop** 59:10 80:10
- stopped** 122:9
- Storrs** 28:12
- straightforward** 15:21 53:14 85:13
- strain** 99:6
- Street** 28:12 44:13 96:13
- stress** 98:3
- stricken** 100:1
- strictly** 20:4 33:3
- strong** 26:14 52:21
- stronger** 106:20
- Stross** 128:14
- Stroud** 3:1,2 10:16 11:18 14:18 16:6,11,13 20:18,21 23:2,9 28:4,6 37:1,16 38:2 56:19 57:10,13,17 68:14 69:11,14,18,22 70:5,11 71:1,3 72:3,10,13,17,19 73:10 74:1,12,21 75:16 76:8 78:18 79:2, 9 81:1,8,10 82:1,8,10 85:18 86:3, 7,9 91:9 94:4,7,10,13,16,20 95:2,

- 4,10,21 96:5,10,15 98:15 100:16
101:16,20 102:9,13,15 103:16
104:2,6 107:10,12,15,17 108:1,4
110:8,11,13 113:12,15,17 115:15,
17,21 116:4,7,9 118:10,12,15,17
120:14,17,20 132:3
- Stroud's** 19:20
- struck** 32:15 33:1,10
- structural** 55:22
- structure** 47:2
- subject** 12:10 13:22 16:16 18:13
20:7 22:13 27:7 29:9,12,14 31:20
35:8 43:11 45:1 46:2 48:13 49:17
50:5 51:7 69:20 70:1,7 76:9,17
77:21 78:4,12,14 79:18 80:3,21
81:5,12 121:22
- submission** 72:21 74:7 84:13
127:11
- submissions** 71:9
- submit** 13:5 66:14,18 76:5 84:17,
21 85:3,16
- submitted** 22:18 28:19 58:1
68:15 73:3 75:21 76:3,13 78:3
87:4 110:20 111:22 115:13
122:15
- submitting** 86:10
- subsequently** 77:1
- subsidization** 26:4
- substance** 19:22 20:12 56:8
66:14
- substantial** 30:10,13 41:20
58:12,20 59:19 60:7 62:8,10 64:1
65:9
- substantially** 29:21 31:17 42:3
61:3
- substantive** 42:11,20
- substantively** 24:15
- success** 27:4
- sudden** 58:3
- suffer** 18:8
- sufficient** 73:17 89:5
- suggest** 61:14
- suggested** 61:16
- suggests** 62:18
- Suite** 28:13 38:14 79:14 96:14
- sum** 48:6 124:13,21
- summarize** 28:21
- summary** 12:21 13:4,12 14:11
15:11,15 16:1 21:10 77:7
- superior** 13:15 122:11
- supersede** 40:3
- Supp** 61:1 62:5
- supplement** 19:20 69:16
- supplemental** 72:5
- supplementary** 71:6 72:22
- support** 87:5
- supporters** 18:18
- supporting** 21:5 77:6
- supports** 25:5
- supposed** 80:10
- supposedly** 57:21
- Supreme** 25:11,22 43:7 46:15
61:20 65:7,8,11
- surrounding** 92:9 114:2
- suspends** 45:16
- swear** 111:19
- swears** 114:13
- sweeping** 41:13 70:13
- swore** 114:16
- system** 9:1 103:1
- systems** 8:13,21 40:17
-
- T**
-
- T-E-R-R-Y** 96:11
- Tahoe** 26:13
- Tahoe-sierra** 46:15
- tailored** 30:3,15 31:12 61:16
- tailoring** 30:21 31:4,19
- taking** 7:16 25:2,17 34:5 41:8
55:20 65:3,15 67:13 69:12 88:11,
12 101:13 106:1
- takings** 25:20 26:7,10,17 27:18
46:11 48:8 65:6 80:15
- talk** 50:18 55:3 63:9
- talking** 59:12 63:12
- tape** 85:15
- task** 12:20
- team** 8:14
- teams** 8:11
- Teller** 130:4
- telling** 50:8
- tempered** 55:8
- temporarily** 60:1
- temporary** 25:19 26:6,10,17
40:1 46:10,13 64:14
- ten-day** 4:8 13:11,22
- tenant** 30:21
- term** 9:20 17:6
- terms** 10:19 48:22 60:11,15
- Terry** 3:1 96:5,8,9,11 97:20,22
98:9 103:5,8,10,11
- test** 56:16 58:8 60:13 61:6,12,13
62:19 67:20 68:2
- testimony** 18:18 22:18 24:5
27:10,12 33:11 39:6 44:3 48:17
57:22 75:21
- text** 15:8 21:11
- thankful** 100:15 101:8
- theory** 36:5
- thereof** 24:11
- thing** 2:9 34:7 36:18 64:8 77:3
102:21
- things** 35:16 36:19 43:12 51:1
52:12,16 54:19 55:8 64:11 69:1,7
70:14
- thinking** 37:21
- Thompson** 2:3,6,14,19 3:21
10:11 15:17 16:10 19:15 20:19
23:12 27:13,15 32:2,4 33:19,22
34:21 35:21 36:22 37:17 42:9,16
48:15 54:2,6 66:11,20 67:16
68:16 69:10,13,19 70:2,9,12 71:2,
10 72:9,16 73:9,11 74:9,13 75:1

76:1 78:17 79:1 80:1 81:7,17
82:5,9 85:9 86:6 94:2,5,8,11 95:1,
8 97:20 98:7,10,13 101:10,19
102:5,12,21 103:6,9,15 104:3
105:14,17 106:11 107:14 109:21
110:4,10 113:4,14 115:14,16,19,
22 116:6 118:5,14 120:11,16
123:13,16 133:15,19

thought 51:21 85:10

thoughts 3:22

Threadgill 119:16 120:22

threat 8:10,19

threats 8:12

threshold 21:21 127:11

throat 15:2

tied 41:3,14

time 3:5,18 11:10 23:21 27:11,18
32:1 39:5 42:6 48:14 53:3,4 55:12
57:12 63:14,20 69:9 70:15 72:2
74:20 92:10 94:3,6 99:2,21 100:1,
13 101:1 102:4 108:10 109:17
112:21 121:17 124:2

timeline 39:18

timely 17:20 73:21 83:14 130:14

times 34:16 85:12

timestamped 96:20 114:7

timing 75:10

tip 77:10,11,14,15 78:10

tips 77:13

title 12:21 13:4,13 14:9 15:11,15,
21 16:1 17:17 47:2 83:1

today 2:7,12 11:19,21 12:4,21
16:18 27:21 28:14 44:14 52:9,12
59:1 60:9 75:8 82:21 84:4,16
86:18 88:18 98:17 105:17 119:14
133:11

today's 89:16 90:15,19 117:18
119:2 120:8

toggling 81:13

told 49:16

tools 7:13 8:16

top 12:6

topic 124:3

topics 83:8

total 5:12 6:2 21:15 103:14
124:12,21 128:4 132:10

touch 39:6

town 5:6,7

traditional 128:3 130:19 131:2

traffic 8:15

tragedy 98:22 99:5

train 67:18

trainers 9:15

training 9:16,17,18 130:15

transfer 40:5 131:18

transferred 101:2

transparency 98:21

Transportation 45:5

trauma 100:9

treasurer 49:5

treasurers 130:16

tremendous 98:21

trigger 47:13 59:2

triggering 42:4

troubles 101:11

true 64:16

Trust 21:19

tube 15:2

tumultuous 99:8

turn 4:17 48:21 69:5 70:21 71:17

two-year 41:2 45:12 59:9

type 33:16 53:18

types 35:7

U

U.S. 17:19 29:15 56:4 61:20 65:4,
16,18 121:5,8 122:7,14,16 123:2,
4 128:13,15

ultimate 20:13

ultimately 46:8 58:6

unable 120:3

unconstitutional 26:5 46:19

undeliverable 119:10

underscore 45:20

understand 67:8

understanding 68:22

understands 114:20

understood 53:15

undertake 43:20

undertook 65:6

undue 49:21

unfair 53:22

unfocused 37:6

unit 24:9

United 40:10 60:17 128:20

units 21:16 24:12 38:22 39:3

unlike 30:17 62:21

untenable 63:11

unwise 20:16

update 8:8

updated 9:14 83:12

updates 6:1 8:6

upheld 62:12 67:21

upper 21:21

urge 31:22 53:10 65:21 66:5

urges 28:17

USA 40:11

V

vacancies 9:19,20 84:2

vacancy 24:20

Valentine- 116:13

Valentine-simmons 116:15
118:18

Valentine-simmons' 117:6

valid 62:14

vast 53:6 59:15

verified 17:21
verify 8:4
version 19:18 21:3,4,7,9 58:2
 73:21 76:13 78:7 80:5
versions 49:13
versus 37:14
vests 47:3
Vice-president 23:14
Vida 9:6
video 7:10
view 25:19 29:11 48:18
viewing 112:1
violate 29:18 35:16,22 92:21
violates 56:4 122:19
violation 18:3 39:9 58:11 88:1,4,
 6
Virginia 39:1
virtual 7:8
VJ 132:21
voice 23:22
voluntary 24:20
vote 6:17 7:21 10:1 16:8 53:13
 72:14 81:2 85:19 86:4 92:13 94:2,
 21 100:13 104:11 105:10,12
 107:1,13 108:12 113:13 114:18
 116:5,17 118:13 120:15 121:10
voted 87:20 88:16,17 89:2,11,13
 91:12,17 96:17 97:1,4 100:13
 105:12 108:9,11,19 109:18 114:4,
 8,18 117:7
voter 5:9,12,19 6:1,9 8:2,8 9:2,3
 10:12,14 13:12 20:1 35:2,22 36:4
 56:2 77:5 86:22 87:12,13,21 88:8
 89:10 91:15,16,17,19 92:16 93:12
 96:18 97:6 100:17,20 109:3,7
 114:5,15 115:5 117:3,4,5,7
voter's 55:7
voter- 47:16
voter-information 91:14
voters 5:11,14,16,20 8:4 10:1
 11:8 17:4,11 34:22 35:15 36:5,9,
 14,19 51:15 52:2 53:13 54:10,11,
 21 55:20 56:1,15 63:17 84:7

87:17 88:16 123:7
voters' 35:6
voting 5:2 6:6,12,18 7:3,17,20
 10:14,21 11:9 83:6 84:6 87:16,22
 92:7 93:10 96:20 97:8,15 98:5
 100:4,11 103:3 104:11 106:13
 107:6 108:16,20 109:13 114:3,6,
 17,22 115:7 116:11,18 117:16
 118:7
vowed 69:19

W

Wadlington 44:5,7,10,11 74:22
 75:2,3 76:7
wage 16:21 76:10 77:8,10,11,12
 78:2,11 79:4,13,17 80:20 81:4
 82:12
wages 80:8
wait 73:15 123:17
Walk 131:20
wanted 3:7 11:16 78:21 82:11
 93:3 106:12
ward 5:4 23:16 24:4 44:15 111:5
 130:7 132:17,19,21
warehouse 3:15
warm 11:1
Washington 23:8 38:5,12,13,16,
 19 49:7 95:19 96:14 119:20 121:2
ways 36:14 61:16
weak 52:2,22
website 5:20 7:12,14 8:9 12:15
 13:8 84:19 123:22 127:3 133:10
wedge 36:3
Wednesday 10:5
weeds 53:13
week 28:20
weekends 11:15
weigh 51:15
weighing 34:5 77:2
well-loved 3:6
Wellness 9:8

Western 62:22
whatsoever 59:10
wholesale 31:14
Willowbrook 60:22 65:5
Wilson 121:19
wise 20:16
withdrawn 77:1
withdrew 112:14
witnessed 111:20
witnesses 75:8
Witt 12:4 14:2
woke 99:18
word 67:14
words 100:2
work 10:21 11:12 24:3 37:11
 88:22 131:14 133:17
workable 40:15
worker 9:12,14,16,18 77:16
 122:11
workers 77:12,14,15
working 4:16 7:9 66:4 88:20
works 7:2
worthy 37:20
write 68:10
written 12:11 19:8 21:8 23:17
 27:9,12 28:19 32:19 33:11 40:22
 66:14 69:20 71:22 72:3 95:6
 102:1,18 104:14
wrong 50:5 115:20
wrote 26:8 44:2
www.ocf.dc.gov 123:22

Y

Yaida 128:9
year 12:8,20 53:7 76:12 111:6
years 21:12 52:19 53:20 88:4
 114:22
yesterday 27:18,19

York 33:9 45:6 62:4 67:19

Z

zip 38:14 79:14