

DISTRICT OF COLUMBIA

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HOUSING AUTHORITY

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BOARD OF COMMISSIONERS
SPECIAL BOARD MEETING

+ + + + +

TUESDAY
DECEMBER 5, 2017

+ + + + +

The Housing Authority Board of Commissioners met in Hearing Room 220 South at 1133 North Capitol Street, N.E., Washington, D.C., at 11:00 a.m., Neil Albert, Chairperson, presiding.

PRESENT

- NEIL ALBERT, Chairperson
- TYRONE GARRETT, Executive Director
- BRIAN KENNER, Commissioner
- AQUARIUS VANN-GHASRI, Commissioner
- FRANK LANCASTER, Commissioner
- KENNETH D. COUNCIL, Commissioner
- SHELORE FISHER, Commissioner
- WILLIAM SLOVER, Commissioner
- NAKEISHA NEAL JONES, Commissioner

ALSO PRESENT

- ALETHEA MCNAIR, Acting Board Liaison
- KEN SLAUGHTER, General Counsel
- ED KANE, Deputy General Counsel
- KIMBERLY KING, Staff

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C-O-N-T-E-N-T-S

Call to Order 3

Resolution 5

 Public Comment..... 15

 Board Action on Resolution..... 105

Public Comment NA

Announcements NA

Adjournment 108

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

2 11:05 a.m.

3 CHAIR ALBERT: Good afternoon,
4 everyone, my name is Neal Albert, and I am the Chair
5 of the Board of Commissioners of the DC Housing
6 Authority. I call this meeting to order. This is
7 a special meeting of the Housing Authority Board
8 being held today, December 5th, 2017, and DCHA's
9 headquarters, 1133 North Capitol Street,
10 Northeast. And the time is -- if I could -- if I
11 had a watch that worked, is 11:05 a.m.

12 So, I'm just going to remind us that
13 this is a public meeting. I'm going to ask that
14 you silence your phones and observe the decorum
15 that we've come to appreciate in our Board -- in
16 our Board meeting. As you know, we always welcome
17 public comments on items that we're going to
18 discuss, but, again, I'm going to ask folks to mind
19 decorum that we've become accustomed to.

20 At this time, I'm going to ask for a
21 determination of a quorum.

22 Alethea.

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1 MS. MCNAIR: Thank you, Chairman.
2 Commissioner Slover?
3 MEMBER SLOVER: Present.
4 MS. MCNAIR: Commissioner Council?
5 MEMBER COUNCIL: Present.
6 MS. MCNAIR: Commissioner Fisher?
7 MEMBER FISHER: Present.
8 MS. MCNAIR: Commissioner Grossinger?
9 (No audible response.)
10 MS. MCNAIR: Commissioner Kenner?
11 MEMBER KENNER: Here.
12 MS. MCNAIR: Commissioner Lancaster?
13 (No audible response.)
14 MS. MCNAIR: Commissioner Neal Jones?
15 MEMBER NEAL JONES: Present.
16 MS. MCNAIR: Commissioner Ortiz Gard?
17 (No audible response.)
18 MS. MCNAIR: Commissioner Vann Ghasri?
19 MEMBER VANN-GHASRI: Present.
20 MS. MCNAIR: Chairman Albert.
21 CHAIR ALBERT: Present.
22 MS. MCNAIR: Currently, you have seven

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1 commissioners present. You have a quorum.

2 CHAIR ALBERT: Great. So, as I
3 mentioned earlier today, the special agenda -- a
4 special meeting. We will allow the public to
5 comment on the resolution before us today. That
6 is -- it is our custom to allow residents --
7 public-housing residents, five minutes, and allow
8 non-residents three minutes to speak. We don't
9 have any public-housing residents signed up, but
10 we do have some non-residents signed up to speak.

11 So, at this time, I am going to call our
12 folks who have signed up to testify. You have three
13 minutes. We have a little bit of latitude. So,
14 we may be able to go over.

15 So, let's first of all start with
16 Jennifer Berger.

17 MEMBER SLOVER: Can -- before we get
18 there -- I'm sorry. Can I ask couple questions?

19 CHAIR ALBERT: Yeah. Sure.

20 MEMBER SLOVER: Is there an
21 expectation that there is going to be a vote of the
22 board today?

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1 CHAIR ALBERT: There is an
2 expectation. There's a resolution before us.
3 Right?

4 MEMBER SLOVER: And, can you tell us
5 why we're having this special meeting? It seems
6 -- I didn't really understand it from the
7 literature that I got. Is there some time
8 constraint? Because we do have a
9 normally-scheduled Board meeting in -- what, five
10 days, ten days, something like that?

11 CHAIR ALBERT: Yes. There is a time
12 constraint, and our Executive Director will
13 explain the need to for this resolution today.

14 MEMBER GARRETT: Yes, Commissioners.
15 Two of our conflicts actually fall under this
16 request for a revision to the -- to our final
17 regulations. And in fact, what this would do would
18 be allowing us the opportunity to close before the
19 end of the year on the -- on the transaction for
20 Columbia and Colorado.

21 Lost my train of thought -- sorry.

22 Losing -- if we lost a week, we would

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1 not be able to close on this half of the year.

2 MEMBER SLOVER: So, I just want to go
3 into the record again and say that this is what I
4 really dislike about this board is just this, you
5 know, these time constraints that we get put up
6 against. And I just don't understand why we get
7 caught in these situations repeatedly. And, so I
8 just -- I mean, this is maybe the first time that
9 I can remember where we've had to have a special
10 meeting. And I'm not even sure most of the people
11 up here may even know we were going to vote today,
12 in talking to some of the members.

13 And, so, it just feels hurried and
14 rushed and sort of discombobulated. And the
15 conversations I've had with the advocates and
16 everybody -- they were fundamentally unaware that
17 there was going to be a vote today. I have actually
18 circled back with the people I was talking to, and
19 explained to them after I learned that there was
20 a vote, after having read all these documents, I
21 never fundamentally thought that there was going
22 to be a vote today.

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1 CHAIR ALBERT: Yeah.

2 MEMBER SLOVER: And talking to some
3 other board members, I don't think they knew. And,
4 so, I just -- I hope that in the future we cannot
5 operate this way.

6 CHAIR ALBERT: So, Mr. Slover -- Mr.
7 Slover, I've got to say, I've sat through the votes
8 at least a dozen resolutions in the three months
9 that I've been here. Every time we've had a board
10 meeting, it's to -- it's a vote on resolutions.
11 So, the fact that we're having a special board
12 meeting implies, and it was clear in the
13 notification that was sent out by DCHA that we were
14 going to be taking an action today on a resolution.

15 So, I apologize if you missed the
16 obvious in the correspondence that was sent out,
17 but that's the purpose here today, is to actually
18 take action on the resolution before us. So,
19 Commissioners, if we weren't clear in the
20 instructions sent out, my apologies. But when I
21 read the instructions that came out, it was clear
22 we were going to have a vote.

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1 MEMBER SLOVER: Well, I hope they would
2 have talked to you before that. So, maybe that's
3 why it was clear to you.

4 CHAIR ALBERT: No. They didn't talk
5 to me before that. You get the -- you got the same
6 notification that I got on this issue. So --

7 MEMBER GARRETT: And one thing I would
8 like to add, Commissioners, is that, if you recall,
9 we did do a presentation to the body in reference
10 to RAD and the regulations that we were looking to
11 change. If you recall, it was that PowerPoint
12 presentation where we highlighted the bubbles for
13 you. And we talked about time line during that
14 discussion also.

15 CHAIR ALBERT: Right, and, again, I
16 don't want to belabor this point. But, again, in
17 the three months that I've been on the board, most
18 things have come to us timely. There are going to
19 be instances when we have to move outside of the
20 sequence of board meetings. And I'm hoping that
21 as a body that we can do that from time to time.
22 And other comments from the Commissioners before

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1 we call our witnesses up?

2 MEMBER VANN-GHASRI: Yeah. I have a
3 comment too.

4 CHAIR ALBERT: Yeah.

5 MEMBER VANN-GHASRI: Now, and I'm
6 serious about this. This is one of the reasons why
7 we wanted to go into a new direction. One of the
8 problems this board -- well, let me speak for me.
9 One of the problems I've had on this board as well,
10 is even though when we have our discussion, all
11 questions are not fully answered -- and this is
12 probably to you, Mr. Chair, to you coming. So,
13 therefore, I'm going to always be leery. I need
14 -- when I have to make a decision and vote on behalf
15 of my constituents, I do poll my constituents,
16 contrary to what people believe. I also read, and
17 I also like to look at documents from other sources,
18 so I can objectivity mind.

19 Now, I'm going to go on record, and I'm
20 not a secret up here. Maryanne Luby trained me
21 very well, and I sit here today blessed with that
22 training that Maryanne gave me. The advocates --

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1 you all are here today, because when we had Mr.
2 Kelly, I saw that a lot of things I couldn't
3 accomplish as being a paralegal from Antioch School
4 of Law and being trained personally by Edgar and
5 Jean Cahn.

6 So, I would do anybody from that
7 community a discredit sitting here, because that's
8 a part of my veins. Maryanne used to sit in the
9 back of that room. And Maryanne used to study.
10 And I'll never forget that. So, I know that when
11 -- for me to make decisions, I'm not going to always
12 with all of my colleagues, but I'm going to make
13 decisions based on not only being a public-housing
14 resident first, because I live among the people I
15 serve -- I'm not appointed by the mayor. I'm
16 elected by a bunch of constituents. So, I want to
17 make sure that's on record.

18 And I don't -- I do know that we're going
19 to have special meetings. But this is vital
20 important, when you want a resolution to pass, is
21 to make sure that each and every one of your board
22 members do have a clarification of what they're

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1 passing. Each of us have a different constituent
2 group that we represent on this board. And I don't
3 think none of us want to do anyone a discredit.

4 CHAIR ALBERT: So, Commission, before
5 I go turn to Commissioner Kenner, I just want to
6 remind you that we sat through a session with
7 housing authority staff on RAD, I think, less than
8 a month ago. I think we -- you guys asked some
9 really great questions at that time, which I hope
10 the staff was able to answer. And in between that
11 time, I would hope that if you needed additional
12 clarification, that you would have reached out to
13 the staff for that clarification. And, so, I'm
14 hoping that you've been sufficiently briefed, that
15 we can have the conversation -- we can have the vote
16 today, after hearing from our public witnesses.

17 Commissioner Kenner.

18 MEMBER KENNER: Can you just explain a
19 little bit -- so, the consequences if we don't take
20 action today? Tell us a little bit more about the
21 consequences of what happens.

22 CHAIR ALBERT: Okay. Director.

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1 MEMBER GARRETT: Okay. And,
2 Commissioners, I actually misspoke with the
3 complexes. It was -- thank you for correcting me,
4 Eric and Chelsea. It was actually Fairlawn and
5 Matthews. Those are actually closing -- or
6 attempting to close before the end of the year.

7 CHAIR ALBERT: Right.

8 MEMBER GARRETT: If we are able to do
9 that, the you go over into, you know, 2018, where
10 the equity market may change.

11 MEMBER KENNER: And is it true?
12 Because I know that on a city side, we are
13 experiencing this. We are experiencing projects
14 that are -- especially affordable housing projects
15 that are rushing to close because of the potential
16 for the tax change that is currently happening
17 between the House and the Senate. The Mayor, many
18 advocates, and affordable housing people had a
19 rally yesterday where the housing finance agencies
20 actually, before the end of the calendar year,
21 doing a forward issuance of its convertible bond
22 of about half a billion dollars, because no one is

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1 exactly sure what's going to happen with the tax
2 change.

3 MEMBER GARRETT: Okay. Okay.

4 MEMBER KENNER: So, is that one of the
5 -- is that also one of the reasons why we're --
6 (Simultaneous speaking.)

7 CHAIR ALBERT: Yes. That's one of the
8 reasons.

9 MEMBER KENNER: -- why many of these
10 affordable housing projects are rushing to close?

11 MEMBER GARRETT: My team is telling me
12 no. I disagree. But Kim, do you want to just
13 clarify for everyone?

14 MS. KING: Sure.

15 MEMBER VANN-GHASRI: But you need to be
16 on record. But we don't need to keep saying that.

17 MS. KING: Hello Commissioners. So,
18 while that is definitely a significant issue for
19 many of our projects, there's no refinancing for
20 Fairline and Matthews. So, that's not one of the
21 issues here. This is purely time line and HUD's
22 guidelines.

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1 CHAIR ALBERT: Thank you. So, with
2 that, let me invite Jennifer Berger to come up and
3 bring testimony. Welcome, Jennifer.

4 MS. BERGER: Thank you, Chairman
5 Albert. My name is Jennifer Berger, and I
6 supervise the eviction prevention team at ARP legal
7 counsel for the elderly. Our office has been a
8 community partner of DC Housing Authority, well,
9 since 1999. And I have been supervising the unit
10 since -- the past 11 years. And DCHA has always
11 been for us an open community partner.

12 We are disappointed that the same
13 openness did not occur with these regulations. We
14 moved mountains to review 119 pages of regulations
15 during a time where we had other city council
16 testimony, other client work -- and we did submit
17 those comments early, purposefully, to be able to
18 sit down with DC Housing Authority to talk about
19 that process. We submitted our comments November
20 17th.

21 There is a chart I received yesterday
22 by grace of one of the commissioners that responds

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1 to some of our comments. And we appreciate that
2 time that went into that. I don't know when that
3 was prepared, but it would have been helpful if we
4 were able to go through those comments, just at the
5 housing authority. All we're asking is -- and this
6 can be before the end of the year. I'm willing to
7 make myself available, and I think other advocates
8 would too, to have a meeting with DC Housing
9 Authority to discuss these comments to try to talk
10 with you about some of the legal implications of
11 the comments.

12 I will move on to the concerns that we
13 have with the comments. There are constitutional
14 issues, fair-housing law issues, local-law issues,
15 relating to the Rental Housing Late Fee Fairness
16 Act, some of which was addressed here, and the
17 Residential Lease Clarification Amendment Act, and
18 the Tenant Right to Organize Act. I will not be
19 able to review all the accounts. We submitted 32
20 pages of comments. We looked through all of the
21 119 pages and made line edits. And we think we
22 should have the respect of having our comments

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1 heard, sitting down, and talking about these
2 concerns in more depth.

3 I think that DCHA did address the
4 concerns we had with modernizing language
5 regarding persons with disability -- persons with
6 disabilities. We have not seen the regulations
7 edited, though. So, these comments indicate that
8 the regulations will be corrected, but the approval
9 vote today seems to be on regulations that may not
10 have incorporated these comments yet. We don't
11 have the ability to do the line comparison. So,
12 we can't say for sure.

13 So, that is an important question for
14 Commissioners to ask before voting. What are you
15 voting on? Are you voting on the old version, or
16 are you voting on the version that incorporates
17 these comments, which could be very different?

18 The concerns we have is that legal
19 services providers and providing the opportunity
20 for counsel is critical, regarding the
21 constitutional right to due process. And we ask
22 that not just in the termination phase, but in the

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1 briefing, the re-certification, the notices of
2 other changes, all of those phases, that the
3 opportunity to consult with legal services
4 providers be transparent and that we not hide that
5 ball, because there are opportunities, for
6 instance, within the Housing Choice Voucher
7 Program, where they refer cases over to us.
8 Property managers at DC Housing Authority refer
9 cases over to us. We want that to happen more
10 often.

11 I'm going to ask for more time.

12 CHAIR ALBERT: You may continue.

13 MS. BERGER: Thank you so much.

14 The Late Fee Fairness Act I believe was
15 addressed in the comment, and we appreciate that.
16 We want to make sure that the Late Fee Fairness
17 comments, in compliance with the Late Fee Fairness
18 Act are addressed in the final regulations. And
19 it's not clear to me that that's the case. The
20 Residential Lease Clarification Amendment Act
21 provides very specific information about when a
22 housing provider can access a unit. There are a

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1 number of different times during the repair
2 procedure discussion, the services discussion, the
3 right to enter the dwelling discussion in Section
4 57-61, and the annual inspection discussion in
5 57-63, where access is discussed, and there is an
6 emphasis, a great emphasis on the responsibilities
7 on the participant, but not a great emphasis on the
8 responsibility of DC Housing Authority.

9 The clearer the regulations are, the
10 less likely it is that property managers will
11 unwittingly and innocently violate the Residential
12 Lease Clarification Act, which does come with
13 sanctions.

14 We also want to avoid unnecessary
15 litigation. That is not our first place to go. We
16 want to make sure everybody is educated to avoid
17 unnecessary court proceedings.

18 In terms of the Fair Housing Act, it is
19 not clear within the regulations, and I don't
20 believe with in the corrections, that there is an
21 understanding of the requirements under the DC
22 Human Rights Act and the Fair Housing Act. There

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1 are pieces that have been removed, whether
2 unwittingly or intentionally. For instance, a
3 reasonable accommodation is required, not just
4 when someone demonstrates that they have a physical
5 or mental impairment, including a record of an
6 impairment, if they are regarded as having that
7 impairment.

8 People do not need to provide medical
9 documentation that is extensive regarding their
10 impairment. And that is a very large error that
11 occurs among the property management level in DC
12 Housing Authority properties. And we want to make
13 sure that that's corrected. So, even if the DC
14 Housing Authority regulations have that, it
15 doesn't mean it's correct.

16 And we shouldn't defer to the DC Housing
17 Authority regulations regarding the public housing
18 properties for RAD just because that's past is
19 prelude. Past is not prelude. We want to correct
20 both. And I really encourage that, because
21 otherwise DCHA is susceptible to violating the Fair
22 Housing law locally and federally. And the

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1 HUD-DOJ joint statement is very clear that
2 reasonable accommodation requests need not be
3 written. So, while it is ideal and we would
4 encourage to write their reasonable accommodation
5 requests, there are many reasons someone cannot
6 write. There are disabilities that relate to
7 literacy. There are people who are blind and can't
8 write out their reasonable accommodation requests.

9 Also, it's not just about community
10 members -- DC Housing Authority property managers
11 letting community members help the participant.
12 The property manager should help the participant,
13 if the participant is clearly trying to ask for an
14 accommodation, then they -- verbatim, the property
15 manager should write out what that is and not just
16 say, well, you're going to have to go get help.
17 That's not what a reasonable accommodation is.

18 So, we really want to talk with you all
19 about that more, and also service animals.
20 Service animals do not, under the Service Animal
21 Amendment Act, need to be trained necessarily.
22 There are service animals that help people with

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1 mental-health issues, for instance, that do not
2 need to be specially trained, but nonetheless calm
3 an individual with mental-health issues.

4 So, there's so many different things we
5 can talk about. We are experts in the community.
6 I've been practicing for 18 years. ARP clearly is
7 a nationally-known expert in dealing with
8 fair-housing issues and other issues involving
9 elders. We welcome the opportunity to sit with
10 you. We are open to doing so before the end of the
11 year, and see no reason why a vote has to take place
12 today when we're explicitly offering to meet ahead
13 of time to make sure this is done in 2017, as is
14 your wish.

15 Thank you so much.

16 CHAIR ALBERT: Thank you.

17 MEMBER VANN-GHASRI: I have a
18 question. Are you telling me that since having a
19 new director, that the advocacy group have not
20 received some type of documentation sharing with
21 you all that the monthly meetings that you
22 continuously had with the previous directors, our

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1 director haven't -- you haven't received anything
2 of that nature?

3 MS. BERGER: We did have an opportunity
4 to meet with Executive Director Garrett. And the
5 issues with meeting about regulations is really my
6 concern. And that is not owing to Executive
7 Director Garrett. He walked into a situation
8 where those meetings had ended for about a year and
9 a half.

10 MEMBER VANN-GHASRI: Correct.

11 MS. BERGER: I remember working on the
12 pet policy and with Lori Paris. And they were back
13 and forth. There were stakeholder meetings, but
14 in terms of regulation meetings, we were able to
15 have regulatory meetings with Lori Paris, Joanne
16 Wallington. When it comes to the voucher program,
17 we do have some transparency, and we are able to
18 sit and talk with Mr. McCoy, but we're not seeing
19 that in the public housing side. We have not been
20 able to have meetings where we sit and talk about
21 regulations. And that has been for at least a year
22 and a half.

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1 MEMBER VANN-GHASRI: Well, I'm
2 confused. So, the meetings that you were having
3 with Adrian, and the meetings that I have attended
4 with Adrian, what were those meetings about? Who
5 was setting the agenda? Because the whole legal
6 -- you know, the whole legal field -- I mean,
7 advocacies was sitting there, from bread from the
8 city to pro bono attorneys.

9 MS. BERGER: I'm glad you're asking
10 that, Commissioner Vann --

11 MEMBER VANN-GHASRI: Vann-Ghasri.

12 MS. BERGER: -- Ghasri.

13 MEMBER VANN-GHASRI: Correct.

14 MS. BERGER: So, the stakeholder
15 meetings we view as distinct from the regulatory
16 meetings. The stakeholders meetings are an
17 opportunity to more globally or aerially discuss
18 what the issues are. And those meetings did happen
19 and have renewed with Executive Director Garrett.

20 But there were meeting we had with the
21 General Counsel's Office, where we would talk about
22 regulations like these RAD changes, as opposed to

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1 -- we had this one meeting, and then we submitted
2 our comments. And then there was nothing after we
3 submitted out comments.

4 That is what's different. If we
5 submitted comments before, we would be able to sit
6 and talk with the prior staff in the General
7 Counsel's Office. And that has not happened
8 meaningfully for at least a year and a half. And
9 that is different, because that is litigation
10 avoidance for DC Housing Authority.

11 (Simultaneous speaking.)

12 MEMBER VANN-GHASRI: Could somebody
13 tell us why?

14 CHAIR ALBERT: Yeah.

15 MEMBER VANN-GHASRI: I mean, our
16 relationship was, apparently, appeared to be so
17 much -- I mean, because I'm not going to always
18 agree with you too. So, don't get me twisted.

19 (Laughter.)

20 MS. BERGER: I'm fine.

21 MEMBER VANN-GHASRI: I mean, don't get
22 me twisted. I just like fairness, because I feel

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1 like when you play fair, you win fair. Nobody
2 never lose. You always -- you just learn.

3 MS. BERGER: Right.

4 MEMBER VANN-GHASRI: So, to me, I'm
5 more comfortable when I know how you all are
6 thinking and how they're thinking, and then I put
7 in my own legal equation, because you all have a
8 self-interest. And your self-interest is not
9 always my constituents' either. Just don't get it
10 twisted. And, of course, sometimes they don't
11 have my constituents' interest at stake either,
12 because of based on laws. So, neither one of y'all
13 are really my friends. But what you are, what both
14 of you are to me, as an elected official sitting
15 up here, is understanding that both of y'all have
16 a role in law. Your role more so than their role
17 is to seriously protect our rights.

18 And to look into matters that my
19 constituents bring to you as your clients and to
20 hold the confidentiality so that they won't be
21 intimidated by some of the situations. So, I
22 understand your role very clearly. So, now I want

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1 to understand this before you leave. So, now you
2 and Director Garrett, you now understand that after
3 today that what you was doing with Lori Paris,
4 that's back on track. That's a yes or no answer.

5 MS. BERGER: I can't answer that
6 question.

7 MEMBER VANN-GHASRI: Okay.

8 MS. BERGER: The stakeholder meetings
9 are back.

10 CHAIR ALBERT: Right. Sorry.

11 MS. BERGER: I don't know what the
12 status of the General Counsel meetings are with our
13 office. To their credit, we did have a meeting
14 with several staff members of DC Housing Authority
15 to discuss RAD.

16 There were 119 pages or regulations.
17 I've been doing policy work for 18 years, and that
18 is a lot of work. We had to scramble to get this
19 done. And that kind of scrambling, when we're
20 talking about our clients' rights -- and we are
21 aligned in advocating for the rights of the
22 residents of DC Housing Authority buildings. And

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1 that is -- there can't be an ambush when it comes
2 to- legislative work. It's a thoughtful process.
3 It's an interactive process. We want to be able
4 to take this to our clients, and we didn't even get
5 to do that.

6 CHAIR ALBERT: So, Jennifer, let me
7 just ask a couple questions. So, I listened to
8 your concerns, and it seems as though you have quite
9 a few. Of the concerns you talked about, how many
10 of those, what percentage of those are -- pertain
11 specifically to these RAD regulations that we're
12 trying to publish? Or how many of them are sort
13 of broader concerns that can be addressed if you
14 had sort of ongoing dialogue with the legal team,
15 the Executive Director, and his team?

16 MS. BERGER: To be honest with you, I
17 need to have more time with the comments that were
18 made to the advocates' comments to answer that more
19 fairly.

20 CHAIR ALBERT: Right, because I looked
21 at the advocates' comments, and it -- you guys know
22 I'm as friend of the advocate as you can get in this

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1 position. But they were sort of broad and general
2 and required, in my mind, sort of a -- a whole lot
3 of time. Some of them were not specific to RAD.
4 That I think should be put in a bucket for your
5 ongoing conversations with the Executive Director
6 and his team. And the others I think we should try
7 and figure out a way to work through. So, just in
8 following up the Commission's rates, really great
9 suggestion is getting the dialogue going so that
10 it doesn't take the publication of new RAD
11 regulations to get the voices and concerns of the
12 advocacy community heard. So, I just wanted to get
13 a sense from you, and you answered already as to
14 sort of, how many of these issues are specific RAD
15 issues, and sort of how many are sort of general
16 concerns, as I see them.

17 MS. BERGER: If I can clarify --

18 CHAIR ALBERT: Yeah.

19 MS. BERGER: What happened is, there
20 was a tremendous amount of City Counsel advocacy
21 on the local level in matters that affect tenants.
22 Late Fee Fairness Act and Residential Lease

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1 Amendment Clarification Act are two examples. I
2 was at the table for both of those.

3 So, when I was reading the regulations,
4 it may be that the RAD regulations had some
5 violations of those acts that also are in the public
6 housing regulations. But that doesn't mean we
7 should publish knowing that there are violations
8 -- these regulations in the form they were in. And
9 it sounds like some changes were made for that very
10 reason. And it also sounds like public-housing
11 regulations need to be changed to conform also. I
12 think justifying the concerns, the violations of
13 the law that we're seeing in the regulations that
14 are serious by having them -- saying that they were
15 in the public-housing regs, that isn't -- it's not
16 going to be helpful to the delegates. I do not
17 think we should publish these regulations if they
18 don't fix the problems we're raising. Because,
19 we're not trying to raise wish list items, other
20 than, I will say, the legal service provider list
21 is a wish list item. It's not -- technically it's
22 required to be in the spirit of due process --

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1 CHAIR ALBERT: Right.

2 MS. BERGER: But that is an example of
3 something we can talk about more.

4 MEMBER SLOVER: Can I make a comment
5 here, Neil?

6 CHAIR ALBERT: Yeah. You can.

7 MEMBER SLOVER: I spoke at length with
8 the advocates on this, and I think, in listening
9 to you, and in listening to her, and listening to
10 everybody else, I think the issue is that there's
11 trying to be this distinction between a RAD
12 regulation versus public-housing regulation. But
13 in talking to the advocates, it sounds like the
14 concern is just taking flawed and bad policy and
15 putting it out into the world as RAD policy. And
16 therefore, we don't actually have control anymore,
17 because we're going to lose ownership interest in
18 these assets.

19 And, so, we're basically exposing
20 ourselves to regulations that have flaws. And
21 what they're saying is let's fix these flaws before
22 we publish them as the RAD regulations, because

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1 then, if there's a different owner of the building,
2 we don't have the ability to gear it the way we do
3 now.

4 And, so, I think it makes perfect sense
5 to clean up all the regulations. And, so, I hear
6 you saying, these aren't RAD specific, but that
7 part breaks down for me, because I think it's all
8 about how the properties run. And we're basically
9 taking public-housing regulations and
10 transferring them to RAD, because we don't want
11 there to be any disruption to the tenant via RAD.

12 So, we're basically taking public
13 housing regulation and making it RAD regulation,
14 but it's got flaws that we can no longer fix,
15 because it's no longer in our control any more.
16 And that's, I think, the concern.

17 MS. BERGER: And my colleague, Ms.
18 Amanda Korber, is going to be talking about that
19 in more detail as well. So --

20 CHAIR ALBERT: So, it's a good time to
21 bring Amanda up.

22 MS. BERGER: I think that's right.

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1 Not to get out of the hot seat, but really, I want
2 to fix the problem with you. We're community
3 partners. Let's meet. If you want to get this
4 published before the end of December, in good faith
5 we're offering to make that happen. We'll sit at
6 the table with you, and we'll help you move
7 regulations along. But a vote today is -- would
8 be ignoring a lot of serious issues.

9 CHAIR ALBERT: Thank you so much,
10 Jennifer.

11 MS. BERGER: Thank you for your time,
12 everybody.

13 MEMBER LANCASTER: Mr. Chair, if I may,
14 before you leave the table, ma'am. Being with the
15 ARP and the seniors, which is my constituents. I
16 represent seniors and people who have disability,
17 which I know there's mixed-income housing. And I
18 heard you about the ADA part, because I was just
19 asked yesterday before I came that certain dogs,
20 that they have as service dogs, are not being
21 recognized because they don't have what they call
22 documentations. And this individual told me they

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1 went and checked the ADA and said there's no license
2 and no regulations controlling service dogs. An
3 individual can have a service dog because it is a
4 companion or otherwise, as long as he registers the
5 dog with the housing authority or with the vets.

6 And there's legal documents. And I was
7 going to go into that a little further to find if
8 there was a fact in that. And from what you said
9 about this visit that you have there -- I think
10 you're highly concerned about those changes you say
11 you have, that you want to go into it further before
12 this pass.

13 And I'm very, very curious about what
14 those changes are. I mean, you weren't specific
15 in what they were. And I suppose you got my
16 curiosity. What changes are there that's sort of
17 problematic to you? And I'm quite sure being in
18 the position you are, representing the people that
19 you represent, is going to be problematic to me
20 also. And I would like to know what they are.

21 MS. BERGER: I think that Commissioner
22 Slover captured it well, when he said that it's

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1 importing -- the problem is importing regulations
2 from the public-housing realm into RAD, when
3 there's a mix of public-housing regs that are not
4 compliant with the law. And then RAD is importing
5 them. And then, when we look at some of the
6 responses, in the interest of -- a lot of the
7 responses were in the interest of continuity.

8 We're going to keep the regulations
9 similar to public housing. We're saying that's a
10 problem. And if it has to be fixed in both, it has
11 to be fixed in both. But it's exactly the kind of
12 issue you were raising with service animals. The
13 local law is very law. And the federal law, it does
14 not require the restrictions either that somebody
15 just has to register the animal. It doesn't have
16 to be specially trained. And the pet has to be
17 cared for. Someone doesn't have -- the whole issue
18 of providing written proof of disability.
19 Somebody can ask for accommodation, and someone can
20 get SSI, and that alone is proof of disability.
21 And a property manager should get a hint.

22 Or somebody is a hoarder. And hoarding

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1 is a disability. It's a disorder. It's obsessive
2 compulsive disorder that happens -- that's rampant
3 in public housing. And property managers who are
4 really good will refer the cases to us ahead of
5 time, where we're happy to help early.

6 MEMBER LANCASTER: And the other part
7 about tenants being able to form an organization
8 to represent themselves when they get into this.
9 I think you were sort of -- allude to that just a
10 little bit, as far as they had the right for the
11 return, under the no restrictions when they come
12 back in. They shouldn't be re-certified under the
13 first state of going in from whatever year they were
14 into housing, and in being relocated and come back
15 in, they shouldn't have to go through the same
16 process again.

17 MS. BERGER: Yeah. I think there was
18 some discussion in the comments, and it does bear
19 conversation between the advocates and DC Housing
20 Authority to talk about that further. I think that
21 partially was addressed in the comments. But in
22 terms of the right to organize, charging a fee for

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1 the use of common areas, for instance, that should
2 not happen, because that violated the Tenant Right
3 to Organize Act, which is local law.

4 MEMBER LANCASTER: Thank you, ma'am.

5 MS. BERGER: Thank you, sir.

6 CHAIR ALBERT: Thank you, Jennifer.
7 Thank you. Amanda.

8 MEMBER GARRETT: I just have -- I'm
9 sorry. I just have. I apologize. I just have
10 one question. The overall policy, public housing
11 policy that you're referring to, is there a time
12 limit in which that has to be changed or can be
13 changed? Meaning that, could we look and discuss
14 that in the overall policy in 2018?

15 MS. BERGER: I think that would be
16 great if we can do that. I think that RAD should.

17 MEMBER GARRETT: I'm separate -- but,
18 remember what I'm doing. I'm separating the two.
19 I'm separating the overall public-housing policy
20 versus what we're just distinguishing today,
21 versus we've been dealing with RAD itself.

22 MS. BERGER: That's a good question.

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1 I think that RAD should fix the problems, and then
2 public housing can emulate RAD, which is nicer
3 position to be in, because then RAD can be a model,
4 as opposed to the opposite, which is then going --
5 you having to go back and fix RAD again after public
6 housing's fixed.

7 So, I think it would be great to work
8 on these issues as a prelude -- with RAD regulations
9 as a prelude to working on the regulations with
10 public housing. And we -- and there are models for
11 that. We've done that before. We're happy to
12 have ongoing meetings to address the larger issues,
13 but --

14 MEMBER GARRETT: But it doesn't
15 necessarily happen in that order. Correct?

16 MS. BERGER: That is correct.

17 MEMBER GARRETT: Okay.

18 MS. BERGER: I don't see that -- I
19 should say this. I don't see an issue with that.
20 Admittedly, that is a new issue that I'm thinking
21 of it, but I don't see a logistical issue. I think
22 it's more of an issue with publishing RAD

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1 regulations that are violative of the law.

2 MEMBER GARRETT: Okay. That's the
3 distinction. I see what you're trying to do, but
4 the RAD law -- the RAD regulations according to
5 these folks, are flawed. So, then we'd have to go
6 fix them after passing them, which wouldn't
7 fundamentally make sense.

8 MS. BERGER: Because I'd rather pass
9 correct RAD regs and then fix public housing than
10 pass incorrect RAD regs just to be consistent with
11 some inconsistencies with the law that are in
12 public housing, if that makes any sense.

13 CHAIR ALBERT: But Jen, are you
14 specific -- you're using a specific term here.
15 You're saying incorrect RAD regs. I'm not sure
16 that the General Counsel for Housing Authority
17 would characterize it that way. So, it's a
18 different of opinion here. So, I think for us to
19 get on the same page, it's a much longer
20 conversation. So, what the Executive Director was
21 suggesting, I think can get us -- can get us there,
22 but it won't get us there before the end of the year.

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1 So, my question to you and Amanda and Ashley, when
2 they come up here is, is there a way to continue
3 -- and, actually, our General Counsel is here, is
4 to continue that conversation, to try and get to
5 the right place where RAD becomes a model that you
6 talked about. But models don't evolve overnight.

7 MS. BERGER: Here's what I propose.

8 CHAIR ALBERT: Yeah.

9 MS. BERGER: I propose that we fix as
10 much as we can. And there are efforts to do so in
11 the comments. And I appreciate that. Last night
12 was the first time I'm seeing these comments. And,
13 for instance, Late Fee Fairness, there's an
14 explicit comment that given the concerns, they were
15 going to fix that. And therefore, in
16 public-housing regs they'll do the same in 2018,
17 as, Executive Director Garrett, you're
18 recommending, which I think is a great idea, to have
19 RAD encompass as much of the law -- the local law
20 and the federal law, as we can. And I think it's
21 possible if we have -- maybe I'm idealistic. I
22 think we can get some core people at the table and

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1 try to move this along. There's nothing that some
2 edits in the word document can't fix if we want to
3 fix them. I'm optimistic.

4 MEMBER GARRETT: But there's also --
5 but we also have -- when you put lawyers in a room,
6 there is a disagreement about, you know, what is
7 actually correct and what is incorrect.

8 MS. BERGER: We appreciate that. And
9 there may be -- you're absolutely correct that not
10 everything will be agreed upon. But let's try to,
11 for lack of a better phrase, knock out as much as
12 we can. Let's get as much done as we can before
13 the end of the year, and hopefully publish
14 something that is going to encompass as much of a
15 compliant set of regulations as possible.

16 MEMBER GARRETT: And just my last
17 question. I'm sorry.

18 CHAIR ALBERT: Oh no, we're taking as
19 many questions.

20 MEMBER GARRETT: Overall, the issues
21 that you've raised in reviewing the document are
22 issues that have been pre-existing. They have not

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1 just occurred because we're looking to change the
2 RAD reg.

3 MS. BERGER: I think because -- there's
4 a combination. A third issue is that the law
5 changed locally so much over the past year. For
6 instance, Late Fee Fairness was only -- only
7 passed, or was enacted December 7th, 2016. And the
8 Residential Lease Amendment Act, I think was April
9 7th, 2017. So, in fairness, these are all new laws
10 that are affecting the regulation.

11 MEMBER GARRETT: Okay.

12 MS. BERGER: But that said, the
13 reasonable accommodation issues have been around.
14 You have a great ADA coordinator and have had a
15 really good one for a couple of years. And that
16 has buffered the issues with the way that the
17 writing is. And we have, again, referrals that we
18 get early. That has also buffered the issues that
19 the written regulations have with some of the
20 requirements of the Fair Housing Act and Human
21 Rights Act. That may take further discussion, but
22 I think we can fix some of those before the year's

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1 end.

2 MEMBER GARRETT: All right. Thank
3 you.

4 MS. BERGER: Thank you very much.

5 MEMBER GARRETT: Thank you very much.

6 MEMBER VANN-GHASRI: I just wanted to
7 say that when you all do this discussion, that some
8 of these questions need to be looked at -- and I
9 don't know what it'd been. I never got the
10 opportunity to read your 145 document.

11 I never knew whether or not to address
12 some of the concerns my constituents had, which
13 were, how the assets rises, the significant capital
14 of the housing assets -- local public housing. How
15 does that impact with RAD? Whether or not there
16 is a standability revenue. If so, is it a 40-year
17 guarantee? The bad history with tax credits and
18 the debit and the equity.

19 I would like to have had a comparison
20 trend of other Housing Authority with RAD
21 conversion, if any. And what, if any, were the
22 advocates' position on jobs, mixed income, and

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1 mixed use? Whether or not the advocates found
2 mixed-use practice discriminatory to public
3 housing and housing choice residents or would like
4 to open business in public-housing mixed projects
5 with the partners?

6 MS. SIEGEL: To be abundantly clear, we
7 did not have input into --

8 MEMBER VANN-GHASRI: And, see, these
9 are the --

10 MS. BERGER: -- this all. Until --

11 MEMBER VANN-GHASRI: -- these types --
12 these type of elements are real big, for real. But
13 in a nutshell, they are RAD. They are the nuts and
14 bolts of RAD. And I came up with that conclusion
15 by looking at the El Paso -- El Paso Housing
16 Authority that did a 100 percent RAD. So, that was
17 the only Housing Authority that I could compare.

18 We're really trying to visualize RAD in
19 the District of Columbia with El Paso, being the
20 14th largest housing authority. And I'm always
21 comparing with us. And we need to really find out
22 whether or not we're still the ninth largest

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1 housing authority in the District -- I mean, in the
2 United States, because I'm tired of saying that if
3 I'm incorrect. And we're not even a state.

4 MS. BERGER: I had the opportunity to
5 attend a national-housing law training, where
6 there was a RAD session, and people were talking
7 from Philadelphia, from San Francisco, from
8 Richmond about their experiences with RAD. And I
9 think it would be helpful to have more conversation
10 around that --

11 MEMBER VANN-GHASRI: Well, I've had
12 that conversation with a group that I belong with.
13 And at that group, there were seven or eight
14 public-housing individuals. And all of those
15 resident counsel were RAD resident counsels. And
16 all did have different experiences.

17 And that's why I don't want to rush into
18 RAD, because, with the District of Columbia only
19 -- and I'm going to still say this until I'm proven
20 wrong, a ten-mile square. And when you look at
21 where the District is and where public housing is,
22 and when you look at what ward is in bodies of water

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1 we are near, and the values of just the natural
2 minerals within our community, the District of
3 Columbia, the city and the housing authorities'
4 both fighting over Indian Reservations, which are
5 now called public housing in the District of
6 Columbia.

7 And I wonder how many times or how often
8 do the lawyers, even DCHA lawyers, actually look
9 at how Indian and public and Indian rights are
10 Indian rights, because the regulations came out of
11 tribal rights. So, when you look at tribal rights
12 in the Midwest, how many reservations are there?
13 Where did all of these laws actually come from to
14 incorporate to even come up with public housing?
15 If you deal with HUD, HUD do not deal with public
16 housing alone. It is called public and Indian
17 housing.

18 And I find that most of you lawyers do
19 not know the Indian law perspective. And only
20 lawyers I have encountered that know that part,
21 unfortunately, they are now attending UDC or they
22 were Antioch graduates, because of the impulsivity

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1 in which the training of the legal field when it
2 comes to low and moderate income in the legal field.

3 CHAIR ALBERT: Jennifer, we really
4 appreciate your time. Look forward to continuing
5 the conversation with you.

6 Amanda. And we can resume the timer.
7 But we won't kick you out, I promise you.

8 MS. KORBER: I'd like to thank the
9 Board of Commissioners and Executive Garrett for
10 the opportunity to testify today. My name is
11 Amanda Korber. I'm a staff attorney at the Legal
12 Aid Society of the District of Columbia.

13 Legal Aid is the oldest and largest
14 civil legal services organization in the District.
15 I work in the housing unit, which specializes in
16 representing folks at or below 200 percent of the
17 poverty line in eviction defense, administrative
18 hearings before the Housing Authority, and, in
19 general, housing advocacy before the DC Counsel and
20 you all.

21 As you know, just over two weeks ago,
22 Legal Aid, along with Legal Counsel for the

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1 Elderly, Neighborhood Legal Services Program,
2 Bread for the City, and the Washington Legal Clinic
3 for the Homeless, submitted detailed comments on
4 the complex and important rental administration
5 Rental Assistance Demonstration relations. I was
6 glad to learn last night that DCHA plans to make
7 some changes in response to our comments. We have
8 not seen what those changes will look like, which
9 is important before there is any vote on those
10 regulations.

11 But I would also like to address some
12 of Legal Aid's gravest concerns that I understand
13 are not going to be addressed. And one of those
14 concerns that I'm going to talk about is actually
15 not just an import from the housing regulations,
16 but a very new and serious issue that is going to
17 arise at properties that convert to RAD.

18 But before I get to that, I want to talk
19 about that while considering these regulations,
20 it's important to keep in mind what the purpose of
21 RAD is, as well as the fact that there is going to
22 be serious confusion among tenants about what is

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1 happening.

2 While my understanding is that DCHA
3 intends to remain the principal owner at
4 RAD-converted properties, that is not guaranteed.
5 It is possible that private owners are going to be
6 coming in and taking over some of these properties.
7 Therefore, it's important that the tenants are
8 protected from possible abuses and know what their
9 rights are and that their rights are in compliance
10 with the law.

11 These regulations are the main
12 guidelines that will ensure future private owners
13 who take control of this city's vitally important
14 public housing run these programs in compliance
15 with the law, federal and local, and in a way that
16 benefits the community and the tenants that live
17 in them.

18 Though I encourage you to look at and
19 read all of our comments, which cover nearly every
20 section of the regulations, I'm going to focus my
21 testimony on one section, which is DCHA's
22 termination of assistance to tenants under the RAD

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1 program. And this is, like I said, a section where
2 this is not just an import of a problem from the
3 public-housing regulations to RAD regulations, but
4 a very new and serious problem that is going to
5 arise under the RAD regulations.

6 RAD is changing public housing to
7 project-based vouchers. That means that there's
8 now going to be two levels of termination that a
9 tenant can face. There's termination from the
10 subsidy program -- termination from the voucher
11 program, and eviction from the unit itself.
12 Currently, tenants in public housing, if there is
13 an allegation that they have violated the rules of
14 the program get a 30-day notice to correct or
15 vacate. If there is an allegation that they
16 haven't corrected, they are taken to DC Superior
17 Court, Landlord and Tenant Court, where they can
18 exercise their right to a trial by jury, get things
19 like mandatory discovery, and defend themselves in
20 front of a jury of their peers.

21 Under these current regulations, that
22 process breaks down, and the DC Housing Authority

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1 can now issue a recommendation for termination and
2 insist that a tenant defend their right to a -- the
3 subsidy -- the subsidy for their unit, the subsidy
4 that allows them to live in their home, at an
5 informal administrative hearing at the Housing
6 Authority, thereby circumventing their right to a
7 jury trial and an ability to defend themselves in
8 DC Superior Court.

9 Tenants in the District of Columbia
10 have a constitutional right to a jury trial before
11 eviction. That is well established. And that
12 right cannot be waived. And these regulations
13 severely burden that right. And that is
14 particularly problematic in properties that DCHA
15 is going to continue owning post-conversion,
16 because DCHA is saying, we're favoring substance
17 -- I'm sorry, we're favoring form, which is just
18 that we are now the principal owner in a private
19 entity, over substance, which is that we're still
20 a local Housing Authority.

21 And we are using that just change in
22 form to circumvent your rights to a jury trial.

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1 And that is very seriously problematic and very
2 likely a violation of tenants in public housings'
3 constitutional rights in the District of Columbia.

4 And I'm going to -- I don't want to talk
5 too much about other issues, because I think that
6 there's been a lot of talk of, you know, these are
7 pre-existing problems, and, so, do we really need
8 to fix them now given this time crunch we're under.

9 This is not a pre-existing problem, and
10 it is a very serious problem that needs to be
11 addressed. And my understanding from what I saw
12 of what DCHA plans to change is that this problem
13 -- they agree that there is a difference between
14 that there is going to be the two layers and that
15 the subsidy can be terminated through a
16 recommendation for termination process and that --
17 but they don't agree to that unduly burdens
18 tenants' constitutional rights. And that I think
19 is wrong and something that we need to sit down and
20 discuss, because it is very, very serious.

21 MEMBER VANN-GHASRI: Jennifer, are you
22 telling me that as a tenant under RAD -- are you

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1 telling me -- now, I'm a public-housing resident.
2 I have a right to hear my choices. It's only my
3 strategy. Either, A, I can go to grievance first.
4 I lose the grievance. Now I can go to DC Superior
5 Court. But I can't go to DC Superior Court first,
6 lose my Court Case, and then think I'm going to a
7 grievance.

8 MS. KORBER: Right.

9 MEMBER VANN-GHASRI: So, are you
10 saying that based on your research, what you was
11 seeing with RAD is that the resident no longer has
12 that right I just explained? So, if I'm a RAD
13 resident, I don't have the -- I don't have the right
14 to go to the grievance with the DCHA first, then
15 go to court. Are you saying, that is cut out?
16 Because we have that right, and it is exercised --

17 MS. KORBER: Yes.

18 MEMBER VANN-GHASRI: -- in public
19 housing.

20 MS. KORBER: And it's an important
21 right. I think that it still exists for certain
22 types of grievances. Grievances about what your

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1 rent is. I think where it no longer exists is when
2 DCHA is trying to evict people -- terminate
3 people's subsidy from -- or evict people from their
4 unit.

5 And, so, right now, if the Housing
6 Authority is alleging that you or any other
7 public-housing resident has violated the program
8 rules in some way, you would get a 30-day notice
9 to correct or vacate. And you could grieve that
10 notice. And if you were to lose at the grievance
11 hearing, you could -- they would still have to sue
12 you in Court.

13 You could still challenge that same
14 notice in Court. Right? That's what you were
15 saying. But the way these current regulations are
16 read, DCHA will issue before that a recommendation
17 for termination from the voucher program -- because
18 that's what's happening now. The public housing
19 is converting to vouchers. And you will have to
20 request an informal hearing to challenge that
21 recommendation for termination.

22 And if you lose that informal hearing,

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1 that decision -- there is no longer an ability to
2 challenge that in D.C. Superior Court.

3 MEMBER VANN-GHASRI: So, that impacts
4 my constituents terribly. Let me ask you one other
5 thing. With RAD, what's the difference in putting
6 that equation with a fight-back? As it is now in
7 public housing for the fight-back, it depends on
8 A -- I'm going to say this based on the trend I'm
9 seeing, is that A is the property manager. How
10 they're handling the situation, it seems like it's
11 a per-unit case. So, in all fairness to the
12 fight-back and RAD, who would be converted to RAD
13 -- A, would they still have that particular right?
14 What would be the trend, or what is the projection
15 trend of fight-backs?

16 Would that resident still have the
17 right to remain in that unit, still pay their rent
18 to the property manager while the court make a
19 decision whether or not I'm guilty or not, or will
20 the court make the decision under RAD that if I have
21 a fight-back, I don't even have that opportunity,
22 that opportunity that people in public housing

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1 have, that I immediately -- because the law does
2 say and can be that I immediately get a 30-day
3 notice to vacate? That's --

4 CHAIR ALBERT: So, Amanda, why don't
5 you finish your testimony? And then I'm going to
6 ask the Office of General Counsel to comment on some
7 of the things you've said about our process,
8 because I'm not sure I'm in agreement with you, but
9 I'm not a lawyer, and I don't want to play one today.

10 MS. KORBER: Okay. I'm ready to rest
11 now on my testimony.

12 CHAIR ALBERT: Oh, that's not a case.
13 You don't have to rest.

14 MS. KORBER: Yeah. No. That's fine.
15 (Laughter.)

16 MEMBER VANN-GHASRI: And Jennifer.
17 And Jennifer, I'm not a lawyer either, but I was
18 trained by Ken Loewinger.

19 CHAIR ALBERT: Okay. So, Ken, or Ed.

20 MEMBER SLOVER: Before we do that, can
21 I ask a question?

22 CHAIR ALBERT: Yes. You can cross

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1 examine.

2 MEMBER SLOVER: I haven't heard -- and
3 you just mentioned the right to return. And it's
4 in here, and that's something that's, I think, a
5 concern of all of ours. And so, from the overall
6 summary you guys provided in your comments, you're
7 referencing that one of the flaws is that 1606
8 sounds like it references just new communities in
9 the DC-housing regs and that this doesn't --
10 currently it's not pushed out to all mixed-finance
11 properties, which these would be. And, so, that
12 right to return resolution, under what's being
13 considered, wouldn't be enacted. Right? Is that
14 what you're saying? Like, the way it's currently
15 written --

16 MS. KORBER: Yes. That's right.

17 MEMBER SLOVER: -- there is an
18 interpretation that could leave a private
19 developer to say, I don't have to deal with that.

20 MS. KORBER: I think that's right. I
21 will admit that our colleague at Bread for the City,
22 who is the expert in, sort of, the right to return

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1 area of the law, is not available today.

2 MEMBER SLOVER: Are you talking about
3 Taylor?

4 MS. KORBER: Taylor. That's right.
5 At Bread for the City.

6 (Simultaneous speaking.)

7 MEMBER SLOVER: Right. Now, we talked
8 about this. So, I'm pretty confident that that was
9 her interpretation.

10 MS. KORBER: Yeah.

11 MEMBER SLOVER: And, so, I mean, those
12 are the types of things, I guess, that we're talking
13 about, which is these sort of, what's going to get
14 lost as we transfer from this policy to that policy.
15 And that's why I don't think it's -- this is so
16 simple as, let's just do this and go back and fix
17 it. I think we need to fix it before we do it.

18 MS. KORBER: I think that's right. I
19 think that this is an important moment. This is
20 a moment where we're taking public-housing assets
21 and we're converting them to private ownership.
22 And, so, it is important to be incredibly careful

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1 about what that transition means. It's not going
2 to be just -- there are going to be differences,
3 because there is a different owner now. And to
4 pass these regulations hastily when there's so much
5 as stake, I think, is a mistake.

6 MEMBER SLOVER: And, another
7 clarifying question for -- not for you, but for the
8 Executive Director is that, this vote is not to
9 approve RAD. Correct? This vote is to improve
10 publishing regulations that may be used, should we
11 decide in the future to RAD properties, beyond what
12 this board has already approved, which is just a
13 couple.

14 MEMBER GARRETT: Correct.

15 MEMBER SLOVER: I just want to make
16 sure that's --

17 MEMBER GARRETT: You're --

18 MEMBER SLOVER: -- clarified, because,
19 again, getting back to our previous conversations
20 about being given opportunities in the future, I
21 just want to put on the record that this vote,
22 should it take place, is not to approve RAD --

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1 MEMBER GARRETT: Right.

2 MEMBER SLOVER: It's to approve
3 publishing regulations around, should we choose,
4 again, beyond what we've already approved, to RAD
5 in the future.

6 MEMBER GARRETT: Correct.

7 CHAIR ALBERT: And just to follow up on
8 Commissioner Slover's comments, what are the
9 opportunities after publication to further
10 amendments to the regulations.

11 MEMBER GARRETT: It could be ongoing,
12 Commissioner, Mr. Chair.

13 CHAIR ALBERT: Okay.

14 MEMBER GARRETT: Also, I just want to,
15 just make one comment, or it's just -- you're also
16 presupposing what our philosophy will be with
17 utilization of RAD. Correct?

18 MS. KORBER: No. I'm not.

19 MEMBER GARRETT: You're -- when I --
20 when I say that, what I'm saying is you're
21 presupposing that we will, you know, sell property
22 to a private developer versus sell it to ourselves,

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1 in most cases.

2 MS. KORBER: I'm saying that it's --
3 you know, this program can be used for that purpose
4 in the future.

5 MEMBER GARRETT: Okay.

6 MS. KORBER: That is precisely what the
7 -- how the program is used across the country. I
8 think DCHA is unique in its intention to remain the
9 owner. But I actually think that the issue I was
10 raising about termination is bigger in -- is a big
11 issue because DCHA is saying it intends to be the
12 owner.

13 MEMBER GARRETT: Okay.

14 MS. KORBER: I think -- I think that
15 changing the process and the way tenants are
16 terminated from the subsidy program when DCHA
17 remains the owner, is very problematic, because
18 it's saying that just because we're owning in a
19 different form, your rights, in terms of
20 challenging termination, are different. And I
21 think that is a very serious problem.

22 MEMBER GARRETT: I guess the point I

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1 was trying to draw out is that it doesn't
2 necessarily mean our philosophy will change,
3 meaning, in terms of our mission to provide
4 affordable housing. It's not our purpose to
5 evict.

6 MS. KORBER: Sure, but the Housing
7 Authority evicts people and terminates people from
8 subsidy programs every day. Those people are my
9 clients.

10 MEMBER GARRETT: Okay.

11 CHAIR ALBERT: Great.

12 MEMBER GARRETT: Did that help you?

13 CHAIR ALBERT: Ed. Or Ken.

14 (Pause.)

15 CHAIR ALBERT: So, I just wanted to
16 give you guys an opportunity to respond to some of
17 the --

18 MR. SLAUGHTER: I'd like to respond to
19 the general relationship with our valued community
20 partners in our regulatory process. Our
21 commitment to having their input has not changed.
22 We certainly have not scheduled regulatory

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1 versions of our meetings, but the general meetings
2 have gone -- have been ongoing. As you know, this
3 was an adoption of a comprehensive regime to cover
4 a new program.

5 CHAIR ALBERT: Can you state your name
6 and title for the record?

7 MR. SLAUGHTER: I'm sorry. My name is
8 Ken Slaughter. I'm the General Counsel of DC
9 Housing. That was quite an effort on our part, and
10 it has gone on for about a year. Our goal as we've
11 pressed against HUD schedules for completing the
12 first two deals drive this urgency today. And we
13 set as a requirement that we get you educated, along
14 with taking public input on our comment.

15 So, as you recall, we had a seminar. We
16 had an operations committee meeting, and we've had
17 several efforts to make sure you are up to speed
18 on what we're trying to do. The opportunity to
19 continue the dialogue is always there. We
20 certainly will invite a meeting at your pleasure,
21 at your direction, with our advocate friends. And
22 we always want to avoid litigation. At the same

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1 time, we do understand that lawyers disagree
2 sometimes. And so far, no court has said that
3 we're doing anything unconstitutional. And even
4 in our old regime of public-housing regs, but we
5 are always of the charge of keeping up with new law.

6 It's a very dynamic landlord/tenant
7 environment in the District of Columbia. And it's
8 incumbent upon us to keep up with it. We have
9 prepared, and we understand you guys just got it,
10 a comprehensive, almost point-by-point analysis of
11 comments. In the column where we make our
12 comments, there are several instances where we are
13 agreed that we will make changes.

14 Advocates may not agree with all the
15 changes or all of our rationale, but we still
16 believe these regs are publishable. And the time
17 frame, again, it's set by demands that you get these
18 deals done after they have authorized in a certain
19 time frame.

20 I think we're already in an extension
21 period. Is that right? We're in an extension
22 period, and we could lose the opportunity, if we

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1 don't go forward.

2 CHAIR ALBERT: So, General Counsel --
3 so, if the Board chose today to pass this
4 resolution, what are the opportunities after that
5 and the forums after that for to continue to refine
6 the RAD regulations?

7 MR. SLAUGHTER: If you do not approve,
8 we might lose the opportunity to do the two deals
9 that are under the time clock set by HUD right now.
10 There is the opportunity to -- there's one
11 requirement, phase-in of rents. And we set it as
12 a high five-year phase-in period.
13 That is absolutely required for us to close. The
14 rest of the regs might have some more time. And
15 we certainly would like to address the specific,
16 serious issue that our friend from the legal
17 services organization put forward to you, because
18 it should be addressed.

19 CHAIR ALBERT: Yes. Please state your
20 name, young man, for the record.

21 MR. KANE: Ed Kane, Deputy General
22 Counsel. With respect, specifically, to the last

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1 comment concerning the right to adjudicate
2 decisions of the Housing Authority, particularly
3 loss of subsidy or evictions, the RAD regs don't
4 abrogate tenants' rights to proceed through an
5 adjudication of an eviction, just as exists now,
6 or grieve the loss of subsidy under the voucher
7 program. The regulations attempt to combine or at
8 least have running parallel the two grievance
9 processes, as well as the process of termination.

10 There are some triggers in each of them,
11 but not -- the regs do not do anything to abrogate
12 any rights that tenants have currently. So -- and,
13 again, to -- just to sort of allude to what Ken says,
14 these are issues that get adjudicated with some
15 frequency, and we disagree, respectfully, that our
16 processes are violative of tenants' constitutional
17 rights. And, also, as has been said earlier, what
18 we've done is make the attempt, through our review
19 and consideration of the comments to determine
20 where the greater consistency, greater clarity,
21 might be very helpful. And the marked-up version
22 that would go to publication would reflect that.

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1 CHAIR ALBERT: Okay.

2 MEMBER GARRETT: I just want to
3 clarify, again. So, Mr. Slaughter, you stated
4 that to date, our policies are not a violation, a
5 constitutional violation. Correct?

6 MR. SLAUGHTER: That we're aware of.
7 We know that some party has --

8 MEMBER GARRETT: That we're aware of.

9 MR. SLAUGHTER: --- taken a side that
10 would make us revise by direction of a court. At
11 the same time, that doesn't mean we're
12 closed-minded to the best way of doing it, and we
13 invite the comments from our friends. And we'll
14 -- as you will see, we have incorporated several
15 -- seven or eight of their comments. And, as to
16 whether you can amend in the future, regs can be
17 changed.

18 And the regime that we're doing this --
19 this is a totally new regime, RAD. And we're
20 certainly going to learn things as we implement it.
21 We're going to learn things both by impact on our
22 residents or our participants first. And we

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1 certainly will learn in our advocacy and our
2 response to advocacy. So, it is not a fixed,
3 etched-in-stone kind of process, even though we
4 think that what we're putting forward today is
5 legal and you should approve it.

6 CHAIR ALBERT: Great. Thank you so
7 much. So, I'm going to ask Ashley Graham.

8 MEMBER LANCASTER: If I may, Mr. Chair.

9 CHAIR ALBERT: Yes. You may.

10 MEMBER LANCASTER: You say we have
11 passed the due date to get this in?

12 MR. SLAUGHTER: They're -- we have been
13 working with HUD on a schedule to get our first
14 deals done and set a deadline for that. And then
15 we got one or two extensions? We've had several
16 extensions as we go through this regulatory
17 process. It required that we get extensions,
18 because we've got to get this in place with you.

19 MEMBER LANCASTER: So, what you're
20 saying now, if this does not pass today, we lose
21 out on it totally?

22 MR. SLAUGHTER: Possibly. HUD could

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1 be exhausted in its grants of extension. I'm not
2 predicting that. We certainly would try, but
3 that's what you're running the risk of.

4 MEMBER VANN-GHASRI: So, how come we
5 always be running this risk that we going to make
6 new mistakes, and we constantly still make the same
7 mistakes if -- now, I'm going to concede -- I'll
8 be honest. HUD has everybody but me in mind. And
9 what I don't understand --

10 CHAIR ALBERT: Could you put your mic
11 on, Commissioner?

12 MEMBER VANN-GHASRI: Oh. I
13 apologize. Seriously, HUD has everybody but me in
14 mind. If HUD set the policy, because I guess,
15 because I'm a tenant. And public housing give you
16 rules. And you learn how to follow the rules. You
17 read the rules, and you make the rules work with
18 you by understanding how the rules are written and
19 how you dialogue the rules.

20 So, you all are the ones who know when
21 something come down the pipeline. So, you already
22 know this. You can't -- I mean, I'm a

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1 Commissioner, and I don't make the same mistakes.
2 I'm learning and growing. I do not make the same
3 mistakes. So, if I know that I'm late on this, and
4 I know that if I'm constantly late, is it got
5 something to do with your staff that don't know how
6 to get something done on time?

7 I mean, everybody going to be late about
8 something, but ever since we've been on this board
9 -- I don't know about you Neil Albert, but I'm
10 telling you the truth, this is a practice of this
11 Housing Authority. What you see here today,
12 always. And that means a new Chair and a new
13 Director get caught up with us, because we're sick
14 and tired of being sick and tired. And we can
15 understand sometimes. But this is now a way of
16 life. And the way of life stinks.

17 MR. SLAUGHTER: Ms. Vann-Ghasri, let
18 me respond, if I may Mr. Chairman, we certainly have
19 no desire to be late. And we have a new mandate
20 with a new boss saying we shall not be late. This
21 was a big process. It ran up against the urgency
22 that the HUD schedule creates. It is not ideal,

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1 but we're asking you to go forward with it.

2 CHAIR ALBERT: Yeah. Good.

3 MR. KANE: Just a further
4 clarification, if you like. So, without
5 regulations, the default under the RAD notice would
6 be that -- there are provisions in the RAD notice,
7 pursuant to which the properties would operate.
8 And that would also default, essentially to our
9 HCBP program, because that's basically the world
10 in which the properties would be converted.

11 MR. SLAUGHTER: And that we would have
12 lost the overall mandate, which is to make a RAD
13 participant have a conversion to RAD, but not lost
14 any rights -- or, in effect, operating as if they
15 were in public housing.

16 That's what this regime is about,
17 trying to do. And we understand the comments from
18 the advocates that some of what we're moving over
19 is not the best version. I get the sequencing.
20 So, why not fix it now for both? That is what is
21 before you now. And we're saying there's
22 opportunity to do that, but we also have this

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1 limited window to get the two deals done.

2 CHAIR ALBERT: Okay.

3 MEMBER GARRETT: And, Commissioners,
4 it doesn't also necessarily mean that we would even
5 agree at the end of the day. As you can see, we
6 have two different sides of the table that we're
7 looking at with regard to these regulations. In
8 addition, it's not our intent for us to be late.
9 It would not be my intention for us to be at this
10 point in time, if I had been given maybe, you know,
11 more time. You know, 120 days, versus the 60 that
12 I've been on board. So, but this is the point that
13 we're at. And asking for another extension from
14 HUD, I don't know whether or not that would actually
15 be possible. So --

16 CHAIR ALBERT: Right.

17 MEMBER NEAL JONES: Will the changes
18 that we have identified, that we are aligned with
19 -- will they be incorporated into the version?

20 MR. SLAUGHTER: Yes. We are proposing
21 that you approve, subject to our making changes,
22 which we've outlined in the document, that you just

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1 got late. So, they are there for you to see. The
2 advocates have seen -- some of the advocates have
3 seen them. But that is our plan to adopt, a
4 reg-line from the last proposed version that would
5 incorporate changes that we've identified and that
6 the advocate have urged us to make. It may not be
7 all, but we think we'll have a good set of regs at
8 that point, subject to perfection over time and
9 experience.

10 MR. KANE: As a matter of practice, the
11 proposed regs don't automatically become final.
12 We actually have to republish them.

13 CHAIR ALBERT: Right.

14 MR. KANE: Right. So what we
15 republish will incorporate the changes that we've
16 outlined and accepted.

17 CHAIR ALBERT: So, if these rules, if
18 these regs get published, what's the publish
19 period? Is it two months? Three months? And how
20 do they -- where do they get published?

21 MR. KANE: On the D.C. Register.

22 CHAIR ALBERT: Right. So --

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1 MR. KANE: So, and they are -- the
2 proposed regs would offer 30 days of public
3 comment. These will be as final and then would
4 have to be amended through a process that looked
5 like this.

6 CHAIR ALBERT: And what -- so, just
7 explain to me what that process would look like,
8 if we needed to amend these.

9 MR. SLAUGHTER: We would propose
10 amendments. They would come for your
11 consideration. They would be published for 30
12 days for notice and comment. And then they would
13 -- if that period went on and was expired, we could
14 go final with changes. I want to address --

15 CHAIR ALBERT: But you can amend those
16 at any time. Right?

17 MR. SLAUGHTER: Any time. Yes.

18 CHAIR ALBERT: At any time. So, if the
19 advocacy community and you guys were able to get
20 in a room and would -- I'm looking at Jennifer
21 within 90 days, agree on what should be --

22 MR. SLAUGHTER: Or disagree,

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1 CHAIR ALBERT: Yeah. I worked with
2 the advocacy community, and Jennifer knows for a
3 long time that we never really agree on everything,
4 but we reach agreement.

5 MR. SLAUGHTER: Yes.

6 CHAIR ALBERT: And we agree to disagree
7 on some parts. But, so, that's where I'm hoping
8 we'll get. So, if 90 days from now -- and I'm not
9 setting anything in stone here, after a continuous
10 dialogue between the sides, we get to a reasonable
11 place -- not to -- maybe full agreement would be
12 utopia, but a reasonable place. So, what happens
13 next? Do you come -- you come back to us? You come
14 back to --

15 MR. SLAUGHTER: If we have some
16 agreements on changes --

17 CHAIR ALBERT: Uh-huh.

18 MR. SLAUGHTER: We would fashion a set
19 of proposed amendments to the then-final regs, the
20 ones you would have approved today. And then we
21 publish them for 30 days. And then the new reg
22 regime would include those changes. And that

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1 would be us having benefitted from a dialogue with
2 our advocate partners for the 90 days. Which, you
3 said, that will meet it.

4 MR. KANE: And generally the
5 permission to publish the first set of proposed
6 comes from your operations committee.

7 MR. SLAUGHTER: Yes. That would be
8 good. The only hang up would be the January break
9 you take.

10 CHAIR ALBERT: Well, I think it would
11 take more than --

12 PARTICIPANT: We don't ask for it --

13 MR. SLAUGHTER: That would be time for
14 us to meet.

15 CHAIR ALBERT: Well, I don't want to --
16 and, look, again, I do have a history of working
17 with some of the folks in the audience today, and
18 witnesses. It's going to take -- you know,
19 Jennifer, I don't mean to disagree with you
20 publicly. It's going to take more than a few days,
21 just given my history of working with your
22 community on issues. And, so, I am sort of

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1 recommending more like a 90-day period and then a,
2 you know, a few-weeks period of dialogue.

3 Just to be -- I mean, it's the holiday
4 season. And I, you know, I know Jennifer loves
5 working on the holidays -- I'm just picking on you
6 Jennifer.

7 But I just want to set reasonable
8 expectations here, that this is not something we're
9 going to get accomplished by the end -- by the end
10 of the month. And, so, what I would love to -- like
11 to suggest -- and, Ashley, we're still going to hear
12 from you, is that -- and I'll talk to you guys
13 off-line, is that we actually amend this resolution
14 somewhat that would authorize us to go forward for
15 the deal purposes that we have. But put something
16 in here that requires that within 90 days we bring
17 this back to -- we reopen it. You guys can
18 wordsmith it. We bring this back to the Board
19 after you've had significant input from the
20 advocacy community.

21 So, that's where I'm thinking I'm going
22 to go on this. So, but thank you gentlemen very

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1 much. You did a very good --

2 MEMBER LANCASTER: Mr. Chair, just a
3 moment, please, if I may.

4 CHAIR ALBERT: Yes.

5 MEMBER LANCASTER: Now, what I'm
6 hearing is, that you speak of those 90 days, there's
7 no way at this particular time we can get a friendly
8 amendment of this before we leave here today?

9 CHAIR ALBERT: Oh, no. That's what
10 I'm proposing.

11 MEMBER LANCASTER: Yeah. But I'm --
12 before going public. I'm talking about before
13 going to publication.

14 CHAIR ALBERT: So, I don't know that we
15 can do that, because we're not meeting between now
16 -- and I can't meet between now and the end of the
17 year. We can meet next week, obviously.

18 MEMBER LANCASTER: Great.

19 CHAIR ALBERT: I don't know that
20 there's sufficient time between now and next week
21 to do this. And, again, if we want to make, sort
22 of, RAD policy -- the policy, I think we need to

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1 take time to do it. And, you know, I'm thinking
2 three months at a minimum. So, my amendment would
3 allow the deal to go forward, or the submission to
4 HUD to go forward, but at the same time leave room
5 -- the window wide open for the advocates' input.

6 MEMBER SLOVER: What -- clarification.

7 CHAIR ALBERT: Yeah.

8 MEMBER SLOVER: I had a feeling that
9 this is where this would go. Would it work to call
10 out the deals that are on the chopping block?

11 CHAIR ALBERT: Specifically into --

12 MEMBER SLOVER: Into this, and say,
13 this only is valid --

14 (Simultaneous speaking.)

15 CHAIR ALBERT: I think that's a great
16 idea.

17 MEMBER SLOVER: -- for these two
18 things, but also those are subject to change as
19 well. I mean, in other words, in an attempt to try
20 to, you know, alleviate the pressure, which is
21 these two particular deals, right?

22 CHAIR ALBERT: Right.

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1 MEMBER SLOVER: You would cordon this
2 thing of, these regulations are only valid for
3 these two deals.

4 MR. SLAUGHTER: Exactly.

5 MEMBER SLOVER: And then, going beyond
6 that, you're saying, but these can also be changed.
7 In other words, you don't want those two to be out
8 on an island.

9 CHAIR ALBERT: Right.

10 MEMBER SLOVER: When we get closer,
11 with the people who are going to sue us over this.
12 I mean, what I see is the people in front of us who
13 are having a problem with it. We need to get
14 closer.

15 CHAIR ALBERT: They're never going to
16 sue us. They're our partners.

17 MEMBER SLOVER: They can and might.
18 We'd like to get closer together with them where
19 they are. Is that a possibility from a compliance
20 perspective, in terms of trying to appease
21 everybody in the room?

22 MEMBER GARRETT: Commissioner Slover,

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1 what if -- one thing we've discussed is a phase-in
2 process for this. But also, the other piece, I
3 just want to -- I just have a question. If we were
4 to do it in that manner, what happens to the other
5 opportunities, if there is no final agreement
6 between the advocates and the agency at the end of
7 the day? I mean, how do we --

8 MEMBER SLOVER: We bring it back to
9 another vote. Vote on what we've got right now.

10 (Simultaneous speaking.)

11 MEMBER GARRETT: It's just that -- No.
12 No. Because we'll probably be at this same point.

13 MEMBER SLOVER: But, Director, I think
14 we will have bridged.

15 (Simultaneous speaking.)

16 PARTICIPANT: Well, hopefully we'll
17 have bridged -- hopefully we'll be a little bit
18 closer. And we won't be in a, you know --

19 MEMBER LANCASTER: And that would be
20 part of the amendment that I'm seeking right now
21 to get this thing --

22 MEMBER SLOVER: What I'm seeing is

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1 people who are pissed off that they weren't
2 participating in the process. And they feel like
3 they want to be heard, and they weren't heard. And
4 that's what I'm seeing. And what I'm saying, is
5 we may be here, and they may be here. If we can
6 get to here, we're better off than where we are
7 right now.

8 CHAIR ALBERT: So, I just want to echo.
9 So, I know Commissioner Slover hears from the
10 advocacy community directly. I also hear from
11 them. And they're angst is really that there
12 hasn't been sufficient time for them to really give
13 deep and thoughtful consideration of -- sweeping
14 is the word one person used. I wouldn't describe
15 -- I wouldn't call her out. I wouldn't describe
16 it as sweeping, but in her mind it's sweeping.
17 And, so, it needed a longer time frame and a better
18 process of input from the community. So, what I'm
19 trying to do is to -- give us -- give the staff what
20 it needs to move forward, but also give our partners
21 and the community to weigh in on this in a
22 significant manner, so that at the end of the day,

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1 even if we don't agree on the specifics, at least
2 we wouldn't be accused of rushing a process that
3 could affect people's lives.

4 MEMBER NEAL JONES: Clarifying
5 question though.

6 CHAIR ALBERT: Yeah.

7 MEMBER NEAL JONES: If we were to
8 cordon it off and make it specific -- if we revise
9 the regulations, would that automatically apply to
10 everything, like, even if we did single out these
11 two deals?

12 MR. KANE: So, it sounds as though what
13 you're attempting to do is -- we're going to -- if
14 you approve the regs, they will be the regulations
15 under which properties converted under RAD would
16 operate. You would open period to have a more
17 intense dialogue with the advocacy community for
18 90 days. And until you have the ability to review
19 the results of that conversation, my presumption
20 is that you would toll or stop any further attempts
21 to convert additional properties under RAD or do
22 more deals. The regulations would continue to be

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1 effective until you either amended it or repealed
2 it. So, what you'd be -- because you'd have
3 properties that were converted, would be operating
4 under that scheme. They would be subject to
5 amendments to the scheme. So, to the extent that
6 anything changed, those properties converted under
7 RAD would still fall under the application of the
8 regulations.

9 MEMBER NEAL JONES: And right now, at
10 least for the next three months or so, we don't
11 foresee any other RAD properties coming in?

12 PARTICIPANT: No.

13 MEMBER NEAL JONES: Okay.

14 CHAIR ALBERT: Okay. I'm going to ask
15 Ashley to come forward and give her testimony.

16 MS. GRAHAM-WATANABE: Good afternoon.

17 PARTICIPANT: Good afternoon.

18 MS. GRAHAM-WATANABE: Thank you, Board.
19 Thank you, Executive Director Garrett for the
20 opportunity to come speak. My name is Ashley
21 Graham-Watanabe, and I am a housing staff attorney
22 at Neighborhood Legal Services Program or NLSP.

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1 Now, you're used to seeing Lori Leibowitz here, who
2 is also a staff attorney at Neighborhood Legal
3 Services Program. She was unavailable today.
4 So, I will try my best to live up to her great
5 standards.

6 Just, before I get started with the
7 testimony I've prepared, I want to speak for
8 Jennifer, Amanda, and I, saying, you know, we
9 welcome every single opportunity to come to the
10 table to speak about these issues, recognizing
11 every single person in this room is very busy. So,
12 we'd like to get in touch with everyone early.
13 We'd like to get in touch with everyone often, so
14 we can coordinate schedules, so we can make sure
15 we're meeting these time deadlines as best
16 possible. It's vitally important to us to be at
17 the table to give our input, and meeting with us
18 early and often is the best way, we think, going
19 forward.

20 Now, I want to specifically talk about
21 one area of the proposed regulations that NLSP and
22 the advocacy community find problematic. And

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1 that's the regulations dealing with transfers.
2 Now, we did receive notice yesterday about that
3 some of the language regarding transfers would be
4 changed. However, as both of my colleagues have
5 addressed, we are a little -- we don't have the
6 final language. Just that it would be addressed.
7 So, I might be speaking to some old language, but
8 we just want to make it clear, we don't know what
9 that language is as of now. We just know that
10 something is going to change.

11 So, in the proposed regulations, there
12 are three different types of transfers. One is
13 mandatory transfers. There is priority
14 transfers, and there are standard voluntary
15 transfers. Mandatory transfers are the ones
16 required by DCHA. A property is being renovated
17 and demolished, and the family needs to move.
18 There are housing conditions that are a threat to
19 family safety. They are in a wrong-sized unit, or
20 a family that is an accessible unit does not need
21 that accessible unit -- another, anymore, for some
22 reason.

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1 Priority voluntary transfers are the
2 second category. And those are for those who
3 require accessible units. Those who are victims
4 of domestic violence, and households for whom the
5 HAP contract has been terminated between the owner
6 and the DCHA.

7 Standard voluntary transfers are those
8 requested for the convenience or other purposes not
9 listed. For both kinds of transfers listed as
10 voluntary, leases are required to be lease
11 compliant, and, unless they are requesting a
12 transfer as a reasonable accommodation, must have
13 lived there for 12 months.

14 The first issue is the problem of the
15 specific category priority voluntary transfers.
16 Treating a transfer that is required for a
17 disability or because of domestic voluntary is both
18 problematic and potentially illegal. If
19 implemented as written -- and, again, we're going
20 by what we have received actually written, this
21 would likely violate both VAWA, the Fair Housing
22 Act, and local and federal anti-discriminations

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1 laws.

2 These should be called just simply
3 priority transfers. They are not voluntary. And
4 they should be treated more similarly to mandatory
5 transfers than as voluntary transfer.

6 There should be a separate section
7 governing these transfers, as transfers for these
8 reasons are required by law. Calling these
9 voluntary transfers and requiring full lease
10 compliance before transfers be made may also
11 violate fair housing laws.

12 People who have disabilities or who
13 have been victims of domestic violence should not
14 be required to have every household member
15 compliant with all lease terms and conditions.
16 For instance, good housekeeping. If someone's a
17 victim of domestic violence and is in a dangerous
18 situation, things like good housekeeping should
19 not be considered.

20 As a solution, restoring the language
21 that was previously contained in 6402.7 should
22 solve the problem. And we do notice that that is

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1 listed as a potential solution in what we received
2 yesterday, but we just don't have that language to
3 see it.

4 Additionally, the requirement that a
5 victim of domestic violence should live in their
6 unit for 12 months before they are eligible for
7 transfer is a violation of FAWA. A victim of
8 domestic violence should not have to wait in a
9 dangerous situation before they are eligible to
10 move. Simply put, priority voluntary transfers
11 should be called priority transfers.

12 Secondly, I would like to address the
13 prioritization of transfers. The way the
14 prioritization of transfers request is written
15 now, as listed under section 5750.16, people who
16 are under, over household -- under house, take
17 priority over situations of a life-threatening
18 medical or public safety nature.

19 This could simply be fixed by moving the
20 priority sections together. Under -- as the
21 regulations are written now, they are in different
22 sections. This would create one hierarchy for all

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1 transfers, instead of prioritizing mandatory
2 transfers over the voluntary transfers, which, as
3 we discussed, aren't really voluntary. This way,
4 people who needed to be transferred because of
5 situations of life-threatening medical or public
6 safety natures, and who require reasonable
7 accommodations, will be prioritized over mandatory
8 transfers because of housing over under the unit.

9 Third, I want to speak about the number
10 of offers an individual receives under a mandatory
11 transfers. Under the proposed regulations, a
12 household who is under a mandatory transfer will
13 only receive one offer of transfer. We contend
14 that this household should receive at least two
15 transfer offers for the other units when they are
16 being forced to move, either because of a change
17 in household competition or because the building
18 they are in is being demolished.

19 Example that we have come through our
20 doors is domestic violence. So, when someone is
21 a victim of domestic violence, that's -- you know
22 they're the victim of domestic violence, and

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1 mandatory transfers may not go hand in hand. Our
2 client was under a mandatory transfers for over and
3 under house. And the first unit she was offered
4 was literally in the same hallway as her abuser.
5 She had a stay-away order from the individual. She
6 wasn't -- she could not be in that same area, and
7 the first place they offered her was literally down
8 the hall.

9 Under the regulations right now, she
10 would be required to move, or she would lose her
11 assistance. Thankfully, we were able to get
12 involved and stop that, but our fear is those who
13 don't have those representations might not have
14 that same outcome.

15 Finally, I would like to speak briefly
16 about the time periods listed in the proposed
17 regulations in regard to transfers. So, 5751.10
18 states that a tenant's transfer voucher shall
19 expire at the earlier date of issuance or when DCHA
20 has terminated the HAP contract to the previous
21 landlord. We contend that this should be the later
22 of the two. It is often takes our clients more than

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1 six months to find and lease up in a new unit with
2 a voucher. Tenants in RAD -- Tenants in RAD units
3 should not be given less time to find a new place
4 with the tenant-based vouchers.

5 Additionally, 5751 states that a family
6 shall not -- not be eligible for another voucher
7 for two years if they issued a transfer voucher that
8 has expired. This should be deleted. Neither
9 HCVP or the public-based vouchers has a 24-month
10 waiting period when a household fails to secure
11 housing with a transfer voucher. Realistically,
12 going to the bottom of the RAD-tenant voucher
13 waiting list will mean that the household has to
14 wait more than 24 months to receive another
15 voucher.

16 In closing, I hope that you take our
17 suggestions into consideration. For our clients,
18 housing assistance is vital, and each regulation
19 you pass has a direct impact on a family. Thank
20 you.

21 CHAIR ALBERT: Thank you very much,
22 Ashley. Any questions, comments from any of the

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1 Commissioners?

2 Great. So, at this time, I'm going to
3 ask that we take a three-minute recess. The
4 staff's working on the language for the revised
5 resolution that I proposed. And then we will
6 reconvene and hopefully adjourn soon after.

7 (Whereupon, the above-entitled matter
8 went off the record at 12:35 p.m. and resumed at
9 12:55 p.m.)

10 CHAIR ALBERT: Okay. We're going to
11 reconvene our special board meeting. When we left
12 we asked the staff to prepare a revision to the
13 resolution to reflect comments and desires of the
14 Commissioners. Ed, can you read what you came up
15 with?

16 MR. KANE: Sure, Mr. Chair. The -- so,
17 the revision is to the actual resolution paragraph,
18 that now -- now therefore be resolved. And then
19 the addition of a second proviso paragraph. So,
20 I'll read both of them in full.

21 Now, therefore, be it resolved by the
22 Board of Commissioners of District of Columbia

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1 Housing Authority that in order to facilitate the
2 conversion under the RAD program of Colorado
3 Apartments, Columbia Road, Fairlawn Marshall and
4 Matthews Memorial, proposed in Chapter 57, Rental
5 Assistance Demonstration Administrative Plan, and
6 the following proposed amendments to Chapter 61
7 Public Housing Admission and Re-certification,
8 Chapter 64 Low-rent Housing, Public Housing
9 Transfer Policy, and Chapter 89, Informal Hearing
10 Procedures for Applicants and Participants of the
11 Housing Choice Voucher and Moderate Rehabilitation
12 Program, collectively, the RAD regulations, as
13 adopted as proposed herein be -- herein as final
14 regulations. Thank you.

15 Provided, however -- next paragraph --
16 provided, however, that DCHA shall not undertake
17 any further conversions under RAD of DCHA-owned or
18 mixed-finance properties, and no such conversion
19 shall be authorized by the Board of Commissioners
20 unless and until, within 90 days of the date hereof,
21 DCHA staff and representatives of its Office of
22 General Counsel shall have met and discussed with

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1 representatives of the Legal Service Provider
2 Community, comments and or proposed changes to the
3 RAD regulations. The DCHA Board of Commissioners
4 shall have considered any revised regulations
5 resulting from said consultations with Legal
6 Service Providers, and the Board of Commissioners
7 shall have affirmed the effect of the RAD
8 regulations as published, or authorize publication
9 of any amendments to the RAD regulations, resulting
10 from a consultation with the Legal Service
11 Providers.

12 CHAIR ALBERT: That's a mouthful. Any
13 questions or comments from -- Bill?

14 MEMBER SLOVER: I just want to make
15 sure it's clarified that those -- I'm sure it's a
16 technical thing, but that the four identified
17 properties would be subject to the if-amended RAD
18 regulations. I assume that that would just happen
19 naturally.

20 MR. KANE: So, once they -- the -- by
21 construction of the regulations, the applicability
22 would include these properties. That won't change

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1 if they're amended. And that, as a matter of fact,
2 we -- you know, the application of the regulations
3 to the properties will continue without regard to
4 any amendment. The amended regs will continue to
5 apply to the properties, as amended.

6 MEMBER SLOVER: And that opens up a
7 different question, which is -- the regs of the
8 application to the property. Can you walk through
9 how that works from a -- from an ongoing, like,
10 10-year-from-now perspective? So, say, 10 years
11 from now, how does it -- how does the -- a different
12 board decides to sell it to somebody else, and we're
13 no longer the owner. How do we -- does it go with
14 the title, with the deed, with the property?

15 MR. KANE: Right.

16 MEMBER SLOVER: These regulations that
17 we are talking about.

18 MR. KANE: So, there are few different
19 ways that that connection's made. First of all,
20 there would be a use agreement that looks like a
21 regulatory and operating agreement in a
22 mixed-finance situation, which would pull over

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1 onto it all of the RAD-specific and public-housing
2 type in these regulations. All the requirements
3 that would touch the operation of the property
4 would be codified in the use agreement, which I
5 believe is a recorded document like an RNO is. In
6 addition to that, there's a restriction document
7 that is recorded against the land that puts in place
8 the affordability and locks that in as well.

9 And I think that the -- where you're --
10 and then via the use agreements and control
11 documents, which are contractual between the
12 Housing Authority and the owner of the property,
13 it would pull over the application of the regs, in
14 addition to which, the regs, by their own language,
15 applied to any property converted under -- any DCHA
16 property that's converted under RAD, whether it be
17 a mixed-finance or DCHA-owned public-housing
18 property.

19 MEMBER SLOVER: And then would be
20 subject to future amendments as well.

21 MR. KANE: Yes.

22 MEMBER SLOVER: In other words, you

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1 know, one of the concerns is, you know, you're
2 stepping away from control.

3 MR. KANE: Sure.

4 MEMBER SLOVER: So, the door back into
5 control is through this mechanism you just walked
6 through, essentially? What little control we have
7 left.

8 MR. KANE: I'd describe it a little
9 differently. I think you are -- the control
10 mechanism is contractual, rather than direct
11 ownership. So, you still have to impose the regime
12 on the property somehow. You do it by a system of
13 contracts and declarative-type documents that run
14 with the wind.

15 MEMBER SLOVER: Okay.

16 CHAIR ALBERT: Great. Any other
17 questions or comments?

18 MEMBER SLOVER: And just one -- the
19 final question would be, they all -- the document
20 that you circulated last night, which referred to
21 some potential changes --

22 MR. KANE: Yes.

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1 MEMBER SLOVER: -- is that referenced
2 at all in here, in terms of accepting or adding or
3 doing anything with those?

4 MR. KANE: Referenced where? I'm
5 sorry.

6 MEMBER SLOVER: In this resolution. I
7 didn't recall that.

8 MR. KANE: No. Not specifically.
9 What that chart represents is -- it is a guide for
10 the reader to understand the results of our
11 consideration of the comments.

12 MEMBER SLOVER: Right.

13 MR. KANE: So, it's a working document,
14 as opposed to -- so, there's going to be a markup.
15 There's -- that basically summarizes changes in the
16 same 140-page document that the Legal Service
17 Providers have been reviewing.

18 MEMBER SLOVER: Okay. So, this goes
19 in another thing, that I'm sure everybody's tired
20 of me -- hearing -- say this, but it goes to the
21 approving stuff, that we have no idea what we're
22 approving. And, so we're just assigning

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1 authority. And, so, it's another example of you
2 asking us to approve a document that we've actually
3 not read, because it's actually not done.

4 MR. KANE: I think that is certainly
5 true. But I think what we're also doing is we are
6 approving a set of regulations drafted pursuant to
7 policy that you've outlined, incorporating
8 comments that we've received.

9 MEMBER SLOVER: Right. But, I just
10 want to be clear that this is another -- you know,
11 just like with these development deals and
12 everything else, we're acceding authority to the
13 Executive Director to go ahead and do something
14 that we actually don't see. And I just want to --
15 I want to put that on for --

16 CHAIR ALBERT: Yeah. But that's not
17 factual at all.

18 MEMBER SLOVER: Why -- when you're
19 asking us to --

20 CHAIR ALBERT: We've had RAD
21 symposium. Right? So, this is specific to the
22 RAD regulations. We've had RAD symposiums. I

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1 think there's more than one we've had. So, we've
2 had two. And, so, we're not seeing this for the
3 first time. So --

4 MEMBER SLOVER: But the RAD
5 regulations are not finalized, Neil. My point is
6 --

7 CHAIR ALBERT: Yeah. I know, but
8 we've seen the foundation of those regulations.
9 What you have and what was not finalized was the
10 conversation of the back and forth between the
11 advocacy community and the staff. So, I would
12 agree with you on that part.

13 MEMBER SLOVER: So, we're approving a
14 concept, I mean, is what you're saying. We're
15 approving a set of disgusting conceptual ideas that
16 are then going to be put into a legal document.

17 CHAIR ALBERT: We're approving a set of
18 -- a set of guidelines that were presented to this
19 board twice in the RAD symposium -- Not RAT, but
20 RAD symposium. And we are making provisions for
21 further amendments or adjustments to those,
22 through this process. That's where this

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1 resolution --

2 MEMBER SLOVER: Okay. But what I'm
3 saying as a board member is, in the future, I
4 personally don't feel comfortable about approving
5 something -- I would actually like to see what it
6 is that I'm approving. Whether it's RAD
7 regulations or the disposition of a piece of
8 property, or a mixed-finance deal. I want to get
9 away from, you know, go use your best efforts and
10 come back to us five years later, and tell us how
11 it went. I want to get away from that.

12 CHAIR ALBERT: Okay. So, I'm ready to
13 call a vote. I'm not going to ask you to repeat
14 the revised resolution, but I move approval of the
15 resolution as revised.

16 MR. KANE: Ask for a motion.

17 CHAIR ALBERT: You can say it out loud.

18 MR. KANE: Ask for a motion.

19 CHAIR ALBERT: Oh. I would like to
20 obtain a motion to -- for the resolution as revised.
21 Is there a motion?

22 PARTICIPANT: Motion.

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1 CHAIR ALBERT: Is there a second?

2 MS. MCNAIR: Second.

3 CHAIR ALBERT: All those in favor.

4 (Chorus of aye.)

5 CHAIR ALBERT: Do you want to do a roll
6 call on that? Commissioner Kenner?

7 MEMBER KENNER: Yes.

8 MS. MCNAIR: And I just want to state
9 for the record that Commissioner Lancaster joined
10 us after the call for a quorum. So, we have eight
11 Commissioners present.

12 Commissioner Kenner.

13 MEMBER KENNER: Yes.

14 MS. MCNAIR: Commissioner Lancaster.

15 MEMBER LANCASTER: With the further
16 amendment to resolution 1731 to authorize the
17 publication of final regulation for implementation
18 of the demonstration plan, with that further
19 amendment, I say, yes.

20 MS. MCNAIR: Commissioner Neal Jones.

21 MEMBER NEAL JONES: Yes.

22 MS. MCNAIR: Commissioner

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1 Vann-Ghasri.

2 MEMBER VANN-GHASRI: No.

3 MS. MCNAIR: Commissioner Fisher.

4 MEMBER FISHER: I abstain.

5 MS. MCNAIR: Commissioner Council.

6 MEMBER COUNCIL: No.

7 MS. MCNAIR: Commissioner Slover.

8 MEMBER SLOVER: No.

9 MS. MCNAIR: Chairman Albert.

10 CHAIR ALBERT: Yes.

11 MS. MCNAIR: There was a four yes, one
12 no -- I'm sorry. Three nos, and one abstention.
13 The resolution does not pass as amended.

14 CHAIR ALBERT: Great. Thank you very
15 much. Is there any other business to come before
16 the board today? Hearing none, we are adjourned.
17 Thank you so much.

18 (Whereupon, the above-entitled matter
19 went off the record at 1:05 p.m. and resumed at 1:12
20 p.m.)

21 CHAIR ALBERT: So, we're reconvening
22 the Board meeting, the special board meeting, just

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1 for clarification on the vote that was taken.
2 Standing before us is our General Counsel. You'll
3 want to state your name for the record.

4 MR. SLAUGHTER: My name is Ken
5 Slaughter. I'm the General Counsel of DC Housing.
6 After consultation with the chairman and reviewing
7 the rules, we believe that a correction should be
8 made to the record, showing that the last
9 resolution, number --

10 PARTICIPANT: 17-31.

11 MR. SLAUGHTER: 17-31? All right.
12 That should be recorded as approved by a vote of
13 four to three with one abstention not counting.

14 CHAIR ALBERT: So, and is that your
15 opinion?

16 MR. SLAUGHTER: That is my opinion.

17 CHAIR ALBERT: Great. Any questions?
18 Hearing none, our meeting is adjourned.

19 (Whereupon, the above-entitled matter
20 went off the record at 1:13 p.m.)

21

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