

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON RULES,
PRIVILEGES AND ELECTIONS

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August 12, 2014
Start: 10:15 a.m.
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HELD AT: Committee Room
City Hall

B E F O R E: Brad S. Lander
Chairperson

COUNCIL MEMBERS:
Inez E. Dickens
Daniel R. Garodnick
Ydanis A. Rodriguez
Margaret S. Chin
Deborah L. Rose
Jumaane D. Williams
Rafael L. Espinal
Mark Levine
Vincent M. Ignizio
Speaker Mark-Viverito

A P P E A R A N C E S (CONTINUED)

Margery Perlmutter
Nominee for Board of Standards and Appeals

Adi Shamir Baron
Nominee for Landmarks Preservation Commission

John Gustafsson
Nominee for Landmarks Preservation Commission

Jacques Jiha
Nominee for Taxi and Limousine Commission

Andrea Goldwyn
Landmarks Conservancy

Ed Jaworksi
Madison-Marine-Homecrest Civic Association

Robert Cassara
Brooklyn Housing Preservation Alliance

2 CHAIRPERSON LANDER: Alright, we ready?

3 Super, thank you. [gavel] Good morning. Welcome to
4 the City Council's Committee on Rules, Privileges and
5 Elections. I'm Brad Lander, the Chair of the
6 Committee. Very pleased to be joined this morning by
7 Committee Members Inez Dickens of Manhattan, Debbie
8 Rose of Staten Island, and we're also pleased to be
9 joined this morning by Ben Kallos, Council Member
10 from Manhattan and Chair of the Government Operations
11 Committee. We're going to get started this morning.
12 We have hearings on four nominations from the Mayor,
13 Marjery Perlmutter for the BSA, Adi Shamir Baron for
14 Landmarks Preservation Commission, John Gustafsson
15 for Landmarks Preservation Commission and Jacques
16 Jiha for the Taxi and Limousine Commission. We've
17 been joined, welcomed by Council Member Vinnie
18 Ignizio, the Minority Leader from Staten Island. I
19 want to acknowledge the Committee's Attorney Imatula
20 Booth [sp?] and the Council's Investigative Staff
21 Members, Chuck Davis, our Director of Investigations,
22 as well as Deandra [sp?] Johnson and Diana Ariaga
23 [sp?] for their very thorough background
24 investigations on all four of these candidates. And
25 I want to thank the candidates for answering a set of

2 written questions that we prepared in advance and for
3 being here today. I also want to thank some members
4 of the public who have signed up to testify. If
5 anyone else is here, I'll explain--actually, let me--
6 hang on one minute. I think--why don't we--why don't
7 you guys hang on, because we're going to do them one
8 at time. So let me explain what we're going to do.
9 Well, first let me say, if any members of the public
10 have come, we have I think three so far signed up to
11 testify, please go ahead and see the Sergeant to fill
12 out a form to testify. What we're going to do this
13 morning is go one at a time. We're going to start
14 with Ms. Perlmutter and have her opening statement
15 and questions from Council Members about Board of
16 Standards and Appeals, then we'll move onto Mr. Jiha
17 and then to the two Landmarks Preservation Commission
18 Members. When that is done, we'll then open it up to
19 members of the public to testify. I want to flag that
20 Ms. Perlmutter mentioned to me early on that she's in
21 a, currently she's a member of the Landmarks
22 Preservation Commission, and partly because we
23 haven't yet approved the two new members of the
24 Landmarks Preservation Commission; the LPC is down
25 several members. So, LPC is meeting this morning, and

2 when Ms. Perlmutter's not in the room they don't have
3 quorum. So, we're going to take her first, do our
4 questions. She then needs to go back to the meeting
5 so they can do their business. But she has agreed
6 that for members of the public who have signed up to
7 testify and our testifying about issues at the BSA,
8 that she'll watch the testimony on video, which we'll
9 be made available. So folks who are here testify
10 there, your Council Members will hear you and the
11 nominee will hear you. As has become practice in this
12 term, we aren't voting today. We find that voting at
13 the end of the hearing means members don't have as
14 much time to sit and listen, hear the questions,
15 think about things. That's especially true in mid-
16 August when we are down several committee members,
17 and I know that some of the committee members have
18 reached out to the nominees to ask for the
19 opportunity to sit down and have a conversation
20 before they have to make their decisions about how to
21 vote most likely on August 21st, the day of the
22 Stated. So we'll do the public hearing today. We'll
23 recess. We'll meet again that week, most likely on
24 the 21st. Other members of the committee can review
25 the transcript and watch the video and also make

2 their own opportunities to sit and speak with the
3 nominees if they have additional questions. Does
4 that make sense, members of the Committee? Great.
5 So we will move forward to our first nominee. In a
6 letter dated July 18th, 2014, Mayor Bill de Blasio
7 formally submitted Margery Perlmutter's name for the
8 Council's advice and consent concerning her
9 nomination for appointment to the New York City Board
10 of Standards and Appeals. If she is appointed,
11 she'll succeed Meenakshi Srinivasan who had become
12 the Chair of the Landmarks Preservation Commission,
13 and serve the remainder of a six year term expiring
14 on October 6th, 2015. Very briefly, just so we have
15 some context for the BSA, pursuant to the New York
16 City Charter, the Board of Standards of Appeals
17 exists within the Office of Administration Trials and
18 Hearings, or OATH. BSA consists of five
19 Commissioners appointed by the Mayor for six year
20 terms with the all of the advice and consent of the
21 Council. Charter requires that one of the BSA members
22 possess the professional qualifications of a planner
23 with at least 10 years of planning experience.
24 Another member must be a registered architect, and
25 lastly, there must be a member who's a licensed and

2 professional engineer, all with at least 10 years of
3 experience. The qualifications of the remaining two
4 BSA are not identified in the Charter. The Mayor
5 designates one of the members, and it must be one of
6 the members who possess the requis [sic] and
7 experience of architect planner or engineer to serve
8 as the BSA Chair. The Mayor will also designate a
9 member to serve as a Vice Chair who chairs in the
10 Chair's absence. Another provision is, no more than
11 two members may reside in the same borough of the
12 five Commissioners, and they're prohibited from
13 engaging in any other occupation, profession or
14 employment. They have a duty to attend BSA hearings
15 and executive sessions and perform other duties as
16 may be required by the Chair. Their--the members of
17 the BSA receive compensation, the Chair, an annual
18 salary of 192,198 dollars. As I think many people
19 know, the BSA has a range of responsibilities and
20 duties to hear and decide appeals that are up for
21 review from any order, requirement, decision or
22 determination of the Commissioner buildings or the
23 Borough Superintendent of Buildings, acting under
24 written delegation of power from the Buildings
25 Commissioner that's filed in accordance with the

2 Charter, with the exception of appeals that are
3 otherwise provided for a law. BSA also has the duty
4 to hear and decide appeals that are up for review
5 from orders of the Fire Commissioner in relationship
6 to a series of regulations, amendments and appeals,
7 the Transportation Commissioner, the Commissioner of
8 the Department of Business Services, all as specified
9 specifically under the Charter and in some cases with
10 reference to the Zoning Resolution. And as well, BSA
11 has the power to determine and vary applications to
12 the Zoning Resolution, something that I think they're
13 most significantly in the spotlight for and issue
14 special permits for a range of specific reasons that
15 are dictated in the zoning resolution. So we'll get
16 started this morning by hearing an opening statement,
17 and then we'll throw the floor open to colleagues to
18 ask questions. Ms. Perlmutter, thank you very much
19 for being here this morning and for running quickly
20 away from the Landmarks Preservation Commission
21 meeting. We look forward to hearing your opening
22 statement and then we'll have some questions for you.

23 MARGERY PERLMUTTER: Okay. Good morning,
24 Chair Lander and members of the--

2 CHAIRPERSON LANDER: [interposing] I'm
3 sorry, I apologize. We ask all of, yes, we ask all of
4 the nominees that appear before the committee to be
5 sworn in first, so let me ask you before you begin
6 your testimony to have the Counsel swear you in.
7 Thank you.

8 COUNSEL: Good morning.

9 MARGERY PERLMUTTER: Morning.

10 COUNSEL: Can you please raise your right
11 hand? Do you swear or affirm to tell the truth, the
12 whole truth, nothing but the truth, so help you?

13 MARGERY PERLMUTTER: I do.

14 COUNSEL: Thank you.

15 MARGERY PERLMUTTER: Good morning, Chair
16 Lander and members of the Committee on Rules,
17 Privileges and Elections. My name is Margery
18 Perlmutter, and I am delighted and honored to be here
19 today to discuss my nomination to the position of
20 Chair of the New York City Board of Standards and
21 Appeals. I am a Land Use Lawyer and an architect who
22 for the past seven years has been a partner in the
23 Land Use practice of the Law Firm of Bryan Cave, LLP
24 in New York City. As a Land Use lawyer, I counsel
25 property owners and lenders on zoning, building code

2 and other pertinent laws that regulate the
3 maintenance, improvement and development of property
4 in New York City. Prior to becoming a lawyer in
5 1999, I was the Managing Partner for nearly 20 years
6 of a private architecture firm that focused on
7 healthcare facilities and affordable housing. In
8 2000, I was appointed by Borough President C.
9 Virginia Fields and Council Member Gifford Miller to
10 become a member of Community Board Eight in
11 Manhattan, where I served until 2005. That year I
12 became Co-Chair of the Board's Landmarks Preservation
13 Committee. In 2005, I had the honor of being
14 appointed by Mayor Bloomberg to become a member of
15 the Landmarks Preservation Commission where I have
16 served until today. My interest in becoming a BSA
17 Commissioner and its Chair stems from my enduring
18 interest in urbanism and land use policy as it
19 relates to the massing of buildings and neighborhood
20 fabric, the balance of uses and people in a
21 neighborhood and design quality. As a member of the
22 Board of the New York Chapter of the American
23 Institute of Architects for five years, I spearheaded
24 the Chapter's first policy advocacy program aimed at
25 working with elected officials and related agencies

2 to improve the quality and design of the built
3 environment. If appointed as BSA's Chair, I would
4 focus on ensuring that the buildings approved under
5 my purview contribute to and are compatible with
6 their urban character and their neighborhood context.

7 As you may know, the Board of Standards and Appeals
8 is a quasi-judicial body that was created to provide
9 relief to property owners where due to unusually
10 burdensome conditions at their properties, land use
11 regulations make it impossible for such owners to
12 realize a reasonable return on their investment.

13 Such boards operate in nearly every municipality in
14 United States as a way of ensuring compliance with
15 the 5th Amendment of the US Constitution that
16 prohibits the taking of property without due process
17 of law. The BSA also reviews challenges to Department
18 of Buildings interpretations of the zoning
19 regulations, building code and the New York State
20 Multiple Dwelling Law, providing a forum for property
21 owners and concerned neighbors to review the
22 application of certain Land Use regulations. In this
23 capacity, the BSA is the last administrative appeals
24 agency similar to OATH that can consider DOB
25 determination. After which further challenge must be

2 taken to the New York State Supreme Court. The Zoning
3 Resolution of the City of New York also grants the
4 BSA jurisdiction over a number of special permits
5 that are not handled by the City Planning Commission.
6 Among these are special permits to allow schools in
7 zoning districts where they are otherwise not
8 permitted, or limited bulk modifications to certain
9 community facilities. BSA decisions on DOB
10 determinations can modify DOB's operations, realign
11 its interpretation of regulations and impact how as-
12 of-right buildings will be constructed in the future.
13 BSA decisions on variances, special permits and other
14 matters that fall within the BSA's jurisdiction can
15 have profound effects on the form and character of
16 neighborhoods. It is for this reason that such
17 decisions must be made with the utmost rigor,
18 integrity and care, requiring close expert and
19 impartial analysis of a wide array of technical,
20 legal, economic, environmental planning aesthetic and
21 sociological considerations in an atmosphere that
22 encourages public participation and attentive
23 listening. If appointed as BSA's Chair, I would
24 ensure that the Board's decisions are consistently
25 informed and guided by these critical and essential

2 principles. Many thanks for taking the time to
3 consider my nomination for this important position.

4 CHAIRPERSON LANDER: Thank you, very
5 much. I'm going to kick it off with a couple of
6 questions and then I'll ask other members of the
7 committee to share their questions as well, other
8 Council Members who are here. So, I appreciate the
9 last paragraph that you just said, as I think you
10 know, because we've talked about it a little in
11 advance of the hearing. Both Council Members and
12 members of the public, I think, have questions
13 sometimes about the BSA, partly if something's as-of-
14 right and it just goes through the Buildings
15 Department, okay, is as-of-right. It's compliant
16 with zoning. It meets the rules. If the rules need
17 to be changed and there needs to be a rezoning or a
18 ULURP application, that goes through a whole
19 procedure. For Council Members it comes to this
20 body, the middle space between that, between things
21 which are not as-of-right, don't comply with today's
22 rules, but for whom a rules change, for which a rules
23 change is not going to go through that public process
24 can feel like a space shrouded in some mystery. It
25 does, as you've point out, have public hearings, but

2 it doesn't come to this body, and the decision making
3 grounds are fairly technical. So, I wondered, first,
4 more generally if you could, you know we have some
5 members of the public who are here who are going to
6 know are going to give that testimony, and I think
7 even for members of the Council, there is a bit of
8 this kind of shroud. But help us understand a little
9 better how you think about that space. I mean, if it
10 needs a rule change, should the rules be changed?
11 And is if it's as--, you know, it's not as-of-right,
12 how do you think, how will you as Chair try to make
13 sure that space as you seen or you kind of note
14 public participate and careful review of the
15 technical rules and attentive listening, but you
16 know, with an opportunity to sort of explain to the
17 public how you understand, you know, how to--I guess
18 I'm asking, you know, can you address any of that
19 skepticism that people have--

20 MARGERY PERLMUTTER: [interposing] Right.

21 CHAIRPERSON LANDER: about what the BSA
22 in this?

23 MARGERY PERLMUTTER: Well, the New York
24 City Charter actually provides for, and the Board of
25 Standards and Appeals rules provide for Community

2 Board review of all of the special permit
3 applications and the variance applications. So by
4 statute, every application that comes to the Board of
5 Standards and Appeals, actually the minute it's filed
6 at the Board of Standards and Appeals, copies go out
7 to the affected elected officials. The Department of
8 Buildings, the City Planning Commission and the Local
9 Community Board, the affected Community Board, and
10 within 60 days of receiving that application, the
11 Community Board has an opportunity to hear the
12 applications. And being a Land Use lawyer, I appear
13 quite often before the Community Boards in connection
14 with Board of Standards and Appeals applications, and
15 I see how much involvement the Community Board does
16 have. The Community Board posts announcements,
17 notices to the community about these issues, and
18 many, many people from the community come to speak at
19 the Community Board, and my own experience has been,
20 and I can only speak from my own experience as an
21 applicant, has been that the BSA has listened very
22 attentively, actually, to the community's concerns
23 about an application and always factors that into the
24 final application, the final result, the final
25 product, and I would certainly do the same. In

2 addition to which, again by statute, the neighbors
3 surrounding an application are required to be
4 notified. So within a certain radius of the
5 application, letters actually go out to individual
6 owners of properties and they are invited to attend
7 or submit their comments on the applications.

8 CHAIRPERSON LANDER: So, one thing that I
9 think has sometimes, I found it challenging in
10 thinking about the BSA is that so I hear, you know,
11 absolutely the board, the Community Boards have their
12 opportunity, but the framework for decision making at
13 the BSA, as you point out, is specifically prescribed
14 by a series of findings that are really technical in
15 nature. So, for us, when we weigh in, we're supposed
16 to listen to what members of the public say and be
17 swayed by that; that's our job. The BSA at least in
18 some readings as I understand it really is supposed
19 to make a technical set of findings as to whether a
20 variance is merited. So how do you weigh the
21 technical criteria that the BSA is obligated to base
22 its decision on with listening to members of the
23 public who may or may not be experts in those
24 technical criteria, and yet, quite often have an

2 opinion on whether the variance would be detrimental
3 to the character of the neighborhood?

4 MARGERY PERLMUTTER: So one of the
5 findings is that the, that the variance for example
6 is consistent with neighborhood character. And I
7 would say that though the members of the board and
8 the staff go to visit the sites and try to
9 familiarize themselves with the sites as much as
10 possible, nobody know the neighborhood better than
11 the neighborhood. And so actually, with respect to
12 neighborhood character, it is the community's voice,
13 therefore, and often in the form of the Community
14 Board because that's the public, the best public
15 forum for the community to voice its opinion about
16 those applications. That's where they have a
17 interest, and then they have an opportunity to really
18 give detail on why they think that the project will
19 or will not be consistent with neighborhood
20 character, and then that is taken into account, has
21 been taken into account by the BSA, and I, if I were
22 appointed, I would continue to do that.

23 CHAIRPERSON LANDER: And we'll hear, I
24 know, from some Community Board members who I think
25 will be pushing on this question. Two more small

2 questions from me. You mention in your written
3 questions praise for some of the reforms that Chair
4 Srinivasan put in place when she was brought in, you
5 know, became Chair, and I think there is some sense
6 that there were changes from how the board operated
7 prior. I wonder if you could just go over some of the
8 reforms that she made that you think helped the BSA
9 improve that you would plan to keep and if there are
10 any additional things that you are thinking about
11 doing in this direction.

12 MARGERY PERLMUTTER: Right. Well,
13 there's a--there was a famous study done, completed
14 in 2004 by the Municipal Art Society that covered the
15 prior BSA which was, yeah, a different
16 Administration, a different method of operation, and
17 it covered the period up until about 2002 where it
18 did a statistical analysis of BSA applications and
19 sort of their rate of approval, and having--as a Land
20 Use lawyer, I really didn't get started working at
21 the BSA in that time period particularly, but I do
22 remember reviewing a lot of the determinations made
23 under that administration. And for instance, the
24 determinations were one paragraph long that said we
25 looked up at all the findings and we found that they

2 are found, essentially. And so one of the things
3 that the Chair did was, Chair Srinivasan did, was
4 that she eliminated to a large extent what I call the
5 frivolous applications, not completing eliminating,
6 because there's a limit to how much you can control,
7 but essentially started her--the application process
8 with a pre-application meeting where the applicant
9 could come and speak to the Chair and the Executive
10 Director to get a sense of whether they would be able
11 to make the findings. And any, an application where
12 it was clear that the findings could not be met was
13 not generally not filed. Of course, there were
14 exceptions where people filed. So, that eliminated a
15 huge amount of applications. And it also eliminated
16 that concept that just everything was kind of
17 rubberstamped, and then the other was that in terms
18 of the findings, the finding are now extremely
19 detailed. The legal counsel at the Board of
20 Standards and Appeals is excellent and they write
21 very, very detailed analysis of the application, how
22 it changed, how the board asked it to be changed and
23 modified to become the minimum variance necessary.
24 So I would follow in those footsteps for sure because
25 it's a working system.

2 CHAIRPERSON LANDER: And any other
3 reforms or changes that you've been thinking about?

4 MARGERY PERLMUTTER: You know, the only
5 things that I've been thinking again as an outsider,
6 because I'm not in, so it's hard to say what's--I
7 don't know what's broken. The only thing that I
8 would say is it would be helpful if the budget
9 permitted to include in the staff of the BSA a City
10 Environmental Quality Review Officer who might help
11 speed up the environmental review process, which
12 sometimes is extremely slow.

13 CHAIRPERSON LANDER: And then my final
14 question just relates, and again, you disclosed all
15 this in your written questions and answers, but I
16 just want to make sure we have it for the record, as
17 you said in your opening statement you're currently
18 employed at Bryan Cave, you know, and I think we all
19 appreciate. We want someone who's been engaged with
20 this system and knows it well, but I just--if you can
21 clarify for the record your plans to sever your
22 relationship--

23 MARGERY PERLMUTTER: [interposing] Yes.

24

25

2 CHAIRPERSON LANDER: and how you'll deal
3 with any conflicts that might arrive from cases that
4 you have worked on that would becoming for you.

5 MARGERY PERLMUTTER: Right. Okay. So my
6 last, the day of withdrawal from the firm severs all
7 ties, and that will be on the fifth of September. I
8 actually withdraw. And then in terms of conflicts, I
9 am currently requesting a letter from the Conflicts
10 of Interest Board that will guide me on how to
11 address all Bryan Cave matters that come before the
12 agency. There are a couple that I actually worked on
13 that I would obviously recuse from, but other than
14 that, I'm seeking information from or an opinion from
15 COIB.

16 CHAIRPERSON LANDER: Have they given you
17 any indication on when that might come?

18 MARGERY PERLMUTTER: The request was put
19 in recently, so I don't know. But it--they're fast.

20 CHAIRPERSON LANDER: Okay. No, that's--I
21 mean, obviously--

22 MARGERY PERLMUTTER: [interposing] Yeah.

23 CHAIRPERSON LANDER: if that's--if we
24 could get that. You know, generally what we ask of
25

2 nominees is that they--that we have that and that
3 they affirm that they plan to abide by the--

4 MARGERY PERLMUTTER: [interposing] I see,
5 okay.

6 CHAIRPERSON LANDER: letter. So, we've
7 been joined by Council Member Jumaane Williams from
8 Brooklyn. I have on the stack to ask questions,
9 everyone to my left so far, Council Members Ignizio,
10 Dickens, Rose and Kallos, and I'm confident that
11 Council Member Williams will have questions as well
12 although he hasn't signed up yet.

13 COUNCIL MEMBER IGNIZIO: Thank you, Mr.
14 Chairman. I'll be very brief. Good to see you
15 again. The concern that I just want to articulate is
16 some that many Council Members, myself who's been on
17 Land Use for a long time, is certain developers who
18 use BSA to sort of short circuit the zoning in the
19 community, and by doing so they buy a piece of
20 property, they know is a Board case, they know is
21 problematic, and then in essence they come to the
22 Board and they cry poverty and say, "Well, I can't
23 get a good rate of return on this, look." And the
24 Board never seems to, well hasn't in the past,
25 support Council Members who say, "But I don't

1 understand. He bought the property. He or she
2 bought the property knowing full well what the zoning
3 was, what the scenario was." And they're using the
4 Board of Standards and Appeal to try to shove down
5 the throat of the community something they may or may
6 not otherwise want. So I don't have--and I know your
7 qualifications. I've worked with you in other
8 capacities in government, and I appreciate your
9 conflict resolution of that you've put before the
10 Board and I think that's a good standard to set. But
11 I just wanted to highlight something that members,
12 myself and many of my colleagues have gone through
13 whereas they have, they see the Board of Standards
14 and Appeals sometime as when government and the
15 community can stop a project that's unwanted in the
16 community, they go to Board of Standards and Appeals
17 and get steamrolled. And I just highlight that and I
18 hope that--my colleagues will all tell you that's
19 happened in every one of our districts, but that's
20 something when we have a better working relationship
21 with Board of Standards and Appeals. There's a great
22 staff there. I remember working for Pat Pacifico a
23 long time and Logan [sic], is that his name, the
24 Executive Director? Did I say it right? I
25

2 currently--and there's a great staff, but sometimes
3 the rules don't allow for good interaction on behalf
4 of Council Members, and I just think we want a place
5 that--a voice that would be heard, and I hope that
6 you would open up the Board process to allow for
7 that. Thank you very much. More of a comment than a
8 questions, but it's an important one that many of my
9 colleagues feel and I wanted to raise it with you
10 today. Thank you.

11 COUNCIL MEMBER DICKENS: Thank you.

12 Thank you, Mr. Chair, and thank you Ms. Perlmutter
13 for coming in to testify and spend a little time
14 answering our questions. It's good seeing you again.
15 My question is rather short and it's dealing with
16 your partnership with Bryan Cave. I understand that
17 you're going to be bought out in full. Is that
18 correct?

19 MARGERY PERLMUTTER: Correct.

20 COUNCIL MEMBER DICKENS: Alright, does
21 that mean that you will no longer have any fiduciary
22 responsibilities and/or receive any income derivative
23 from Bryan Cave or will that be held in escrow? And
24 as Chair, that's one part, and then as Chair, are
25 you--because you've been such a phenomenally

2 successful Land Use attorney that has lobbied on
3 behalf of your clients, and I'm not mad at you about
4 it, I'm very proud about it 'cause you're a woman,
5 but is that going to be--and as Chair of BSA, are you
6 really going to be able to recuse yourself from
7 everything considering the context that you actually
8 have been able to accumulate over the years?

9 MARGERY PERLMUTTER: Recuse from
10 everything? Sorry I didn't understand that last.

11 COUNCIL MEMBER DICKENS: Well, you--
12 we're talking about Chair of BSA, and you as a
13 partner in Bryan Cave with the type of clientele that
14 you have represented over the years, have developed
15 obviously great relationships, close relationships,
16 and now you're being, as the Chair of BSA that puts
17 you on the other side of the table, something like
18 what my esteemed colleague from Staten Island
19 referred to. So, now that means that you would have
20 to recuse yourself from different things. Is that,
21 you know, is that really possible mentally to really
22 do? And I ask that because I would question that in
23 myself.

24 MARGERY PERLMUTTER: So, the answer to
25 the first question is my withdrawal on September 5th

2 from Bryan Cave partnership is a complete withdrawal,
3 and I will have no further financial interests or
4 other kinds of interests in the firm. So that would
5 be the clean cut. With respect to other matters that
6 come before, matters that come before the BSA where I
7 know the people who are presenting, again, I would be
8 seeking the advice generally and in specific cases
9 when it's seen necessary from the Conflicts of
10 Interest Board, which I've done consistently on
11 Landmarks Commission as well. That's--I'm very close
12 friends with Wayne Hauley [sp?] at the Conflicts of
13 Interest Board.

14 COUNCIL MEMBER DICKENS: Thank you so
15 much, thank you.

16 COUNCIL MEMBER ROSE: Good morning. In
17 your response, how do you think BSA can be made more
18 efficient? You talked about one of the efficiencies
19 that the previous Chair put in place which was the
20 pre-hearing review of applications, which often
21 complete--were often completed within a six weeks of
22 receipt. And you said that it avoided frivolous
23 applications. With that, with that process, do you
24 believe that then the implication is that any
25

2 application that goes forward is then going to be
3 granted?

4 MARGERY PERLMUTTER: No, no. The purpose
5 of the pre-application hearing is to see whether the
6 applicant is able to establish even the first finding
7 has any chance of doing it. The first finding is the
8 unique physical condition. So they're not actually a
9 lot of properties that qualify. When you say unique,
10 it's supposed to be unique. And so to use an
11 example, again from my own experience, working on a
12 project on Brooklyn, the Chair Srinivasan wanted us
13 to establish that the soil conditions were indeed
14 unique. We claimed that they were unique soil
15 conditions. To prove it, we had to get soil boring
16 reports from some ten different construction sites
17 around the neighborhood to show that our soil was
18 different than their soil, and that was a heavy lift.
19 And a lot of applicants are not--and so we're an
20 expensive law firm. That's a heavy lift, right? And
21 so a lot of applicants won't be able to do that kind
22 of research or won't be able to find that answer. So
23 they're sent away and told come back if you can show
24 uniqueness, otherwise there's nothing to discuss
25 after that.

2 COUNCIL MEMBER ROSE: And so this, sort
3 of prescreening is something that you plan to
4 continue?

5 MARGERY PERLMUTTER: Yes, I think that's
6 a very efficient system.

7 COUNCIL MEMBER ROSE: I know you wouldn't
8 be able to know how many actual cases have been
9 screened, gotten past that level and have been
10 denied.

11 MARGERY PERLMUTTER: Yeah, I don't know
12 that, no.

13 COUNCIL MEMBER ROSE: You talked about--
14 as a Community Board member and as a Council Member,
15 I often have--I share Council Member Ignizio's
16 concern where a property is purchased knowing that,
17 you know, the varia--that they'll need a variance and
18 they claim a hardship, and that, you know, BSA has
19 been according to the community side, very lenient.
20 And so there are--it seems as if there are like, and
21 correct me if I'm wrong, like five benchmarks sort of
22 that you look at. Council Member Lander called it a
23 technical versus sort of the community side. So, how
24 do you--how are you going to weigh community input,
25 and is there the opportunity and the possibility that

2 community input would actually sway the decision or
3 does the technical always trump the community
4 concerns?

5 MARGERY PERLMUTTER: So there are five
6 findings, four of which are extremely technical. One
7 of them though, is neighborhood character which is
8 not technical. It's a combination of aesthetic, urban
9 character, sociological, cultural issues, so you
10 might look at whether the proposed use is going to
11 have an negative impact kind of on the quality of the
12 neighborhood, that kind of thing. Those issues are
13 definitely addressed by neighborhood concerns, and
14 the neighborhood reports on the proposed project and
15 its impact on those issues is definitely something
16 that needs to be listened to.

17 COUNCIL MEMBER ROSE: And that's my
18 point. How much weight does that carry?

19 MARGERY PERLMUTTER: It has enormous
20 weight. So and in terms of the professionals,
21 there's a planner and an architect on board for a
22 reason because planners and architects also have
23 special training to understand those issues, but the
24 community's own really deep understanding of the

2 issues is enormously important. So, I would say it's
3 significant weight.

4 COUNCIL MEMBER ROSE: So, it's just safe
5 to say that under your Administration that the
6 community input, especially in terms of community
7 character and would have, would carry equal weight as
8 other?

9 MARGERY PERLMUTTER: I'm--

10 COUNCIL MEMBER ROSE: [interposing]

11 Because--

12 MARGERY PERLMUTTER: [interposing] It's

13 a case--

14 COUNCIL MEMBER ROSE: I'm really concerned
15 about the fact--

16 MARGERY PERLMUTTER: [interposing] Yeah,
17 yeah, I understand.

18 COUNCIL MEMBER ROSE: [interposing] that-

19 -

20 MARGERY PERLMUTTER: [interposing] Right.

21 COUNCIL MEMBER ROSE: we've seen it in
22 all of our communities, you know, and the developer
23 knows this going in and they go to BSA because they
24 know they're going to get a pass. You know, it's
25 almost a forgoing conclusion. And I'm asking for

2 some sort of assurances that it is not a forgoing
3 conclusion and that the community's input carries
4 some level of weight other than just giving us the
5 opportunity, like a Community Board to be advisory
6 and make a statement, and then move past it.

7 MARGERY PERLMUTTER: No, I think--I agree
8 that it has significant weight; it informs the
9 decision. How much depends on each decision we have
10 to balance, right, each case.

11 COUNCIL MEMBER ROSE: Thank you.

12 CHAIRPERSON LANDER: Before Council
13 Member Kallos begins, I just want to flag he's here
14 in his Chair capacity. We invited two Chairs to this
15 hearing, the Chairs of Land Use and Government
16 Operations. Obviously, we think of BSA in the Land
17 Use space, and Chair David Greenfield very much
18 wanted to be here but is in Israel. I know he's
19 reached out to have a conversation with you. And
20 Council Member Kallos Chairs the Government
21 Operations Committee which has oversight of these
22 process and operations questions. Chair Kallos?

23 COUNCIL MEMBER KALLOS: Thank you to
24 Rules Committee Chair, Brad Lander, Rules Committee
25 Members Dickens, Ignizio, Rose, Williams and

2 Committee Counsel and staff. Thank you Margery
3 Perlmutter for your service on Community Board Eight
4 Manhattan from 2000 to 2005, on the Landmarks
5 Preservation Commission since 2005, and for your
6 interest in sharing the Board of Standards and
7 Appeals. As Council Member Lander already mentioned
8 I'm Council Member Ben Kallos. I'm Chair of the
9 Governmental Operations Committee with oversight
10 responsibilities over the BSA. It's partially, this
11 oversight that drew me to serving in this role as a
12 member of Community Board Eight Manhattan from 2006
13 through this date as an ex-official member. I join
14 the Rules committee chorus. Having been deeply
15 frustrated by the lack of empowerment for Community
16 Boards and organizations in the BSA process. The BSA
17 has improved by leaps and bounds in the decade since
18 the 2004 report by the Municipal Arts Society that
19 you referenced. As Chair of Governmental Operations
20 Committee, I hope to work with the Administration and
21 the BSA to increase accountability for applicants,
22 educate New Yorkers through community outreach and
23 trainings and empower New Yorkers through closer
24 consideration of Community Boards and organizations.
25 As you just saw, the City Council now swears in those

2 providing testimonies. Will the BSA hold applicants
3 accountable by requiring the applicants and their
4 attorneys providing testimony to do so under oath?

5 MARGERY PERLMUTTER: Okay. So this is
6 not a subject that I have familiarity with because I
7 of course am not inside the BSA and I'm not aware of
8 unsworn testimony being an issue at the BSA. It's
9 definitely something that I'll look into when I, if I
10 am appointed. And I'll look into that. I'm actually
11 not able to comment on that at this point.

12 COUNCIL MEMBER KALLOS: Thank you for an
13 honest answer. Also, as I think has been referenced
14 in your testimony and also by my colleagues, BSA
15 applicants have what often seems like an army of
16 technical experts, while the Community Board, Council
17 Members, and even the BSA currently have few, far
18 fewer resources than each individual applicant. Will
19 the BSA consider retaining experts to assist in
20 reviewing claims by applicants?

21 MARGERY PERLMUTTER: So, the Board itself
22 actually is made up of technically incredibly skilled
23 Commissioners, an architect, a planner, a financial
24 analysts, actually two architects who are both
25 lawyers, you know, that kind of thing, and we're

2 looking for a planner and an engineer. So each of
3 them comes from an enormous background in their
4 field, so that kind of covers most of the expertise
5 that's needed to review the applications, in addition
6 to which there are really fantastic counsel who
7 research a lot of the legal and technical issues. So
8 that again, backs up the technical analysis, in
9 addition to which there's a financial analyst who
10 aids the Board in understanding the financial reports
11 in addition to the Commissioner who is a financial
12 expert. So, with respect to any of the other kinds
13 of expertise that might be lacking, that's a--
14 there's-- it's a budget issue, and I would certainly
15 look into seeing if the budget could support adding
16 occasionally a freelancer or something, but at this
17 point I don't know whether it would be possible, but
18 we would look into it.

19 COUNCIL MEMBER KALLOS: Thank you for
20 that detailed answer. Will the--with the hope of
21 community outreach and education, will the BSA
22 conduct such outreach and training of Community
23 Boards and community groups, and specifically in
24 addition to that, would you consider promulgating new
25 rules that set objective standards for how the BSA

2 will consider the arguments made by concerned parties
3 such as Council Members, Community Boards, community
4 groups, local lessee's and tenants along the lines of
5 Council Member Jimmy Van Bramer's introduction 282?

6 MARGERY PERLMUTTER: Okay. So, with
7 respect to community outreach and training--and good
8 morning Speaker Mark-Viverito, nice to see you. With
9 respect to outreach and training, my predecessor
10 actually, or my would-be predecessor, actually
11 conducted that kind of outreach when she took charge
12 of the BSA. She actually went to the Community
13 Boards that were most affected by BSA decisions, and
14 to help them understand how the BSA operates, and I
15 would be happy to do the same as I would with any
16 City Council Member who would like that kind of
17 instruction. So, absolutely, I agree. I believe
18 completely in information. That's how the world
19 should work. With respect to the other question, I'm
20 not familiar enough with the bill to say whether I
21 could look at those issues, but I can look at it.

22 COUNCIL MEMBER KALLOS: Thank you. And
23 my final question, which is something that Council
24 Member Ignizio referenced, is a concern of a using
25 the BSA as a defacto [sic] zoning change where we see

2 anecdotal stories of a developer showing up in a
3 neighborhood, buying up a bunch of properties that
4 the zoning will not permit to do something, but then
5 saying, "Oh, well, I can't make any money on this
6 piece of property. Let's just get the BSA
7 application. Let's waive it. Let's change the
8 character of the neighborhood." And an overall
9 concern that I feel that some people still survive
10 the 2004 Municipal Art Society study which suggests
11 that people feel that once one building gets the
12 variance, that's going to change the neighborhood
13 character and its just going to change the zoning as
14 a defacto measure.

15 MARGERY PERLMUTTER: So, with respect to
16 that, again, I think that relates a lot to the study
17 from 2004, which is really 2002 data, but I think
18 that as I described, explained earlier, the finding
19 of uniqueness is a critical element in granting of a
20 BSA variance, and the idea that there would be a
21 whole row of unique properties sort of defies the
22 definition of uniqueness. So, what I would have to
23 say is I intent to set a very high bar for the
24 establishment of the findings, and that should

2 eliminate that kind of, that perception of sort of
3 domino effect.

4 COUNCIL MEMBER KALLOS: Thank you very
5 much for answering all of my question in detail that
6 were not easy. You've done an amazing job on the
7 Landmarks Preservation Commission and on Community
8 Board Eight, and I hope that my committee members
9 have enjoyed your answers as much as I have, and I
10 will encourage them for their support. Thank you.

11 MARGERY PERLMUTTER: Thank you.

12 CHAIRPERSON LANDER: Thank you, Council
13 Member Kallos. As you've noted, we've been joined by
14 the Speaker, Melissa Mark-Viverito, and also by
15 Council Member Mark Levine from Manhattan. Just for
16 the folks who have joined us we're, I think, nearing
17 the end of our questioning with Ms. Perlmutter.
18 Council Member Williams did not disappoint. He does
19 have questions in just a minute, and we'll then move
20 onto Jacques Jiha for the TLC and then the two
21 nominees that we have for LPC as well. I actually
22 just want to push a little further and get your
23 response to the point that Council Member Kallos and
24 before him, Minority Leader Ignizio mentioned about
25 acquisition price, essentially. One of the things

2 that it's appropriate for people to come to the BSA
3 with is a, you know, a hardship. The permitted use
4 can't be--isn't economic, can't work for the
5 property, but we have all seen, and I know we've all
6 seen many. It was something I've certainly seen in
7 my neighborhood, where that's the result of the
8 applicant paying the price for the property, which is
9 not consistent with the zoning. So if you have a
10 property that's zoned for manufacturing, there's a
11 price point at which manufacturing tenants would be
12 perfectly economic, and there's a price point at
13 which manufacturing is no longer economic, and then
14 you can say, "Well, we can't possibly make it work as
15 a manufacturing building, because the rents that we
16 could get from manufacturers don't satisfy the
17 mortgage and the operating cost on our building. So
18 now we have a hardship." And that's part of the
19 reason why. They don't say it quite like that
20 admittedly, but--how do you guys analyze that and do
21 you look at whether the applicant paid a price and
22 ever consider this possibility that the hardship was
23 created by overpaying for a property zoned for a
24 particular use before they bring it to you?

2 MARGERY PERLMUTTER: So, actually, the
3 way that the economic hardship is established is by
4 using market value. It has nothing at all to do with
5 what the purchaser actually paid for the property. So
6 in the same way, because don't forget, variances also
7 apply to home owners who have been living in the same
8 house for, you know, 50 years or inherited from their
9 mother or whatever. So the--it can also apply to
10 them, and in all cases it's market value that
11 determines the acquisition price and the sale price
12 or the rental value that is factored into the
13 analysis, and that is done by financial expert who
14 does comparable like you would with an appraisal.

15 And--

16 CHAIRPERSON LANDER: [interposing] Let me
17 push there certainly for the Gowanus area, which is
18 the one that I'm looking at where this happens most
19 of all. Everyone around them is overpaying, is
20 paying more than, you know, than manufacturing rents
21 will support. So I feel like it may not just be the
22 individual owner. It might be supported if you look
23 at the ten properties around it, but the--it's not
24 exactly collusion, it's just irrational exuberance,

2 or maybe rational exuberance if you believe a zoning
3 change is coming or a variance is coming.

4 MARGERY PERLMUTTER: This one is
5 trickier, and this is where I need the financial--

6 CHAIRPERSON LANDER: [interposing] No, my
7 problem is I don't disagree--

8 MARGERY PERLMUTTER: [interposing] expert.

9 CHAIRPERSON LANDER: but this is how we're
10 losing a lot of our manufacturing zoned land.

11 MARGERY PERLMUTTER: Right?

12 CHAIRPERSON LANDER: Because people are
13 paying for it as though they're going to be able to
14 get a variance or rezoning.

15 MARGERY PERLMUTTER: So now you're--now
16 you're in the technical part. That has to do with
17 the financial analyst, so I would need a financial
18 analyst sitting next to me to explain how the
19 comparable work. I've only reviewed their analysis.
20 I haven't prepared them myself.

21 CHAIRPERSON LANDER: Well, this may be
22 something that we want to follow up on afterwards.
23 Council Member Williams?

24 COUNCIL MEMBER WILLIAMS: Thank you, Mr.
25 Chair. Actually, just more of a statement just to

2 add onto what me and my colleague are saying, and I
3 just want to be clear and point out and just behalf
4 of my constituents, there are many neighborhoods that
5 feel that the BSA just doesn't respond to them,
6 doesn't really listen to what they're saying. It
7 doesn't represent them in their decisions. My hope
8 is that you will take that knowledge back, if you are
9 indeed appointed, and try to find some way to make
10 that feeling be different, because it's very bad that
11 people feel they have no recourse in things that are
12 going to be fundamentally changing their
13 neighborhoods, and they just feel like BSA is not the
14 answer and not a place they can go to to get relief.
15 Thank you.

16 CHAIRPERSON LANDER: Alright. So those
17 are all the Council Members who have signed up to
18 testify unless there's any other questions. I think
19 we've asked a good thorough set. As I mentioned
20 earlier, and just I guess I'll ask you to sort of say
21 it on the record, I said it for you earlier, but
22 you've indicated that you'll--since you have to run
23 back to LPC now, I know there are a few people signed
24 up who I think are going to give a little more local
25 flavor to some of the concerns that you've had, you

2 know, express experiences. It's great to hear that
3 you are willing to come out to Community Boards and
4 talk with folks. You've also indicated that at a
5 minimum you'll watch the testimony that--

6 MARGERY PERLMUTTER: [interposing] Yes.

7 CHAIRPERSON LANDER: people give at the
8 end of this hearing.

9 MARGERY PERLMUTTER: Yes, absolutely.

10 CHAIRPERSON LANDER: Great. Thank you
11 for this time and for your thorough written answers
12 and your answers to this committee as well. We'll
13 close the public hearing now on your nomination and
14 then we'll be in touch with you when we schedule a
15 vote on it.

16 MARGERY PERLMUTTER: Thank you very much
17 for your time. Thank you.

18 CHAIRPERSON LANDER: Thank you. Alright,
19 we'll now invite Jacques Jiha up to give his opening
20 statement and answer some questions, and I will give
21 a little bit of background first on the Taxi and
22 Limousine Commission. On July 18th, 2014, Mayor Bill
23 de Blasio formally submitted the name of Jacques Jiha
24 for the Council's advice and consent concerning his
25 nomination to the Taxi and Limousine Commission. If

2 confirmed he would succeed Iris Weinshall and serve
3 the remainder of a seven year term expiring January
4 31st, 2017. We previously in this committee
5 conducted the Advice and Consent Hearing for Meera
6 Joshi who's the new Chair of the Taxi and Limousine
7 Commission, so I won't go over all the
8 responsibilities and duties of the TLC, just to note
9 that the TLC was created pursuant to Local Law 12 in
10 1971, and the Charter sets out the responsibilities
11 and criteria for the TLC's nine members, its Chair as
12 well as the other members of the Taxi and Limousine
13 Commission. I'll make two notes before you begin,
14 Mr. Jiha. First, for many of the positions that this
15 Board or that this Council considers, individuals are
16 not allowed to be a public officer, essentially to
17 hold two public offices, and we honor your service as
18 the new Finance Commissioner, and many of us have had
19 the opportunity to start working with you there. The
20 Mayor--but the Charter provides that the Mayor can
21 submit a letter waiving that provision, so long as
22 one of the offices is non-paid, and I'll note that
23 the Mayor has provided us with a letter indicating
24 that though you'll continue to be paid in your duties
25 as Finance Commissioner, you would not be paid in

2 your service as Taxi and Limousine Commission so that
3 that Charter conflict wouldn't provide. I think
4 there'll be some questions later about the
5 implications of that, but we have the Mayor's letter.
6 And then I'll just note for the record, you know, we
7 get extensive background checks and documents from
8 our staff, and this one had an interesting note
9 because there was a point in your career when you
10 were serving as Deputy Comptroller at the State
11 level, when you for a period of time were essentially
12 demoted, and at the time there wasn't a public
13 statement about why. It later emerged, at least in
14 press reports, that you had resisted pressure to
15 favor some invest, you know, investment placement
16 officers and that you're insistence on integrity was
17 what had led to that action. So, that's the kind of,
18 you know, story that we like to read as opposed to
19 other kinds of concerns that our investigators find
20 when they do it. So, I come to this hearing with that
21 positive attitude. But let me ask that you provide
22 your opening statement and then we'll ask some
23 questions.

24 JACQUES JIHA: Sure.

2 COUNSEL: Can you please raise your right
3 hand? Do you swear or affirm to tell the truth, the
4 whole truth, nothing but the truth so help you?
5 Thank you.

6 JACQUES JIHA: Well, good morning members
7 of the Rules Committee, Speaker Mark-Viverito, Chair
8 Lander. I'm honored to have been nominated for
9 appointment to the New York Taxi and Limousine
10 Commission, and I thank you for allowing me to share
11 my background and ideas on how I can best serve the
12 Commission. I currently serve as a New York City
13 Commission of Finance and I have close to 30 years of
14 experience managing the large organizations in the
15 private and public sector. Immediately prior to my
16 appointment as Finance Commissioner I served as
17 Executive Vice President, COO and CFO of Earl G.
18 Graves Limited of Black Enterprise. Before that I
19 served as Chief Investment Officer of the New York
20 State Common Retirement Fund. A staunch advocate of
21 public service, I have also served on a number of
22 government and not for profit boards, including the
23 New York State Dormitory Authority and the Ronald
24 McDonald House. If appointed TLC Commissioner, my
25 tenure will be guided by the following principles:

2 consumer choice, consumer protection, accountability,
3 safety, equity and opportunity. These are not fancy
4 words. These are the fundamental values that have
5 been the cornerstone of my personal and professional
6 career for almost 30 years, and the commitment to
7 these values will continue to guide my decisions
8 going forward. Until recently, the public had few
9 taxi options, even less for those in wheelchairs or
10 in the outer boroughs. The market has not responded
11 to that lack of choice. Known for additional taxes,
12 Ehair Apps [sic], accessible dispatch and service
13 enhancements such as a wheelchair accessible taxis
14 are now available. Consumers expect more choices in
15 this quickly evolving industry and the TLC should
16 continue to play a crucial role in insuring that
17 consumers are valuable and attractive options at
18 various price points to meet growing consumer demand.
19 At the same time, all market participants must be
20 held accountable. TLC rules must be strictly and
21 equally enforced to ensure compliance. Drivers and
22 owners must strictly adhere to the regulatory frame
23 work set forth by the TLC. Consumers rely on
24 regulators to ensure that the drivers are properly
25 licensed, vehicles are regularly and properly

2 inspected, adequate sale [sic] guards are in place to
3 protect consumer against fraud and processes [sic] in
4 place to penalize those who violate the rules.

5 Consistent and uniform enforcement of penalties is
6 crucial to ensure compliance and protect consumers.

7 Passenger safety, driver safety, and the safety of
8 the public at large are critical. The good news is
9 New York City drivers are among the safest drivers in
10 the city. Long time drivers have the lowest rate of
11 accidents and consumer complaints among our taxi
12 drivers. These are hardworking, dedicated
13 professionals who have proven their commitment to the
14 safety of the public. The Mayor's vision, the Zero
15 Initiative, provides a framework against which the
16 safety goals can be pursued and enhanced. This means
17 educating drivers on traffic safety, enforcing laws
18 against unsafe driving, using technology that
19 collects unsafe driving patterns and incentivizing
20 drivers to practice work safety. On equity and
21 opportunity, driving taxi in New York City must be
22 viewed as a viable, attractive and economically
23 physical long term career opportunity. Drivers
24 should feel that there's ultimately a path to
25 ownership as a fulfilment of the American dream. At

2 the same time, we must ensure that owners are
3 properly rewarded for the financial risk of investing
4 in medallions [sic]. My tenure as TLC Commissioner
5 will be grounded in my commitment to an open dialogue
6 with all stakeholders of ensuring that all parties
7 are treated fairly. If confirmed, I will strive to
8 achieve a hook ladder [sic] reframework [sic] which
9 is flexible and nimble for an industry that is
10 quickly changing to meet new income realities and
11 technological advances our work to align more core
12 values with TLC as a mission. My decisions will be
13 guided by my commitment to the basic principles our
14 client above and I welcome the opportunity to serve
15 on the TLC. Thank you.

16 CHAIRPERSON LANDER: Thank you very much
17 for that opening statement and also for your written
18 answers to the questions that the committee provided
19 to you in advance. I just one question and then I'll
20 turn it over to the Speaker and then other members of
21 the committee. As I mentioned in my opening
22 statement, we haven't yet in this term had a hearing
23 with someone who has held a position in the
24 Administration and is now being nominated to serve on
25 a Board. With the Mayor's waiver, the Charter allows

2 it, but there are on the one hand in your Finance
3 Commissioner role you served at the pleasure of the
4 Mayor as is appropriate. This is a term position on
5 a Board in which of course you're appointed by the
6 Mayor, but there's supposed to be a level of
7 independent judgment that you're bringing to that
8 Board. I just ask how you reconcile the challenge of
9 bringing independent judgment to the Board of the TLC
10 while serving as the Finance Commissioner.

11 JACQUES JIHA: Well, I will be
12 independent and more importantly, the Mayor wants me
13 to be independent. My fiduciary duty is to the
14 public and to the institution itself, and I take that
15 fiduciary duty seriously. For people who don't know
16 me, for those people who know me, one thing they will
17 tell you about me is I don't let the fear of losing
18 my job stops me from doing my job.

19 CHAIRPERSON LANDER: As I mentioned in
20 the outline based on the news stories, you have
21 evidence. Not that many people have evidence to back
22 that up that they did things that actually cost to
23 them and their employment, so you certainly have some
24 track record there. Thank you for that answer. Let
25 me turn it over to the Speaker.

2 SPEAKER MARK-VIVERITO: Thank you, Mr.
3 Chair, and Mr. Jiha, nice to see you. I mean,
4 there's so many aspects of the TLC that we could
5 delve into. We were just talking briefly here about
6 when you talk about the Mayor's Vision Zero Plan,
7 which I'm glad you mentioned in your testimony and
8 the idea of really putting emphasis on safety and
9 safe driving. That's actually something that's been
10 kind of in my mind for a while. I think that when we
11 talk about professionalism of the drivers, you know,
12 we probably all have our good stories of taxi
13 drivers, but a lot of us have our horror stories of
14 taxi rides and interactions with drivers, but also on
15 the road. As a driver, you know, we are alarmed.
16 I've bene alarmed at really unsafe conditions that
17 taxi drivers engage in, and the idea of really
18 focusing on that I think is really important,
19 especially if we want the Mayor and our goal and our
20 vision of zero deaths on the road. It's a big goal,
21 but we want to get there. So, like the idea when the
22 NYPD rolled out that whole courtesy professionalism
23 and respect right campaign, something similar on the
24 TLC side where there is really aggressive engagement
25 with the drivers, safety and also enforcement,

2 because I think a lot of it is, you know, they have
3 to model the behavior of what we want to see on the
4 streets, and it's been a little alarming at times at
5 the way that they engage. So, maybe you can speak a
6 little bit more about that. You do mention it in
7 your testimony, but I think that that really is
8 imperative considering the real emphasis that we've
9 putting on the Vision Zero Plan in general.

10 JACQUES JIHA: In general, I said New York
11 City drivers, taxi drivers, hardworking folks who
12 care about the safety of the passengers, their own
13 safety and the safety of the public at large. The
14 challenge you have, you had some outliers [sic], and
15 to me that's where the focus should be, and we have
16 to take the opportunity to educate drivers, trained
17 drivers, use technology to some extent to monitor
18 some of the unsafe driving pattern and to the extent-
19 -and from my perspective, one of the tools that I
20 think we should continue to use or expand is
21 undercover agents, basically to monitor what's going
22 on with some of the taxi drivers, particularly the
23 unsafe taxi drivers out there. So again, as I said,
24 it's something which is critical and I will make sure
25 that we pay a lot of attention, particularly in terms

2 of educating drivers and try to train them as much as
3 we can to make sure that the streets are safe for the
4 public.

5 CHAIRPERSON LANDER: Thank you. Council
6 Member Williams?

7 COUNCIL MEMBER WILLIAMS: Thank you, Mr.
8 Chair. Thank you, Mr. Jiha for your testimony. I
9 have several questions, one on issues and then two on
10 concerns that I have. The first one has to do with
11 just, for me, as a person with some melanin in their
12 skin who still has a lot of trouble catching cabs. I
13 actually used to use my staff who had a little bit
14 less melanin in their skin to hail a cab for me
15 because I had difficulty catching one. About a month
16 or so ago I almost missed a cruise as I tried to
17 catch a cab in front of 250. I have the--I haven't
18 filed it yet, but I have the cab numbers who passed
19 empty indicating that they actually, with their
20 lights on, that they were working. It wasn't until I
21 took out my council badge, stood in the street waving
22 it that one actually stopped. I think when I was
23 about 22, 23 I did file a complaint and one cabby was
24 suspended for six months because he had repeated
25 this. He drove up, opened the door. I actually did

2 what I normally do, I had someone else hail a cab and
3 I came in to try to get in and he drove off. So
4 obviously, this is not all cabs. I have taken a lot
5 of cabs without problems, but obviously this is still
6 a issue that still many of us are dealing with. I
7 just wanted to know if you have--could shed any light
8 on your thoughts about it or how we can deal with it
9 and try to fix it.

10 JACQUES JIHA: I'm sorry about your
11 challenges. I had similar challenge, myself, and
12 it's something that I take--it's personal to me as
13 well. From my perspective it's, TLC license is a
14 privilege and that privilege should never be abused.
15 I, as I said before, many taxi drivers are
16 hardworking folks who do not discriminate based on
17 somebody's--colors of somebody's skin. And to the
18 extent from my perspective is someone is
19 discriminated against based on just the color of your
20 skin, your ethnicity, it's--we should apply the
21 maximum penalties possible, and I'm--it, as I said,
22 it's--particularly, you know, it's--there has to
23 campaigning of owners to make people aware of their
24 rights and to report those kind of discriminatory
25 cases to the TLC so that, you know, we can enforce

2 the laws as harshly as possible, as I said. And my
3 perspective it is, I would go as far as license
4 suspension, license revocation, because this is not
5 something I take lightly.

6 COUNCIL MEMBER WILLIAMS: Thank you. And
7 then my second issue has to do with delivery vans,
8 common called "dollar cabs" in what's commonly called
9 the outer boroughs, I like to say the other boroughs.
10 They have something that I've been supportive of and
11 something I've used as I was a child. They actually
12 took care of places that did not have other modes of
13 transportation. I lived out in southern Brooklyn
14 where there wasn't much trains. And so I've been
15 advocated particularly for those who are, have TLC
16 licenses and who are insured. Unfortunately, with
17 those two things, it's still against the law to pick
18 up in things like what's called the bus lane, which
19 is most streets in New York City, and what it does
20 also is it causes people who are not licensed and who
21 don't have insurance to run rap shot [sic], because
22 there is now pathway for actually them to do this
23 legally. I think the lack of a way, a pathway to
24 actually do this legally invites people to start
25 doing craziness, which then endangers our community.

2 And I wanted to get your feeling on that mode of
3 transportation. Do you believe we should find a
4 pathway to legalize it? I just want to get your
5 general opinion. Keeping in mind that the city
6 generally goes to them in times of emergencies,
7 whether it's blackouts, hurricanes. Those are our
8 go-to when there's no train system that runs down.

9 JACQUES JIHA: I fully support the
10 expansion of a legal van. I mean, they're serving
11 on--serve underserved community. And also, they have
12 a price point, which makes it very accessible for a
13 lot of people, particularly people with low income.
14 So from my perspective is, I think the challenge is
15 to curb the illegal van in the city. But as I said,
16 I'm for, I would work with TLC to ensure that we
17 expand the use of legal van in the city.

18 COUNCIL MEMBER WILLIAMS: So you would
19 support trying to allow vans to legally operate in
20 terms of picking up people on the street who have TLC
21 licenses and are insured?

22 JACQUES JIHA: Yes. And so, thank you
23 very much. Now, for the issues. I am concerned on
24 what was brought up before, in terms of this is the
25 first time we're appointing someone who is a part of

2 the Administration, I think, in kind of a very high
3 level position. From my understanding you exificion
4 [sic] 27 Boards or similar type entities. This would
5 be the 28th, which concerns me a little bit, and I
6 just wanted you to further explain. I'm just
7 concerned of the human nature, if something comes
8 before TLC and you're paid by the, in a sense the
9 city, how you would deal with those pressures that
10 may come normally. Like suppose you are a fan of the
11 expanded liberty [sic] vans and the Mayor isn't, and
12 we're trying to work hard to push that through, how
13 would you work that through on a real life situation?

14 JACQUES JIHA: Well, it's one, a issue
15 with the respect of the number of Boards I'm on, it's
16 a question of time management. And from my
17 perspective is I would manage my time as best as I
18 can to provide TLC with the time needed to do the
19 work that I need to do. Currently, I appoint a
20 number of staff to some of the boards that I'm on
21 currently, because you present me. I did give the
22 authority to some of them, but TLC's important,
23 critical, and as a Commission for me to be--to devote
24 my time to the issues because it's critical for the
25 city. So that's not an issue. With respect to the

2 second part of your question, which is respect to
3 independence, as I indicated before, I will be
4 independent, and the Mayor wants me to be
5 independent. I come to TLC with a set of values that
6 I outlined at the beginning, and my decisions will be
7 guided by those values. And so, I don't see any
8 issue with being independent, and as I said, I will
9 do my best in term of managing my time to provide TLC
10 all the resource, all the attention that it needs
11 from me as a Commissioner, but at the same time, and
12 as I said, will try to strive to be independent as
13 possible. As I said, I want--I'm going to be
14 independent. I want to be independent. The Mayor
15 wants me to be independent, so it's not an issue.

16 COUNCIL MEMBER WILLIAMS: I just want to
17 say, I'm--just as a person, very impressed by your
18 background. I don't have--it pains me that I have
19 these issues, because I don't think we've had a
20 diverse number of people nominated, particularly
21 black nominations, and just representing the largest
22 number of Haitians in New York City, I'm also proud
23 that you're nominated here. But I do have some very
24 big concerns about the number of Boards that you sit
25 on and the fact that you are a Commissioner of

2 another agencies. So, it pains me to have those
3 concerns. I'm going to try to work through it.
4 Obviously, independence has been demonstrated in
5 other places, but I do think there's a lot of Boards.
6 I do think there's out of eight million people, a lot
7 of places that we can look to see people who have
8 maybe a little bit more time, a little bit more
9 distance from the Administration in the way that you
10 serve now. But I want to thank you very much for
11 your responses and for your service to New York City.

12 JACQUES JIHA: Thank you.

13 CHAIRPERSON LANDER: And I'll just add
14 one thing here to slightly correct or add a detail to
15 something that I said earlier before turning it over
16 to Council Member Levine and then Council Member
17 Dickens for their questions. While this is the first
18 time that in this term we've considered this, I will
19 flag that it was a practice in the prior term so that
20 you would be--you've been nominated to replace Iris
21 Weinshall who was appointed to the TLC when she was
22 the Transportation Commissioner, and I think Jeff Kay
23 [sp?] served on the TLC when he was the Director of
24 the Mayor's of Office Operations, which doesn't mean
25 the certain concerns aren't real, but just flagged

2 this isn't the first time that the Council as a whole
3 has waited on this question. Council Member Levine
4 followed by Council Member Dickens.

5 COUNCIL MEMBER LEVINE: Thanks for being
6 here Commissioner Jiha. Thank you, Mr. Chair. About
7 how would you portion your expectations on percent of
8 time devoted to Department of Finance versus TLC
9 matters in this arrangement? Would it be a 50/50,
10 80/20, can you estimate that?

11 JACQUES JIHA: TLC, I'll be one of the
12 Commissioners, so it's not the fulltime job, TLC as a
13 Chair who manages day to day operations of TLC. So
14 therefore, it cannot be 50/50 in term of my time.

15 COUNCIL MEMBER LEVINE: Right.

16 JACQUES JIHA: But, as I said, I would
17 manage my time to provide TLC. It depends on the
18 issue. It depends on the circumstances, but I would
19 provide TLC all the time that TLC needs.

20 COUNCIL MEMBER LEVINE: Okay.

21 JACQUES JIHA: If I have to expand the
22 days by a couple hours, I would. I'm just kidding.
23 But again, as I said, I would provide the time to do
24 the work that I need to do.

2 COUNCIL MEMBER LEVINE: Great, okay.

3 Could there be a scenario in which the interests of
4 the Department of Finance and the TLC could be in
5 conflict? Sometimes there is interagency tension.

6 I'm sure you're familiar with that, perhaps something
7 related to the manner in which fines are collect.

8 Could you even imagine such a scenario?

9 JACQUES JIHA: I cannot conceive any such
10 scenario, because as I said, we, our job at the
11 Finance is to collect revenue for the city to manage
12 the city cash flow and treasury and to value
13 properties. So, I do not. I cannot see how a
14 conflict can arise between being on the Board of TLC
15 and managing the day to day functions of Finance.

16 COUNCIL MEMBER LEVINE: Yeah. Switching
17 to the more policy related matters. You observed in
18 your remarks that this is time of enormous changes
19 that are flowing through the industry, technological,
20 financial and others. Are these changes making taxi
21 driving less of a profession that one, can be a long
22 term, making it more of a transitional job? If so,
23 what's causing and does that have implications for
24 the industry and for the rider experience if it is
25 happening.

2 JACQUES JIHA: To some extent it may
3 provide the taxi drivers the opportunity because
4 you're going to have different players in the
5 marketplace competing for their services. So to some
6 extent, it may be providing the opportunity to earn
7 more. So again, it's an issues of, you know, we have
8 to look at this old issue to analyze the ramification
9 of the changes on all the market participants
10 regarding--from the owners to the taxi drivers. The
11 goal at the end of the day is to make sure that
12 drivers can earn a decent living, I mean, driving a
13 taxi in New York City. And also have the opportunity
14 to own a taxi in that, so.

15 COUNCIL MEMBER LEVINE: But do they have
16 the opportunity to own today to the extent that they
17 did in decades past?

18 JACQUES JIHA: It's becoming more
19 difficult because of prices, you know. As you know,
20 prices of medallion is significantly high, but the
21 green [sic] taxi provides them an opportunity because
22 the entry price for, you know, one of those taxis is
23 well actually is really low, relatively low compared
24 with, you know, what you paid for, you know, yellow
25 cab. So at least, you know, with the introduction of

2 the green taxis in the outer boroughs, they could
3 have the opportunity to earn a medallion. And you
4 know, over time they earn their way into probably
5 earning, you know, expanding into a fleet or, you
6 know, moved into medallion. So--

7 COUNCIL MEMBER LEVINE: [interposing]

8 Yeah, technically.

9 JACQUES JIHA: they have the opportunity
10 technically.

11 COUNCIL MEMBER LEVINE: The technological
12 disruption in the industry in the moment which really
13 brought in a flood of new players, expanding options
14 for riders, for the public. You could see that
15 having an impact on the legacy portions of the sector
16 are like yellow medallions, and possibly ending what
17 has been pretty steady trend for, I think, a century
18 of ever increasing rises in the value of a medallion.
19 I think there's some indication that already you're
20 seeing decrease in value of the medallion of some of
21 the larger. I think there's at least one publicly
22 traded medallion company. Should the public care if
23 the value of the medallion drops? Might that be a
24 good thing because it makes them more accessible to
25 drivers or is that bad for the city in some way?

2 JACQUES JIHA: You know, price go up and
3 down, you know, and for a number of reasons that, you
4 know. I can't tell you, you know, why. As long as the
5 interest environment is such, so low, and you have a
6 cash flow more or less which is protected by the kind
7 of regulations that we have. I still that price of
8 medallion will, you know, to some extent are high
9 because, again as I said, you have a cash flow and if
10 you use a very low interest rate to discount it,
11 valuation, you know, at this one time will remain
12 where it is. When this change, when if there's a
13 change to cash flow, if there's interest environment
14 with the change, who knows? But at this point I
15 can't tell you why price go up and down, you know, on
16 a day to day basis, on a month to month basis.

17 COUNCIL MEMBER LEVINE: Thank you.

18 JACQUES JIHA: You're welcome.

19 CHAIRPERSON LANDER: Council Member
20 Dickens?

21 COUNCIL MEMBER DICKENS: Thank you, Mr.
22 Chair, and good morning and thank you for,
23 Commissioners, for coming down to give testimony and
24 for having such a stellar career and providing the
25 service to the city of New York. However, I join

2 with Council Member Williams in my concern about your
3 ability to really by the Chair Finance, which has
4 been inundated with some problems, and on the Board
5 as a Commissioner, as a Commissioner. And it's
6 allowed by law and I understand that. When TLC and
7 there's been a precedent established that allows for
8 that. However, TLC has some serious issues. I too
9 have stood out and so has Council Member Debbie Rose
10 stood in front of 250. Council Member Rose stood
11 there for over an hour and not one yellow cab would
12 stop to pick her up. I have stood out there so long I
13 went and took the subway, which I should have done
14 the first place, and I have also at 42nd street
15 couldn't catch a yellow cab, and someone stopped
16 right in front of me and was getting out and held the
17 door for me, and so I got in. The cab driver asked me
18 where was I going. When I told him I was going to
19 Harlem, he said, "Oh, I'm off duty now." So I
20 refused to get out. He called the police on me, and I
21 lodged a complaint with TLC about it. And do you
22 know, that when the police came the police told him
23 he had to take me. You know what he did? He took me
24 to the police station. That's correct. He took me
25 to the police station. Now, at the police station

2 they told him that he had to take me where I was
3 going, 'cause I told them it's alright, I have
4 nothing but time. I was off for, you know, a couple
5 of weeks and I will just spend the time with him.

6 [laughter]

7 COUNCIL MEMBER DICKENS: I was too, but I
8 mean, that's not what it should be. So there's some
9 serious issues that has not been addressed with TLC.
10 It's not new. These are not new issues. These are
11 old issues, and then let's talk about those green
12 cabs. The green cabs are supposed to be for the
13 outer borough. Well, I don' know about my colleague
14 from Washington Heights, but northern Manhattan must
15 be an outer borough, because the green cabs pick us
16 up in northern Manhattan, but of course, when you go
17 below the 96th Street, they can't pick you up. So
18 therefore, when I'm down town I don't have a cab. I
19 can't hardly get a cab, because the yellow cabs still
20 do not want to pick. And I too, have used other
21 people to stand out and hail a cab for me so that I
22 can jump in. So, I'm concerned. I've got serious
23 concerns, and I know that there are a lot of people
24 in the city of New York that are qualified and desire
25 to serve, and because of your career, I feel that as

2 Finance Commissioner you have a lot on your plate and
3 with all the other Boards that you're on, but now
4 you're adding one more thing to that plate. You're
5 adding another weight, and that's TLC. And with the
6 problems that TLC has been faced with that has not
7 been changed over the years, because my--I remember
8 my grandmother used to complain. My father used to
9 complain. Now, I'm complaining and my kid is
10 complaining. So it has been no changes for
11 generations, and I am concerned about you putting on
12 yet another weight on that phenomenal plate of yours.
13 So, I want to know, are you really going to be able
14 to devote the time, the energy, the thought process
15 into investigating the claims that are filed, the
16 problems that are inherent in TLC?

17 JACQUES JIHA: Yes, and again, as I said,
18 I'm--you know, it is so disturbing to listen to you,
19 to the same stories, because as I said, I'm also a
20 victim, you know, of the same practices. So
21 therefore, it's something that I take personally, and
22 it's a challenge and you know, we have to educate the
23 public to make the public aware of the public's right
24 and we have to pull these things. And was we pull
25 them hold TLC accountable into one, the implementing.

2 As I said, I'm for the harshest penalties when it
3 comes to these kind of practices, including as I
4 said, suspension or revocation of license. To get
5 back to the concern that I see that you have, many of
6 the Boards that I'm on, you know, and pe--because
7 Finance I have to sit on a number of Boards, you
8 know, and many of the Boards who probably meet maybe
9 once a year or don't meet because, you know, they're
10 there, but they're not really. Because it's like,
11 you know, Tobacco Settlement Board. It's things
12 that, you know, they are part of a list of things or
13 boards that as Finance Commissioner you sit on, but
14 many of the boards don't have regular meetings on
15 the--even annually. That's one. Two, many of the
16 boards currently I delegate to staff, okay? And
17 currently I only participate in probably three board
18 meetings annually. It's HDC that personally I
19 attend. So as I said before, I would find a time,
20 okay, to put into TLC because I think, as I said,
21 TLC's a very critical agency and the things that they
22 do affect people on a day to day basis, and many of
23 the things that you--many of the concern that you're
24 raising affect me as well, like you. So therefore, I
25 take these issues seriously and I would create a

2 time, okay, to push TLC to address many of these
3 issues.

4 COUNCIL MEMBER DICKENS: Thank you so
5 much. Could you give me an idea of what boards you
6 would assign staff to take care of, and which ones
7 you would do?

8 JACQUES JIHA: I would give you a list,
9 because right now I delegate--

10 COUNCIL MEMBER DICKENS: [interposing] I
11 don't want, you know, a whole. I'm not asking for
12 anything formal, just here, just because I would not
13 want TLC to be one that's assigned staff or Finance.

14 JACQUES JIHA: No, no, no. It's--I cannot
15 assign.

16 COUNCIL MEMBER DICKENS: Alright, thank
17 you. Thank you so much.

18 JACQUES JIHA: You're welcome.

19 COUNCIL MEMBER DICKENS: And thank you
20 for your--

21 CHAIRPERSON LANDER: [interposing] And
22 I'll just like one more for the list of the ones that
23 you I hope will pay attention to. The council has a
24 strong interest, of course, in the banking Commission
25 right now. You know, the last council passed the

2 responsible banking act to really change the way we
3 look at depositories of the city's funding. The
4 court has then joined us from moving forward at this
5 time to put that into place, but soon we're going to
6 win that case in court, and when we do we'll be eager
7 to work with you to--

8 JACQUES JIHA: [interposing] [cross-talk]

9 CHAIRPERSON LANDER: to get the response--

10 JACQUES JIHA: [interposing] [cross-talk]

11 It's a very important issue, yep.

12 CHAIRPERSON LANDER: Super. Last question
13 from Council Member Rose.

14 COUNCIL MEMBER ROSE: Hi.

15 JACQUES JIHA: How are you?

16 COUNCIL MEMBER ROSE: I just have one
17 very simple question. As the Finance Commissioner
18 you know where all the money is, what the budget
19 constraints are and the fiscal realities. Would your
20 position as the Commissioner of Finance have any
21 direct effect on decisions that you would make as a
22 commissioner sitting on the TLC, because of--because
23 you know where the money is or is not. And I have a
24 real concern about, you know, the handicap accessible
25 vehicles. And I just want to make sure that you're--

2 or you, I need you tell me that whether or not the
3 realities of your finance Commissionership will
4 impact your decisions as a Commissioner of TLC.

5 JACQUES JIHA: As Finance Commissioner I
6 provide the resources to the city, but the allocation
7 of those resources are made by, the decisions are
8 made by OMB. So, I don't have impact in term of the
9 allocation of resources that go to TLC. Like I said
10 before, there's no conflict of interest I can imagine
11 with these two positions. We at Finance manage the
12 treasury cash flow of the city on a day to day basis.
13 We value properties. We collect all the revenue for
14 the city. And I don't see that--how could that have
15 any conflict whatsoever, okay, with the being on the
16 board of TLC, which basically deals with
17 transportation issues.

18 COUNCIL MEMBER ROSE: I just want to make
19 sure that you'll write that check for the handicap
20 accessible vehicles if that's what the TLC, you know,
21 that's the decision that comes up.

22 JACQUES JIHA: Okay.

23 COUNCIL MEMBER ROSE: Thank you.

24 JACQUES JIHA: Thank you.

2 CHAIRPERSON LANDER: Thank you very much,
3 Mr. Jiha, we really appreciate your time and that you
4 were patient through Ms. Perlmutter's testimony.
5 Thank you for your time appearing here today. We
6 will recess the hearing. I don't believe any of the
7 three members of the public that have signed up to
8 testify are testifying on your nomination, but if
9 there are members of the public that come I'd ask the
10 same that we asked of Perlmutter, that you commit to
11 watch them.

12 JACQUES JIHA: Okay.

13 CHAIRPERSON LANDER: Thank you very much.

14 JACQUES JIHA: Thank you very much.

15 CHAIRPERSON LANDER: We appreciate your
16 time, thank you. Alright, now let me invite John
17 Gustafsson and Adi Shamir Baron to come forward. Let
18 me really thank you, as well as the members of the
19 public that are still here for your patience. We want
20 to balance between, you know, providing good thorough
21 questions and review of the nominations with moving
22 along and being in mid-August. So I appreciate your
23 patience and your still being here and sitting
24 through this hearing so far. On July--now I lost the
25 date--14th, 18th--18th, 2014, Mayor de Blasio formally

2 submitted to the Council the names of John Gustafsson
3 and Adi Shamir Baron for appointment to the New York
4 Landmarks Preservation Commission. Mr. Gustafsson's
5 a resident of Staten Island and would succeed Pablo
6 Vengoechea and serve the remainder of a three year
7 term expiring June 28th, 2015. Adi Shamir Baron, a
8 resident of Manhattan would succeed Joan Gerner and
9 serve the remainder of her three year term expiring
10 June 28th, 2016. This committee previously held the
11 confirmation hearing for Meenakshi Srinivasan for the
12 Chair position, so I won't go in again to the long
13 description of the responsibilities of the Landmarks
14 Preservation Commission, but as the public and
15 members of this committee know, the LPC has
16 responsibility for oversight and enactment of the
17 city's Landmarks Law to consider the designation of
18 individual interior and exterior and historic
19 districts and those nominations then go through the
20 City Planning Commission and come this council. We
21 had a long conversation with Ms. Srinivasan. Some of
22 the concerns that I think you heard before about the
23 BSA, the Council has also, you know, asked a lot of
24 questions of the LPC on, and so we look forward to
25 hearing both your qualifications and how you view the

2 challenges of preserving the build environment,
3 architectural history and the character and sense of
4 place of neighborhoods, balancing that with the needs
5 challenges of a growing city, the need for affordable
6 housing and many other challenges facing our city
7 from a planning neighborhood and infrastructure point
8 of view. So let me ask, what I think what we'll do
9 here is ask you each to go ahead and give your
10 opening remarks and then if there are questions they
11 can be directed to one or both of you. Oh, yeah, and
12 I keep forgetting that you guys have to be sworn in.
13 Thank you for reminding me. This is good. You see,
14 we're promoting good practice here, so.

15 COUNSEL: Would you please raise your
16 right hand? Do you swear or affirm to tell the
17 truth, nothing but the truth so help you? Thank you.

18 JOHN GUSTAFSSON: Could you please start
19 off?

20 ADI SHAMIR BARON: Of course. Good
21 morning, Chair Lander and members of the Committee on
22 Rules, Privileges and Elections. Thank you for the
23 opportunity to testify and respond to any questions
24 you may have. Ordinary daily life in New York City is
25 made extraordinary each time we natives and visitors

2 alike encounter the rich and layered stories that its
3 buildings, neighborhoods and public spaces tell. As
4 steward of its special sites, Landmarks ensures that
5 the texture of diversity, the myriad histories,
6 material culture embodies and our city's great
7 tapestry of experience persists. I am committed to
8 the mandate of the Landmarks Preservation Commission
9 and hope to have the opportunity to contribute my
10 time and expertise to the mission of recognizing and
11 protecting New York's historically, culturally and
12 architecturally significant structures and sites. My
13 appreciation for the built environment has informed my
14 work as a designer, educator, historian and
15 administrator, but it was my architectural education
16 at Cooper Union, the first institution to provide a
17 public reading room for women and free advanced
18 education for the working class that launched a
19 lifelong attachment to New York's remarkable
20 heritage. As Executive Director of the Van Alen
21 Institute years later, Peter Cooper's pioneering
22 vision of civic access continues to guide. I have the
23 privilege of leading the National Membership
24 Organization and Fellowship Center in developing
25 public programs dedicated to promoting and improving

2 the design of civic architecture. The institute,
3 name in honor of William Van Alen, architect of the
4 Landmark Chrysler Building, sponsored programs
5 including competitions, exhibitions, conferences and
6 publications, engaging in interdisciplinary and
7 international array of practitioners, policy makers,
8 students, and community leaders in advancing public
9 architecture, a term that Senator Daniel Moynihan
10 used to reference landscape, building, planning and
11 infrastructural works that he said served as critical
12 underpinning of economic and cultural productivity.
13 After teaching in college classrooms for nearly 20
14 years at UC Berkley, California College of the Arts,
15 Rice University and the College of Morrin [sp?], my
16 work as an educator continued in a variety of new
17 platforms, as Dean of Undergraduate Studies at CCA,
18 as representative of a nonprofit and in the ongoing
19 historical research and writing where I explore early
20 modernist architectural theme and diverse cultural
21 heritage contexts. Most recently, in advisory work
22 with foundations, community groups and government
23 agencies, the teaching curriculum, if you will, has
24 focused on ecological reclamation and historic
25 conservation as drivers in the strategic planning for

2 urban redevelopment projects. As an appointment
3 Commissioner to the US National Community for UNESCO
4 [sic], a federal advisory commission to the
5 Department of State, I have sought to bring awareness
6 to the value of the world heritage program and its
7 contribution to local and international cooperation
8 for the preservation of our common, natural and
9 cultural legacies. Throughout my various positions
10 and undertakings, it is engagement with colleagues in
11 open and robust dialogue and debate and the
12 application of knowledge to complex issues that has
13 been most fulfilling and productive. If appointed, I
14 look forward to bringing my experience and expertise
15 to the Commission. I am committed to working
16 collaboratively with City Council, listening
17 carefully to stakeholders, thoroughly analyzing data
18 and seeking fair, balanced solutions to what may be
19 challenging cases and considerations in support of
20 our shared aspirations for a strong and beautiful
21 city. I thank you.

22 JOHN GUSTAFSSON: Good morning Chair
23 Lander and Members of the Committee on Rules,
24 Privileges and Elections. My name is John
25 Gustafsson. It is my privilege to appear before you

2 toady for your consideration as an appointee to the
3 Staten Island position on the Landmarks Preservation
4 Commission. I thank the members of the Committee of
5 the City Council for your time and effort in
6 reviewing my candidacy. By way of background I'm a
7 lifetime New Yorker and a lifetime Staten Islander
8 and a first generation American. My father was a
9 sailor from Sweden. My mother was a stay at home mom
10 born in Thailand and raised in Malaysia. I'm the
11 first person in my family to get a college degree. I
12 earned my B.A. in philosophy from Columbia University
13 in '83. I had a very, very famous classmate there
14 you might now, and a J.D. from Harvard Law School in
15 1987. Before retiring from the practice of law in
16 2006 I was a partner in the business trial practice
17 group of the California based law firm of Sheppard,
18 Mullin, Richter & Hampton, where I was the
19 administrative partner of the firm's New York office
20 which I co-founded in 2004. Prior to that I spent
21 seven years as in-house counsel of Honeywell
22 International. Just prior to leaving Honeywell, I was
23 general counsel of their four billion dollar
24 automation and control products business. Prior to
25 my tenure at Honeywell I spent 10 years in private

2 practice at Simpson, Thatcher & Bartlett, where I
3 focused on multijurisdictional complex litigation.
4 Over the past dozen or so years I developed an
5 expertise in nonprofit governance. I'm currently
6 chairman of the board of the historic house trust of
7 New York City, where I serve on the audit and finance
8 nominating executive committees. From 2004 to 2011, I
9 was President and Chairman of the Board of the Staten
10 Island Historical Society, member of DCIG [sic]. I'm
11 also a trustee of the Devereux Foundation, the
12 largest nationwide nonprofit provider of the full
13 range of services to the developmentally disabled. I
14 chair the parish council at Saint Peters Roman
15 Catholic Church on Staten Island. And here's one
16 you'll rarely hear, where I am a lector and a
17 Eucharistic Minister. In addition to my formal
18 affiliations and responsibilities, I have advised and
19 acted in a variety of capacities for numerous other
20 nonprofits. I'm excited to be nominated to the LPC
21 and I believe it is a timely opportunity in my life.
22 I have spent time in the corporate world as you've
23 heard. I've spent time in service of my community.
24 It would be my privilege to embark on a new phase of
25 my life in this small way as a public servant. My

2 experience as a lawyer will inform my interpretation
3 of the parameters of my decision-making. My
4 experience and expertise in non-profit governance
5 will inform my understanding of my fiduciary
6 obligations to the people of the City of New York.
7 My years of leadership in historical organizations
8 will inform my appreciation for what has genuine and
9 lasting value. Finally, it's my hope that a life
10 time of playing on our street, working our buildings,
11 living our neighborhoods, walking on our sidewalks
12 and living with and among our people will guide me to
13 making balanced decisions about the future of the
14 architecture that makes my home town a palace. It'll
15 be an honor to serve the city I love. Thank you for
16 your consideration.

17 CHAIRPERSON LANDER: Thank you very much
18 for the testimony, for your, both of you, for your
19 extensive careers in this area and for being here
20 this morning. I'll just ask kind of one question,
21 then I'll open it up to my colleagues if they have
22 others. I think you got some of the flavor of this
23 in the conversation with Margery Perlmutter before,
24 but for the LPC the tensions facing development and
25 preservation in the city, we hear a lot about. The

2 LPC hears a lot about them. We hear a lot about
3 them. We actually did a hearing on LPC process
4 toward the end of the prior term and, you know, a set
5 of people from the real estate and development
6 community come and say the Board just has dropped its
7 standards. The Commission's dropped its standards
8 and is designating anything, and then we hear from
9 people from neighborhoods feeling that just the
10 opposite is true and that overdevelopment is
11 destroying the character of neighborhoods and
12 undermining the kind of treasures that make the
13 neighborhoods; hearing from home owners some of the
14 challenges of their relating to the LPC and voted to
15 get their own applications through the system. So I
16 just wonder from what you know of the LPC from the
17 public debate from whatever you've learned, you know,
18 how do you come to this nomination and how would you
19 come to the LPC in terms of your perspective on what
20 the priorities for preservation should be, and you
21 know, how the LPC is doing in moving those things
22 forward and what you would want to see during your
23 term of service and what the LPC can do to meet the
24 goals of the Landmarks law on preservation of the
25 city.

2 JOHN GUSTAFSSON: Well, I think there are
3 a whole series of questions wound up in there. Let's
4 start with this, I think we have to first divide
5 things up into two categories, individual landmark
6 buildings and historic districts. When we talk about
7 individual landmark buildings there are less than, I
8 believe, 1,350 individually landmarked buildings,
9 which have been designated over the course of 50
10 years of the Commission's existence and include
11 buildings over the course of 350 some odd years of
12 the existence of the city. There are 900,000 tax
13 lots in New York City. So 1,350 individual buildings
14 out of 900,000 is not an extraordinary number. So
15 I'm not as terribly concerned about the quality of
16 those decisions, separate and apart from that,
17 historic districts. Now, as you said, I'm not in
18 this yet. I haven't seen how those decisions have
19 been made. If you asked me how I'd want those
20 decisions to be made in the future, I certainly would
21 want them done with a great degree of consistency.
22 Now, I'm not criticizing what's been done in the past
23 because I wasn't there, and I will learn about that.
24 I expect if I'm appointed that's the very, very first
25 step, and I'll look forward to applying, as I am a

2 rule of law kind of person, applying the rules in a
3 straight forward way that is loyal to the intent of
4 the legislation.

5 ADI SHAMIR BARON: I think we all agree.
6 I would hope that so as a base to the tensions that
7 you are describing that safeguarding significant
8 sites through designation, regulation and enforcement
9 of the landmarks law is really critically important
10 to the cultural and economic sort of vitality of the
11 city itself, and it contributes, we know, to the
12 improvement of property values and the diversity of
13 urban experience and civic pride, and I do think that
14 the issue of how things move through the Landmarks
15 Commission and the question of consistency is one, is
16 a question. I think that every case brought before
17 LPC, while guided by a set of criteria is ultimately
18 unique, singular in terms of the considerations. And
19 for myself if appointed, confirmed and appointed, I
20 really look forward to making the kind of the serious
21 effort to understand, to understand all of the sides,
22 to really understand the factors that affect the
23 cases and seeking information from a variety of
24 sources before arriving at those informed and
25 ultimately independent decisions. So, this issue of

2 guidelines and the uniqueness of each of the cases is
3 important to keep in balance.

4 CHAIRPERSON LANDER: And then just one
5 more question for me and then Council Members Rose
6 and Dickens have questions. Part of what we had in
7 the Oversight Hearing that we looked at in the
8 Landmarks Commission last term was about kind of
9 timelines and transparency of LPC decision making,
10 unlike City Planning Commission. There's no time
11 clock on the consideration of applications,
12 calendaring and designations. So while the LPC in
13 the prior term tried to move some things along,
14 there's still some buildings that have been
15 calendared for 20 plus years and has never--the LPC,
16 I mean, hasn't made a decision on them one way or
17 another, and people who submit requests for
18 evaluation, you know, don't have any--don't
19 necessarily receive a response to their request for
20 evaluation or a kind of opinion on it one way or the
21 other. So there's been some move to push the LPC to
22 have a set of timelines and for transparent and
23 deadline driven decision making. There's not a
24 concrete proposal on the table before you today, so
25 I'm not asking you, do you support any particular

2 proposal or not, but I just wonder if you have any
3 thoughts or response to that particular challenge.

4 ADI SHAMIR BARON: I do agree with those
5 concerns and I'm aware of them and absolutely believe
6 that in public processes transparency is key. And
7 timeliness is really important. And I do think that
8 possibilities for the consolidation of permitting
9 process and the streamlining, upgrading of technology
10 in order to facilitate that's important, and I'm--I
11 think that the issue of owners and others being able
12 to track their, the progress of their applications is
13 really important because we're use now to an
14 interactivity to understanding where things are when,
15 and so I certainly understand that and look very much
16 forward to consulting with LPC staff and Chair and
17 others in understanding how we might improve the
18 process and make it more effective and user friendly
19 and productive.

20 JOHN GUSTAFSSON: I don't want to
21 criticize a process that I'm not deeply involved in,
22 but I certainly have heard on the street the same
23 types of concerns that you've expressed. Along with
24 the consistency I mentioned earlier, I think
25 efficiency and transparency are the two others that

2 are touchstones for me, and so I don't know whether
3 the internal--it becomes as a surprise to me when you
4 tell me that there are a number of buildings who've
5 been under consideration for a long, long, long time.
6 I don't think that's a very good idea for either for
7 the Commission itself or for the benefit of the
8 structures under consideration, because it gives them
9 time to deteriorate or be destroyed. So I think that
10 those two concerns are ones that to the extent the
11 Chair is on board I would be helpful in dealing with.

12 CHAIRPERSON LANDER: Great, thank you.
13 Council Member Rose followed by Council Member
14 Dickens.

15 COUNCIL MEMBER ROSE: Thank you. Both of
16 you have quite impressive resumes, and it's really
17 good for me always when there's a Staten Islander in
18 the house. It's so infrequent that I just have to
19 give you a shout out.

20 JOHN GUSTAFSSON: Well, thank you.

21 COUNCIL MEMBER ROSE: Let's hear it for
22 Shallin [sic]. So, I just--I--you know, there's been
23 a concerned expressed that a number of properties
24 have been designated that really don't meet the
25 standards for the designation, but have been

2 designated with a goal to deter development. Where
3 do you stand on that particular issue? Both of you.

4 JOHN GUSTAFSSON: Well, first of all, I
5 don't have any personal experience with the buildings
6 being designated inappropriately. My guess is that
7 human nature that people will push things for their
8 own personal reasons which may be legitimate and may
9 not be. I think as you heard earlier, I think we
10 have to judge each situation individually, and
11 certainly, you know, my experience with both the
12 Staten Island Historical Society and the Historic
13 House Trust have given me a fairly good idea of what
14 truly has historic value and that is something that I
15 will be keeping an eye on personally. Obviously, I
16 can only--there are 11 Commissioners. I can speak
17 for myself.

18 COUNCIL MEMBER ROSE: Thank you.

19 ADI SHAMIR BARON: Yes, I do not believe
20 that as I've written that districts should be
21 expanded to deter development. I don't think that
22 preservation needs to be a fight at odds with
23 development efforts. I think that development
24 benefits enormously from investment and the attention
25 to quality that attends preservation. I believe, of

1 course, we live in New York, development is necessary
2 and needs to be considered within planning and zoning
3 contexts. So we can talk separately about the
4 struggles, and yesterday's Wall Street Journal
5 certainly identifies that development has lots of
6 problems, which is to say challenges about how to get
7 things done, among them financing and taxes and lots
8 of other things, but I really don't believe in that
9 preservation needs to be set up in at odds with
10 development. In reference to your issue about value
11 and worth, I do think that designation considerations
12 really need to evolve potentially to include criteria
13 that value the kind of nuance of cultural
14 contributions. They're sometimes quite intangible,
15 and they're already considered as part of the mix,
16 but for those people who say that properties are, you
17 know, the reasons that they are designated is sort of
18 without attention to a certain--to the strict sort of
19 guidelines of architectural value. I say there are
20 other values.

22 COUNCIL MEMBER ROSE: That's interesting
23 to note. So, if there is in terms of like for
24 historic districts, if there seem to be a consistent
25 sort of aesthetic style, but doesn't really seem to

2 have the historic significance, do you think that
3 that should be included in the historic district?
4 Contextually, it fits. Aesthetically, it fits, but
5 historically it isn't. Do you think it should be
6 nuanced?

7 ADI SHAMIR BARON: I think these are
8 very, very important questions, and I'm--I have to
9 say, I, you know I--because I'm not in the debates I
10 don't know the back story of each one of the cases
11 which are singular and unique, and so this is exactly
12 what I am going to be very interested in learning
13 about as I'm--if appointed as I'm part of really the
14 group discussion in thinking about it all, because I
15 do think it's very, very important.

16 COUNCIL MEMBER ROSE: Thank you.

17 JOHN GUSTAFSSON: And I agree with that,
18 that there's--it's sort of a one by one analysis. I
19 can certainly imagine in my mind different types of
20 historic districts across the city. You know, a, you
21 know, Queens Village is very different from Saint
22 George on Staten Island. And when you look at them
23 as a whole, you know, a little bit of diversity in
24 structure in one neighborhood might really blow the
25 whole thing up, whereas a little bit of odd diversity

2 in another neighborhood might be just part of the
3 scenario that you expect from that neighborhood. So
4 I think it's really one by one.

5 COUNCIL MEMBER ROSE: Thank you. And Mr.
6 Gustafsson, Staten Island, we have a historic
7 district pending. I don't know if you're aware of
8 it, but Harrison Street. Do you have any feelings
9 about that one way or the other? It's a community
10 that some say there is historic inconsistencies, that
11 it is no longer historically accurate, I guess, for
12 the time period, while others feel that it is
13 aesthetically. Do you have any knowledge of that
14 pending historic district, and what are your feelings
15 about that?

16 JOHN GUSTAFSSON: I'm familiar with
17 Harrison Street. I've been on it as recently as last
18 week, so I know a little bit from a layman's
19 perspective. Now, that's a really important point
20 because until I'm actually appointed, if I'm
21 confirmed, I won't have studied it against the
22 standards that we're supposed to be applying. So I'm
23 not--I'm loath to actually come out one way or the
24 other on that particular area. I don't even know
25 right now a factor that seems to me of some

2 importance is how the community feels about its own
3 neighborhood and you know, how much support there is
4 there and how much opposition. So, I can't really
5 give you an answer until I've, you know, I dig into
6 it.

7 COUNCIL MEMBER ROSE: And thank you--

8 JOHN GUSTAFSSON: [interposing] But I am
9 familiar with the street.

10 COUNCIL MEMBER ROSE: And I appreciate
11 that. And my last question is, you know, often times
12 communities are slated for the designation and the
13 financial concerns are really relevant and important
14 to those communities and has a tendency to factor
15 into whether or not the historic designation goes
16 through; would you be in favor or inclined to at
17 least look into--there are already grants that are
18 provided, and it's been stated by homeowners that
19 they are insignificant. There are a limited number
20 that are made available throughout the year. And
21 that would you consider maybe some sort of tax
22 credits for residents who have historic designations,
23 and will you take into consideration when
24 deliberating about these districts, whether a
25 district becomes a historic district, the financial

2 concerns of people who live in these areas that could
3 potentially become historic districts.

4 ADI SHAMIR BARON: Sure. Shall I?

5 Obviously, the grant program that exists is important
6 and I would support working with staff and others who
7 understand more about what is available to homeowners
8 and by extensions to districts, and if necessary and
9 if available and if possible would of course always
10 wish for there to be funds available for preservation
11 when it's needed. And I'm also very interested in
12 the possibility of incentives as you mentioned. I
13 don't know that tax credits, per say, could help in
14 all situations, but certainly tax exemptions or
15 abatements, and I do think it's very important for
16 those kind of financing tools to be easy to work
17 with, to decipher for homeowners and for others and
18 in order for them to really be effective. And, I
19 mean, clearly I understand the concern and I would
20 want to seek information about all of from others to
21 understand how it affects a particular area. It's
22 not exactly the work of the Commissioner, I would
23 say, in landmarks, but certainly an important aspect
24 of the story.

2 COUNCIL MEMBER ROSE: It is a real
3 concern whether or not these designations go through
4 or whether community supports them if a good number
5 of the community feels that the financial
6 responsibilities are restrictive, you know, for them.

7 JOHN GUSTAFSSON: I agree with every
8 comment there. I would only add that there are--I
9 would support to the extent that the Commissioners
10 have a role on the financial side. I would support
11 helping those who need help, which is to say as you
12 represent a community where people actually need it.
13 You know, my own church, my own parish is in a
14 historic district, and I would hope that we're not,
15 you know, helping the catholic church to, you know,
16 subsidize the cost of those things. That doesn't
17 make any sense. It has resources and can figure it
18 all out. On the other hand for--I refer to it as
19 Grandma owning the house next door who has serious
20 trouble being able to pay for what needs to be done
21 at the level that needs to be done. We have to
22 figure out a way to deal with that. I can't spend
23 the city's money, I don't think. Especially can't do
24 it before, at this stage of the process, but I do
25 understand that if you can't actually pay for the

2 required upkeep on the house. You're not going to
3 preserve the house. You'll, you know, the need will
4 be there. The rule will be there. The approval for
5 a certain type of fix will be there, but it will
6 never get done because grandma can't afford it. So we
7 need to figure something out, and I don't--I'm not
8 there yet, so I can't answer how we're going to do
9 that.

10 COUNCIL MEMBER ROSE: I understand that
11 you don't do the financial part of it, but you have a
12 say about the policy and how the designations are
13 arrived at and so I'm asking for you to consider
14 looking at how the impact on individuals owners
15 within these districts. Thank you.

16 COUNCIL MEMBER DICKENS: Thank you, Mr.
17 Chair, and thank you Ms. Shamir Baron and Mr.
18 Gustafsson for your testimony, for staying here for
19 this length of time and for your willingness to serve
20 on the LPC. But just to piggyback on that,
21 legislation probably would be required from the city
22 and maybe even from the state in regards to a tax
23 incentive. However, there is a way that it could be
24 done like it is through HPD, where you do the work.
25 After you've done the work, after it's approved,

2 because when you do work on a building that's in a
3 historic district or a landmark building, you've got
4 to get prior approval, and then you have to come out
5 and approve what has been done. So therefore, the
6 work would already have been done to maintain the
7 architecture of the building and in accordance with
8 what your requirements are. And so then, if it could
9 have been worked out where the city maybe changed
10 legislation or home rule being sent to the state. If
11 you could be the catalyst to get that started, that
12 would be a big incentive towards people being willing
13 to purchase in a historic district. Because based
14 upon the statement that you made, Ms. Baron,
15 preservation frequently is at odds with development,
16 and you know, presently the challenges that are
17 incumbent upon people who have bought in a historic
18 district sometimes is so costly that it cannot be
19 overcome. And so there is a lot of concern to that.
20 For instance, I live in the Saint Nicholas Historic
21 District, and I'm just going to give you a for
22 instance. I live in Sandford White buildings at
23 Striver's [sp?] Row, and those buildings for years
24 required wood windows, wood framed windows, which was
25 unconscionable when the city administrations was

2 demanding environmentally conservative HVAC systems
3 to be installed, yet APC took years to finally come
4 up and approve an alternative incased window that
5 didn't allow for the flight of heat to escape the
6 building. And so sometimes the preservation which is
7 critical is at odds because the wood windows is
8 porous, and so the heat escapes phenomenally and
9 raises the bill, and the city turns around and says,
10 "Well, you can't use a number four oil [sic]. You
11 got to use number two." Or they convert to gas. And
12 yet it's escaping through wood windows when there are
13 encasements that finally, it took years, not you, but
14 LPC, to approve within the Saint Nicholas Historic
15 District that did not impact negatively upon the
16 architecture, and in fact increased the viability of
17 the buildings to make people want to purchase in a
18 historic district. So, I think those are two things
19 that could be considered by LPC. I think that you
20 could take the lead on doing those two things. One
21 is to encourage the preservation by looking at tax
22 credits and how that could be done, particularly
23 since any work has to be prior approved anyway. And
24 then the second part of it is looking at--and maybe,
25 I don't know, maybe it's financial why you don't have

2 the capability or LPC doesn't have the capability of
3 looking at alternatives to preserve architecture, yet
4 allow for the environment to be taken into
5 consideration. So I think those are two things that I
6 would like to see changed in LPC, and I think that
7 this is a great opportunity for the two of you to
8 look at that and review the policy and the length of
9 time it takes for you to do things.

10 JOHN GUSTAFSSON: Well, as I mentioned--

11 COUNCIL MEMBER DICKENS: [interposing] It
12 wasn't really a question. It was--but I'd like--

13 [cross-talk]

14 COUNCIL MEMBER DICKENS: I mean, would
15 you be willing to consider something of that nature,
16 looking at maybe how tax incentives could be
17 incorporated? It wouldn't--may not be dollar for
18 dollar, but tax incentives that would help owners of
19 buildings within historic districts or in landmark
20 buildings.

21 ADI SHAMIR BARON: Well, so I've said yes
22 I would and I'm supportive of it, but I think your
23 other point is very important too and that has to do
24 with coordination and potential collaboration with
25 HPD and other agencies and how that can be more

2 effective. I mean, I know that many people are
3 speaking about how we might be able to support a
4 little bit more interaction, but especially in these
5 kind of financial tools it's critical, and I'm in
6 agreement with you. It has to happen across the
7 agencies in order for that to work best. The other
8 issue around--the other issue is two pieced. It's in
9 one, what Chair Lander referred to earlier as issues
10 around timeliness not only of designation, but you
11 know affecting and implementing the rules and
12 approvals and so on, and that clearly has to--if it's
13 not working properly, and I don't know all of the
14 details on that, but if it's not working as
15 effectively as it should, it needs to be addressed.
16 The issue of material replacement, which is really
17 where you're discussing, is also very much case
18 specific and based. I mean, one would think that,
19 and I probably shouldn't be so specific, that wood
20 frame, wood mulligans [sic] that are constructed
21 properly would be able to function. In the case that
22 that's-- when that is not the case, maybe other
23 alternatives can be considered. Now, the other
24 question is should all other alternatives be
25 considered at all, and I think that the issues around

2 sustainability that are beginning to inform how it is
3 that we manage energy efficiency best are going to
4 potentially and should impact discussions that happen
5 within LPC. So, the materials question is very dense
6 and important, and again, case based and
7 philosophically I think based moving forward. And I
8 appreciate your thoughts about that.

9 COUNCIL MEMBER DICKENS: Thank you.
10 Thank you so much, but I kind of disagree with you.

11 ADI SHAMIR BARON: Okay.

12 COUNCIL MEMBER DICKENS: Wood is porous,
13 and no matter how well constructed the frame is, it
14 does allow for the escape of heat to a large degree,
15 just by the mere fact of it being wood. So I kind of
16 disagree with you on that one, but I'm just asking
17 for that to be looked at, because in my historic
18 district everybody has complained about that same
19 exact thing.

20 ADI SHAMIR BARON: I understand.

21 COUNCIL MEMBER DICKENS: That the wood
22 window, the wood framed windows, no matter how well
23 constructed they are, and particularly in Sanford
24 White, every window's a different size. That's what
25 it's known for. So it becomes yet a very cost

2 ineffective for building owners that try to maintain
3 their properties. And so it's something that has to
4 be looked at policy has to be changed within LPC in
5 order to really cause for these buildings to be
6 preserved. Thank you.

7 CHAIRPERSON LANDER: Thank you very
8 much, and the final Council Member with questions is
9 Council Member Williams.

10 COUNCIL MEMBER WILLIAMS: Thank you, Mr.
11 Chair. Thank you very much for your testimony and
12 for considering joining the LPC. I sat on the
13 committee that deals with the landmarks for about
14 four years. To be honest, since I think I'm taking
15 crazy pills when it comes with land marking. It seems
16 arbitrary in some cases, very frustrating in other
17 cases. I seen people get landmarked against their
18 wishes even though they're the owners of property. I
19 even know they could have been carved out of
20 districts, arbitrary reasons why they shouldn't. And
21 then I see places that really want to be landmarked
22 not getting the attention that's needed. Such is the
23 case in my area. There is a lot of cultural things
24 that I believe on south of Easton [sic] Parkway in
25 Brooklyn, though they don't normally get the

2 representation that they need. I mean, we could have
3 an overall discussion of many of the changes I think
4 need to be done in terms of land marking, in
5 particularly informing owners at the time of purchase
6 if we have information about land marking
7 possibilities of their homes, providing more funding
8 for owners who need to make particularly emergency
9 repairs on landmark buildings. That's a whole
10 another discussion. It's just that whole world very
11 much concerns me. But with that said, I do have some
12 areas in my district. One, you're welcome to comment
13 on that part of it if you have anything you believe
14 will add to helping less crazy pills being taken, and
15 then in particular in my district, the Jackie
16 Robinson House, I'm not sure if you're familiar with
17 it, it was denied when we first put it in. We put it
18 in again. There was some questions about the times
19 of when Jackie Robinson lived there. There's no
20 question that he did live there. I think they ignored
21 the context of the story, however, and the history
22 that was there in terms of Jewish black relations,
23 how he came to live there, which I think needs to be
24 reconsidered. So we've put it back in a request
25 again. I would like to know your thoughts on it. And

2 then we have in Victorian Flatbush a number of
3 neighborhoods that have not been landmarked, such as
4 South Midwood [sic] and about a few other areas, some
5 I just picked up in my new district that have not
6 been landmarked while many of the neighbor's has.
7 And so this is a case where people want to get
8 landmarked. There's a lot of back up material that
9 says why it should be landmarked and it's still being
10 stalled. So I wanted to know one, if you want to
11 comment on my first part, and two, if you're familiar
12 with the request of Victorian Flatbush and Jackie
13 Robinson House and your opinions on them.

14 ADI SHAMIR BARON: You go ahead. Yeah, I
15 went first.

16 JOHN GUSTAFSSON: I'm--since I'm a
17 diehard baseball fan I have to start with the--I'll
18 start with the Jackie Robinson question. I think
19 that it is you have the opposite question that I
20 expect what happens more often, which is people
21 opposing land marking as opposed to having a
22 community that actually supports it. So, while I was
23 not involved and I don't know what the discussion
24 was, and I don't know what the testimony was about
25 the Jackie Robinson House when it was going, I

2 certainly think that the Commission would be more
3 welcoming to situations where the community is
4 actually in favor. Now, as I said, I don't think
5 either of us can comment on the specifics of that,
6 why they rejected it because we weren't involved in
7 it, but I certainly would want to review it in gross
8 detail and figure out what the right thing is. But
9 that's the best I can do for you without actually
10 being in the room.

11 COUNCIL MEMBER WILLIAMS: Any comments on
12 my first, diatribe, I guess?

13 JOHN GUSTAFSSON: I'm sorry--

14 COUNCIL MEMBER WILLIAMS: [interposing]
15 My first--the first part, we're just talking about
16 the craziness that I believe that is land marking and
17 people being pushed to be landmarked not being
18 provided any information about possible landmarks
19 when they're fixing their home, not enough money
20 being there to assist, and in particular, you know,
21 they're large districts that get landmarked. I can't
22 understand for the life of me why we can't carve out
23 one or two of the places and keep the district alive,
24 healthy and well. Like it seems that we just have
25 grab up every single piece, and it's not a council

2 district. It doesn't have to be contiguous or look a
3 certain way, and really just keep ownership
4 privileges, you know, alive. I think we take that
5 away very often when it comes to--

6 JOHN GUSTAFSSON: [interposing] Okay.
7 On the--I make it a personal project to eliminate
8 craziness in my life, and so I--if appr--if
9 confirmed, I think that to the extent that we are, as
10 you heard me say earlier, you know, consistency,
11 efficiency and transparency are my three points. And
12 I think that those are the things that you are
13 feeling are lacking in your experience with
14 landmarks. Now, I don't know whether that's--I
15 wasn't there, so I can't really say, you know,
16 whether those are the--whether that's true or not,
17 but I know that I've heard that from more than just
18 you. And I do believe that the Chair and those I
19 have met on the Commission are interested in fixing
20 that problem now. When you talk about selecting out
21 individual buildings, from my own--at one point my
22 own neighborhood on Staten Island was proposed as a
23 historic district, and when they proposed it they
24 actually did carve out certain structures that were
25 inappropriate for land marking. So, if that's not

2 happening on a consistent basis, then we need to sit
3 down and decide well, what do we carve out and for
4 what reason do you carve something out and then apply
5 that on a consistent basis. I don't really know why.
6 I can see in my neighborhood why they carved out
7 certain buildings. Now, they didn't--ultimately
8 wasn't landmarked. It didn't become a historic
9 district at all. But I could see why they had
10 selected out certain buildings and it made sense to
11 me, but that kind of sense is what everyone who is in
12 a historic district should feel is that, okay, I know
13 why that's not part of it, but I don't get why that
14 is.

15 ADI SHAMIR BARON: And I would say also
16 that the frustration that you--it would seem to me
17 that the frustration that you feel with a lot of the
18 things that you've expressed is really tied directly
19 to what Chair Lander was talking about, this
20 question. You know, when things are opaque, when
21 things are hard to follow, when there really isn't
22 the kind of resource to explain all aspects of the
23 process and sort of not every last detail, but
24 thinking behind decisions, people feel that there's
25 just kind of inconsistency or they're lost at how

2 decisions were rendered and when and why and when are
3 they going to return to certain issues. So I really
4 do believe, and you know, not just from a kind of a
5 bureaucratic perspective, but really for the sense of
6 this kind of sanity that you're describing, that it
7 would be that the right thing to do is to implement
8 as much as possible the ability for people to see
9 into the process and to feed back. With respect to
10 the Jackie Robinson House, I--is it on Tilden [sp?]?
11 It's Tilden. It's on Tilden, right?

12 COUNCIL MEMBER WILLIAMS: Yes, yes.

13 ADI SHAMIR BARON: Yeah, I know it
14 vaguely. I don't at all know the landmarks process
15 around it, but as I stated earlier, I'm especially
16 interested in the cultural less tangible sometimes
17 aspects of a site's story, and I would very much look
18 forward to learning more about it and participating
19 as much as I can in thinking through its issues and
20 prospect of its designation. Thank you.

21 JOHN GUSTAFSSON: I--Sir, just one more
22 comment on that. You know, that craziness doesn't
23 work in the Commission's favor. I mean, if what we're
24 trying to do is to protect what needs to be
25 protected, we need to eliminate that sense of

2 craziness because all it does is generate distaste
3 amongst the average person about their house being
4 involved in a historic district or being landmarked.
5 That doesn't help when there are buildings that
6 should be designated when there's loud opposition,
7 but that loud opposition is fed in part by that sense
8 of craziness and inconsistency.

9 CHAIRPERSON LANDER: Thank you very much,
10 Council Member Williams, and to Council Member
11 Williams and Rose for still being here. Thanks to
12 both of you. I, you know, I feel across actually all
13 four of the nominees we've raised a lot of you know
14 hard systemic questions, and while we haven't sort of
15 answered all the broad issues around how the system
16 should work, we've got four very thoughtful nominees
17 who have really been grappling with the systems that
18 we're talking with and that, you know, personally, at
19 least I feel very enthusiastic about taking the
20 positions for which you're nominated and bringing the
21 eye we've discussed to the Commission. We're not
22 voting today, so I will thank you both and we have
23 three people signed up to give public testimony. So
24 we're going to call them up, and then as I mentioned,
25 we'll recess the hearing that'll allow other members

2 of the committee to review the transcripts and the
3 video to see both the testimony and members of the
4 public's testimony and if there are follow-up
5 questions that we need to ask before we schedule the
6 vote most likely on August 21st, the day of our
7 stated next Thursday. We'll be back in touch with
8 you. So thank you both very much for your time and
9 patience.

10 JOHN GUSTAFSSON: Thank you very much.

11 ADI SHAMIR BARON: Thank you.

12 CHAIRPERSON LANDER: And I'll now call
13 up, and we have three people signed up to testify, so
14 I'll call you all up at once. I really want to thank
15 you for your, for coming to this hearing, for
16 listening, for being patient and for giving some
17 public testimony. We have Andrea Goldwyn from the
18 Landmarks Conservancy, Ed Jaworski from the Madison-
19 Marine-Homecrest Civic Association, and Robert
20 Cassara from the Brooklyn Housing Preservation
21 Alliance. We have the, you know, three minute time
22 clock on public testimony, but you guys have been
23 very patient, so we'll let the clock run, but if you
24 go a few seconds over after it does, I think we'll
25 stick around and listen to your testimony. And I

2 guess I just will say this before you start, while
3 obviously, you know, it's the middle of August and
4 the middle of the day and therefore we don't have a
5 whole lot of people from the public signed up to
6 testify, I hope you'll have seen reflected in the
7 questions from a range of Council Members for all of
8 the Commissioners and especially in the gentleman's
9 case, the BSA, that Council Members have been hearing
10 a lot from their constituents and members of the
11 public and the issues that I know all three of you
12 care about members hear a lot about and are eager to
13 see forward motion on. So we appreciate your being
14 here representing a broader set of people who share
15 these points of views and one that we take very
16 seriously. So we'll just go down the line.

17 ANDREA GOLDWYN: Okay. Good day, Chair
18 Lander and Council Members. I'm Andrea Goldwyn
19 speaking on behalf of the New York Landmarks
20 Conservancy. The conservancy is a private,
21 independent, not for profit organization founded in
22 1973. Our mission is to preserve and protect
23 historic resources throughout New York. Both Adi
24 Shamir Baron and John Gustafsson have distinguished
25 backgrounds. They have experience with preservation

2 and an interest in New York's built environment. We
3 appreciate their willingness to serve on the
4 Landmarks Preservation Commission and look forward to
5 working with them should the Council act favorably
6 upon these candidacies. New York's Landmarks
7 Commission is the largest and strongest in the
8 country. We trust these candidates will continue to
9 fill the agency's mandate of protecting individual
10 landmarks and historic districts. Districts in
11 particular continue to be very popular with
12 residents, evidence by the long list of neighborhoods
13 waiting for designations. These designations
14 stabilize property values, establish connects with
15 New York's history and gratify communities that
16 retain residents and attract new comers. We hope
17 that the Commissioners will reject recent criticisms
18 that there have been too many designations. For
19 nearly 50 years, preservation has been an important
20 land use tool creating local jobs, encouraging
21 tourism and maintaining the city's unique identity.
22 And for when she watches this, we would also like to
23 thank Margery Perlmutter for her service to the
24 Commission and we're certain she'll bring the same
25 level of thoughtfulness and dedication that's

2 distinguished her tenure to the Board of Standards
3 and Appeals. Thank you.

4 ED JAWORSKI: Good morning, or good
5 afternoon now. Ed Jaworski, President Madison-
6 Marine-Homecrest Civic Association and Co-Founder of
7 the Brooklyn Neighborhood Congress. I'm just going
8 to ask this gentleman to give you a couple of
9 articles from the Times that will refer to some of my
10 testimony. I'm speaking about the appointment to the
11 BSA Chair. I'm not sure if Ms. Perlmutter is familiar
12 with the southern end of Brooklyn where Community
13 Board 15, which includes Sheepshead Bay. We're one
14 of just three and a half Community Boards in the
15 entire city that have special permits on the zoning
16 resolution 73622. It came to be in 1968, Community
17 Board 10, 11, 15 and a portion of 14 are the only
18 Community Boards in the entire city that have this.
19 All the other Community Boards rejected it and at the
20 time it came to be, all the Borough Presidents
21 suggested rejecting it. We have it, and the Board of
22 Standards and Appeals rules on these special permits.
23 I'm not sure how familiar Ms. Perlmutter is with them
24 since they, it does take in short, a small geographic
25 area, but they are a major source of business and

2 time for the Board of Standards and Appeals. They
3 are so abused that the former New York Times gossip
4 columnist Michael Powell, when he sat on one of our
5 civic association panels last spring said it looks
6 like the houses in the area are injected with
7 steroids. This is so abused, this special permit and
8 variances in our neighborhood that we have hundreds
9 of stop work orders in place. At one point we had
10 450 stop work orders in place, thousands of
11 violations and many millions of dollars in unpaid DOB
12 ECB fines. In fact, this is some--this is an item
13 that we'll probably be trying to see Council Member
14 Williams for in the very near future, maybe in the
15 next couple of weeks or so to talk about problems
16 with the DOB. I had understood, my information was
17 that there's 600 million dollars in outstanding DOB
18 ECB fines. We met with Councilman Kallos yesterday.
19 His staff, his Chief of Staff said it may be over a
20 billion dollars at this points. That's a lot of
21 money that's not being collected by the city. All of
22 this is regularly ignored by the BSA, and I know that
23 there have been times when there are struggles and
24 tension between the BSA and City Planning, and it
25 even goes back to a 1967 report called "The

2 Threatened City" and I had a hard time finding this.

3 I had to call John Mollincof [sp?] over at the

4 graduate school to find out where could I find this

5 report that Lindsey had done, Mayor Lindsey had done

6 and William Paley [sp?] chaired this Commission, the

7 "Threatened City" and at that point they suggested

8 that the BSA be rolled into City Planning. So maybe

9 some of the tension goes back to that. And we've seen

10 some correspondence between former chair Joe Rose of

11 City Planning and former chair of the BSA, William

12 Chin, which the BSA ignored when Rose said don't do

13 this. They still went ahead and did it. I suggest

14 that if Ms. Perlmutter is serious about her position,

15 that there needs to be a discussion, a friendly

16 discussion between BSA, City Planning, the DOB and

17 the City Council to come up with some answers,

18 particularly now with special permits providing a

19 special challenge following Sandy. Three of the four

20 Community Boards that have it were impacted by Sandy,

21 and it's probably time to suspend these special

22 permits and even variances until some study is done.

23 You're seeing those New York Times articles that I

24 handed you that one of the cases went through an

25 article 78, in fact two article 78's. It was a

2 pretty good summary about this in the curb site, and
3 I'll just quote to you quickly here. "Neighbors have
4 fought for years to have it removed." This is the
5 1872 East 12th Street situation. "Have it removed and
6 now a state judge has ordered the city to re-evaluate
7 the process that allowed this building to be built.
8 The judge also told the owner be prepared to tear
9 down the house." Which is happening right now.
10 "What the state judge said explains the zoning
11 expert, is that the BSA did not properly conduct the
12 responsibility as an overseeing body and determined
13 the DOB's rubber stamp invalid." The BSA essentially
14 kicked sand in the judges' face and they went ahead
15 and they said go ahead and do it. now the building
16 is being torn down now, because the BSA just didn't
17 see what was going on, the same thing the New York
18 Times sent its own engineer to 1610 Avenue [sic] S,
19 and found out significant portions of what should
20 have been a foundation were missing. The BSA ignored
21 it. They said, "We'll let it go." In fact, two weeks
22 ago, the BSA told them that they go ahead with their
23 vesting of this 1610 site even though it's up for
24 sale and the property is a blight. It's filled with
25 garbage and weeds, and the developer's attorney when

2 she found out that we complaining to the BSA about
3 it, had them hide the for sale sign. The BSA has
4 become a bandage for the DOB areas, especially where
5 self-interest, self-certification has been involved.
6 I would ask a question about to the BSA candidate,
7 "How would you restore public confidence in the BSA?
8 Does the agency need closer oversight?" The spirit of
9 the law is clearly being violated here. She did
10 mention about coming out to communities, and I caught
11 her outside and we're going to be getting an
12 invitation to it to come visit our community. She
13 mentioned the fact that she would include aesthetics
14 within the definition of character of a neighborhood.
15 That's a question that I would ask her, "Give us your
16 definition of character of neighborhood." Because we
17 see attorneys stand up there and bury their own
18 definition into the character. It's reached a point
19 where the Vice Chair of the BSA, Chris Collins, that
20 has an attorney's background, once raised a question
21 in executive session. I know that people from this
22 community, meaning our community, are always talking
23 about backyards being part of the character of the
24 neighborhood. We have some backyards that are 40, 50
25 feet deep, and even though the DOB regulation is that

2 you have to have a 30 foot backyard, the special
3 permit 73622 allows you to reduce it to 20 feet. So
4 if you've got a 50 foot backyard, you could put a 30
5 foot extension on it. Chris Collins asked if we
6 should start considering backyards as part of the
7 character of these blocks and their attorney said,
8 "No, it would be arbitrary and capricious to open up
9 the definition now." They've been bullied by the
10 real estate attorneys and to just considering the
11 façade, the front of the building and that's it. So
12 she says aesthetics. I'd be interested in knowing
13 what her definition of character of a neighborhood
14 would be. This is a quality that a lot of
15 communities all over the city would love to see creep
16 in here, and not just have an attorney come in and
17 say all the buildings on this block are single family
18 buildings. This special permit is going to be for
19 single family buildings. She doesn't say that the
20 single family building is going to go up 10 feet and
21 go back 30 feet and take away all the yards. Yards
22 takes amendment [sic] as being totally abused in our
23 community and so forth. As I say, it's reached a
24 point where Councilman Ignizio mentioned even that
25 the BSA is being used as a tool. In fact, it is.

2 It's not only being used a marketing tool from some
3 properties. It's being clearly used as a doctor, as a
4 bandage for DOB areas. And so, the spirit of the law
5 has to be better protected. The citizens have to be
6 paid better attention to. A lot of what she said in
7 the comments and I'm not objecting to her. It's just
8 the theory not matching reality at all. Thank you
9 for letting me vent for a while.

10 CHAIRPERSON LANDER: Thank you very much.
11 No, thank you. We appreciate your patience and we're
12 glad to extend some to you as well.

13 ROBERT CASSARA: Good afternoon, Chairman
14 Lander and members of this Committee. I'm Bob
15 Cassara. I'm a resident of Bay Ridge, Thyker [sp?]
16 Heights. I've been a lifelong resident. I'm also now
17 the founder of the Bay Ridge, of the Brooklyn Housing
18 Preservation Alliance. And basically that this group
19 has come together because of what we are seeing
20 happening to our housing stock. It is being, a lot of
21 it, all the new stuff that's being sold, buildings
22 being sold are being converted into what we see as
23 being SRO's. And so how does this, you know,
24 dovetail with the BSA? Well, from what we're seeing
25 is that the DOB isn't doing their job. A lot of the

2 plans that are being put in are being put on the
3 different types, like a type two when it should be
4 maybe a type one, and I can only assume a lot of the
5 rules that they go by are promulgated by the BSA.

6 Cost affidavits for buildings are being put in. A
7 building that sold for 1.1 million dollars and was
8 totally gutted out and converted in some way, they
9 put a cost affidavit of like 88,000 dollars. It
10 couldn't possibly be. Other buildings that are being
11 converted in the area have cost affidavits of maybe
12 300,000. So it's all over the place. It was

13 mentioned that there's an analyst on the Board of
14 Standards and Appeals to overlook these things. I
15 don't think there is any analyst looking at any of
16 these plans that are being put forth. There's also
17 the post approval amendments that are going through
18 with the Building Department. There--they'll go in
19 at one thing and they come out with something else.

20 So something that started out as small can turn into
21 almost a complete demolition of a building. So, our
22 neighborhood is being--the character, the fabric of
23 our community is being destroyed and there's no one
24 watching what's going on. I just have to say I just

2 agree with everything that Ed just put forth before
3 this committee. And thank you very much.

4 CHAIRPERSON LANDER: Thank you both for
5 taking this seriously, for having patience for coming
6 down and I will also follow up with Ms. Perlmutter
7 and, you know, she did extend that invit--the
8 indication that she would go out and visit some
9 Community Board, and because you guys have come and
10 spent time today, I'll encourage her to make sure
11 whether it's one or several of the southern Brooklyn
12 Community Boards or through a meeting that the civics
13 would have together, I think making sure that she
14 hears the concerns that you've expressed to be
15 important. So thank you, and we'll make sure that,
16 you know, not only does she watch the testimony, but
17 that she, you know, take seriously what you said and
18 comes out to visit you as well. So thank you.

19 ED JAWORSKI: If I could just throw out
20 one thought, and I don't know if whether it would
21 come from your committee or what, I think, and a
22 number of us have come to this conclusion over a
23 while, that the term character of a neighborhood
24 needs definition, and maybe it's got to be a number
25 of committees, a number of councilman, a number of

2 agencies that have to come together. I mean, I
3 thought of trying to put together a seminar on this
4 also to get--like Michael Tilman [sic] from the Times
5 to chair it or something like that, and define the
6 term character of a neighborhood. This is a problem
7 in the village, on the upper east side in every
8 borough.

9 CHAIRPERSON LANDER: So we'll, you know,
10 in the Rules Committee we do the nominations
11 hearings, but I certainly will refer this to the
12 Chair. I know you've already met with Chair Kallos.
13 Thank you again for coming out. This concludes the
14 public hearing on these three nominations. Seeing no
15 further questions or comments, we expect to vote on
16 these appointments sometimes prior to the next stated
17 meeting scheduled for the August 21st, 2014, the
18 Committee on Rules, Privileges and Elections now
19 stands in recess.

20 [gavel]

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COMMITTEE ON RULES, PRIVILEGES AND ELECTIONS

C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date August 17, 2014