

1CITY COUNCIL
CITY OF NEW YORK

----- X

TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON RULES, PRIVILEGES AND ELECTIONS

----- X

June 15, 2016
Start: 10:21 a.m.
Recess: 1:28 p.m.

HELD AT: Council Chambers - 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, Jr.
Mark Levine
Steven Matteo
Melissa Mark-Viverito
Steven Matteo

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

Larry Dais, Candidate for appointment to
NYC Civil Service Commission

Allen Cappelli, Candidate for appointment to
NYC Civil Service Commission

Rosanna Vargas, Candidate for appointment to
NYC Board of Elections

Maria Keary, Legal Counsel
Akerman, LLP

Marissa Soto, Legal Counsel
Akerman, LLP

2 [sound check, pause]

3 [background comments]

4 CHAIRPERSON LANDER: All right, we're
5 going to go ahead and get started. [background
6 comments] All right, Mr. Dais, Mr. Cappelli, can you
7 join us at the witness stand. [laughter, background
8 comments] [gavel] Good morning and welcome to the
9 New York City Committee on Rules, Privileges and
10 Elections. I'm Brad Lander Chair of the Committee.
11 We're joined this morning by Council Members Dan
12 Garodnick, Ben Kallos, Daneek Miller, Ydanis
13 Rodriguez, Minority Leader Steven Matteo, Jimmy Vacca
14 and Debbie Rose, and other members of the committee
15 and other council will be joining us through the day.
16 I also acknowledge our attorney Jason Latonya (sp?).
17 I want to appreciate the staff members of the
18 Council's Investigative Unit Chuck Davis, our
19 Director of Investigations who got a lot of shout-
20 outs yesterday, but even while he was doing all the
21 budget conflicts work, he was continuing to
22 investigate the nominees as well as Deandra Johnson.
23 We have three candidates to consider today. We're
24 going to do the Civil Service Commission nominees
25 first, and then the Board of Elections nominee

2 second, which is different than the order that's in
3 you red book council members, but I think it will
4 provide us a little more time for a couple of people
5 to join us. And you have in your books on all three
6 nominees all of their background information, resume
7 investigation information and pre-hearing questions.
8 In a letter dated June 3rd, 2016, the Mayor formally
9 submitted the names of Larry Dais, a resident of
10 Manhattan and Allen Cappelli a resident of Staten
11 Island to the Council of the City of New York for our
12 advice and consent regarding their nomination for
13 appointment to the New York City Civil Service
14 Commission. This is the first time in this term and
15 actually the first time dating back quite a few years
16 that the Council has appointed people to the Civil
17 Service Commission. So I will briefly explain the
18 functions of the Commission. It consists of five
19 members with not more than three being from the same
20 political party. The Mayor from a list provided by a
21 screening committee makes the appointments. Members
22 have a six-year term and are rein--reimbursed on a
23 per diem basis of \$488.55, \$488.55 for the chair, and
24 \$411.55 for the other members. That 55 cents is very
25 important for attendance at scheduled meetings. The

2 commission's duties include hearing and determining
3 appeal from any aggrieved person from a decision by
4 the Commissioner of the Department of Citywide
5 Administrative Services, DCAS, who's responsible for
6 citywide personnel decisions. The Commission may
7 affirm, modify or reverse such a decision. The
8 Commission also has all powers and duties set forth
9 in the State Civil Service Law, and the Commission
10 either on its own or at the request of the Mayor, the
11 Council or the DCAS Commissioner may conduct reviews
12 or studies of the administration of personnel in the
13 city including classification of titles, but its main
14 duty is that personnel issues that have previously
15 been decided by the DCAS Commissioner can be appealed
16 to the Civil Service Commission for review, and we're
17 glad to have Mr. Dais and Mr. Cappelli here. You
18 have their written response to questions in your book
19 and they'll each make an opening statement, and then
20 we'll have the opportunity to question them. Mr.
21 Cappelli and Mr. Dais if you--[background comments]
22 All right, and this I'll flag that Mr. Dais, you're--
23 you're--you're popular. You have more news articles
24 than we could put in each member's red binder. So
25 Council Members if you'd like to see all of them,

2 we'll pass them around as well. Mr. Cappelli and Mr.
3 Dais, if you could raise your right hand to be sworn
4 in.

5 LEGAL COUNSEL: Do you swear or affirm
6 that the statement you are about to make will be the
7 truth, the whole truth, and nothing but the truth.

8 PANEL MEMBERS: [off mic]

9 CHAIRPERSON LANDER: So go ahead in
10 whichever you like with your opening statements.

11 LARRY DAIS: Good morning. [pause]
12 [laughter] Chairman Lander and members of the Rules,
13 Privileges and Elections Committee of the New York
14 City Council. It is an honor and a pleasure to--to
15 appear before this body as one of the Mayor's
16 nominees to serve as a member to the Civil Service
17 Commission. If this body approves my nomination, I
18 assure you I will serve with the highest standard and
19 tradition and great regard toward the Civil Service
20 system and the civil service employee from New York
21 City. I am a man of faith. I have been married for
22 37 years. I have two sons and three grandsons and
23 another grandson arriving in July. My two sons
24 Landon and Larique are Morehouse Men. They also have
25 masters degrees from Columbia University. Landon

2 received a JD from Harvard (sic) and they are the
3 future within my family to work on behalf of the city
4 should they choose to do so. I stand before you as a
5 first generation graduate in my family. My father
6 died when I was a toddler. A loving and devoted
7 mother with an 8th grade education who worked as a
8 domestic worker raised me. It was my mother who
9 instilled the values and principles that have been
10 the foundation of my personal and professional
11 successes. She believed that hard work and fairness
12 are core values, and ones that I fully embrace. I've
13 had an extended period of time serving in various
14 capacities in the community and in public service in
15 New York City. An appointment by this body to serve
16 as a member of the Civil Service Commission would be
17 an honor and another opportunity to serve New York
18 City and its residents. If appointed, I will look to
19 my colleagues to learn and to work collectively as
20 commissioners to maintain and enhance the core
21 mission of the Civil Service Commission. I currently
22 serve as an arbitrator. The role of an arbitrator is
23 similar to the role of the Civil Service
24 Commissioner. As an arbitrator, I preside over
25 disciplinary hearings as well as employees

2 grievances. As an arbitrator, you have to render
3 fair and equitable decisions. If appointed, I will
4 strive to bring these past experiences and skills to
5 this Commission. As I understand it, the mission of
6 the Commissioner is to be fair, and impartial in
7 deciding matters before it, and to ensure that the
8 treatment of Civil Service employees and applicants
9 is consistent with the Civil Service laws and the
10 City Personnel Rules. I will work with my fellow
11 commissioners to render decisions that will be
12 reflective of our collective thinking and reasoning
13 and supportive decisions that will stand on its
14 merits. As well as decisions that are fair to New
15 York City employees and agencies. I believe good
16 judgment is critical in this position, and I welcome
17 the opportunity, if appointed, to demonstrate my
18 talents and skills as a commissioner. Moreover, I
19 will bring the same determination and commitment to
20 the work of the commission as I have in my past
21 endeavors as a professional and volunteer in
22 community and public service. I will close by
23 restating if the Committee and Council deems me
24 worthy and confirm my appointment, I will do my very
25 best to represent those to affirm my nomination to

2 serve as a member of the Civil Rights--Civil Service
3 Commission. Thank you again for your consideration,
4 and I look forward to answering any questions you may
5 have.

6 CHAIRPERSON LANDER: Thank you very much,
7 Mr.

8 ALLEN CAPPELLI: Thank you. Good
9 morning, my name is Allen Cappelli. I'm going to
10 begin by thank Mayor de Blasio for submitting my name
11 to the City Council for you to review, and to Speaker
12 Melissa Mark-Viverito, Chairman Brad--Brand Lander
13 and the members Rules, Elections and Privileges
14 Committee for the opportunity to be considered for a
15 position on the Civil Service Commission of the City
16 of New York. Let me specifically acknowledge my
17 Council Member and friend Debbie Rose, who has been a
18 partner with me for many years fighting for equity
19 and justice for all of us in these residents. I'll
20 also give a shout-out to the Minority Leader Steven
21 Matteo who is also a fellow Staten Islander, and who
22 has worked on a number of issues with me as well. I
23 think he stepped out of the room, but he was here
24 before. I've been in public service for over 30
25 years, whether in full-time government positions by

2 serving the City and State as I have for the past
3 eight years as a member of the MTA. A significant
4 governmental transportation and for the--impacting
5 the lives of millions of New Yorkers every single
6 day. I'm native of New York City, and began my
7 career in government work in the Manhattan Borough
8 President's Office. that was a long time ago. In
9 1982, when Mario Cuomo was elected Governor, he asked
10 me to join his administration where I worked
11 throughout his 12-year tenure in several positions.
12 I was appointed to Chairman of the Unemployment
13 Insurance Appeal Board at the end of his
14 administration. I served on that board until I
15 joined the staff of former Bronx Borough President
16 Fernando Ferrer where I worked with another of
17 council members here, Jimmy Vacca, who was the
18 District Manager at that time on issues in the Bronx,
19 and then subsequently worked with him on issues of
20 transportation when he was Transportation Chairman,
21 and so we have a--a long relationship there as well.
22 I worked with Fernando Ferrer for four years as one
23 of his chief assistants until he left office in 2002.
24 I spent the next year managing the campaign of Carl
25 McCall in his effort to defeat George Budacki.(sp?)

2 At the conclusion of that effort, I went into the
3 private practice of law where I spent the past 14
4 years doing primarily criminal defense work with a
5 significant part of my practice devoted to indigent
6 defendants. One of the common threads between all of
7 my endeavors is to make the commitment to social
8 justice and reform, and a desire to make government
9 work for all of the residents of our city and state.
10 My tenure in government including the MTA has been
11 defined by my independent spirit of live to seek ways
12 for the government to work in a transparent way for
13 all of our residents so that everybody can share in
14 the opportunities available particularly in
15 education, housing and employment. I know that a
16 good city job is the pathway to--to a better life. I
17 will give each applicant the serious consideration to
18 which they are entitled. If the City Council
19 approves my appointment, I pledge to do everything
20 the law permits to ensure that those whose appeals
21 are before us are treated in a timely, fairly and as
22 a transparent matter as the law permits. I thank you
23 for your consideration, and I welcome your questions.
24 Thank you.

2 CHAIRPERSON LANDER: Thank you very much
3 for your opening statements. As is our practice I'll
4 ask a few questions of the Chair of the relevant
5 Council Committee who in this case is Daneek Miller
6 who chairs the Civil Service and Labor Commission
7 will ask questions, and then other members who are
8 interested will as well. You each have long careers,
9 which you touched on in your opening statements, and
10 obviously are more reflected in your resumes in a mix
11 of public and private sector management, Mr. Dais, in
12 your case also some experience as a--as a mediator.
13 I wonder if you could just give us a little more--so
14 a couple of examples I guess really of the
15 experiences that you've had in the past around either
16 management or case mediation that you think are
17 relevant for this service. It's my understanding
18 that a majority of the appeals that come before the
19 Civil Service Commission are either people who are--
20 have been disciplined for misconduct or incompetence
21 or have been disqualified for character or medical or
22 other reasons. Though there's a range of other types
23 of appeals, but those are most of them. If you could
24 just give us a little more flavor or examples of the
25 ways in which your work experiences and mediation

2 experiences have shown you situations like these and,
3 you know, examples of what you've learned about how
4 to render fair decisions and think about those cases
5 in a--in a---in a fair and objective way?

6 LARRY DAIS: [off mic] I'll get my chair
7 up. Okay. [on mic] Thank you, Mr. Chairman. I
8 served as the Chairperson of the Tripartite Committee
9 for the MTA where there were three individuals that
10 had to render a decision through consensus. One was
11 represented by a union person, and the other by MTA,
12 and it was there that I learned the importance of
13 working collectively to reach fair decisions based
14 upon the facts. In some instance, we on the front
15 end had disagreements among the group, but it was my
16 job as chairperson to ensure that at the end of the
17 discussion that we could reach an agreement that
18 everyone could live by. I believe that I had the
19 responsibility to ensure that the union rep could go
20 back to his members and explain to them why the
21 Tripartite reached the decision that it did. I felt
22 that the MTA rep had the same responsibility. So we
23 shared that responsibility, and to the best of my
24 knowledge over my term we collectively reached fair
25 decisions.

2 CHAIRPERSON LANDER: And what were the
3 nature of those--of the decisions you were--?

4 LARRY DAIS: It ranged from drug
5 addiction or drugs, the use of drugs on the job,
6 absenteeism, insubordination. Those are the primary
7 cases. In some instance there may have been
8 complaints coming in from New York City of citizens
9 saying that they were mistreated by an MTA employee,
10 but by and large it was in the area of disciplinary
11 problems. And the one that was most challenging was
12 for those employees who failed the drug test.

13 CHAIRPERSON LANDER: Thank your, Mr.
14 Cappelli.

15 ALLEN CAPPELLI: Thank you. First of
16 all, I have served in both city and state government.
17 In state government I was appointed to an agency that
18 had a whole component of it that was not covered by
19 collective bargaining or any rules and regulations,
20 and one of the tasks that I had at that time was to
21 work with management and labor and develop a
22 classification system to ensure that employees in
23 that side of the shop were treated the same and as
24 fairly as people in another side of the shop. There
25 were gross disparities in--in salaries between one

2 and the other, and we were able to negotiate a fair
3 system that leveled the playing field for all of the
4 employees involved. I was also tasked with
5 developing a grievance and disciplinary system in
6 negotiating it with the union, and then played a role
7 in being part of a process by which discipline and
8 grievances were adjudicated in a fair and efficient
9 manner, and I did that for a number of years as well.
10 I'm also a litigant in court every day. In my
11 criminal practice I deal with people and their
12 problems. I understand what serious issues are and
13 what they're not, and what the bars to employment
14 that some of these situation bring about. And I work
15 very hard to mitigate the impact that whatever
16 mistake they may have made. In fact, they made a
17 mistake, it does not bar them from a meaningful
18 opportunity to support themselves and their family.
19 It's something that is very near and dear to my
20 heart. I--I serve on a transportation agency that
21 delivers people to their jobs, but the point is the
22 people have to have jobs to be delivered to, and I
23 see the civil service system in the city of New York
24 as being a pathway to curing many of our--our--our
25 city's problems. There's nothing that works like a--

2 a good job to help lift somebody up, and support her
3 or his family, and I will be a champion for workers
4 and fairness for--in this position if the Council
5 chooses to confirm me. And the same way I have tried
6 to be for--for the riders of the MTA, and for my--my
7 litigants, my defendants that I deal with every
8 single day in trying to make their lives better.

9 CHAIRPERSON LANDER: Thank you both very
10 much. I just have one more question, and then I'll
11 pass it along to my colleagues. Obviously the vast
12 majority of the work of the Civil Service Commission
13 is adjudicating these individual appeals, and I think
14 it's pretty straightforward from the answers that you
15 just gave and you backgrounds and experiences that
16 you each have a lot of experience you bring to that.
17 So I think the second question has been certainly a
18 much smaller percentage of the role, but I think
19 there is just a little bit of difference between what
20 the Council reads the--the mandate of the commission
21 to be, and the written answers that you guys gave to
22 a series of policy questions. So I just want to
23 surface that, and make sure we're roughly on the same
24 page. The--you know, the Charter provides that the
25 Commission on its own initiative or upon request of

2 the Mayor, Council or Commissioner shall have the
3 power and duty to conduct reviews, studies or
4 analyses of the Administration and personnel in the
5 city including the classification of titles by the
6 commissioner. And I just wonder how you understand
7 that we asked a series of questions in the written
8 questions about a--a range of policy matters
9 relating, which I think one could read as relevant to
10 that, stemming from that authority. You mostly said
11 those things are outside the purview of the
12 Commission. There is no doubt most of the job of the
13 Commission is review these appeals. But I just wonder
14 if you could clarify your position on the role of the
15 Commission related to the, you know, broader sort of
16 policy questions related to the personnel policy in
17 the city.

18 ALLEN CAPPELLI: We'll alternate. In
19 every position I've ever been in whether it was the
20 Land Use Chairman in the Community Board 1 Staten
21 Island with Council Member Rose all too long ago that
22 date us both. I--I--I have been accused of taking
23 and expanding the role of that traditionally had
24 been, and certainly at the MTA I have been a voice
25 for things that traditionally MTA board members have

2 not chosen to step out, and I've worked with many
3 members of the Council on issues prodding the
4 institution, prodding the city, prodding the state in
5 order to bring about the necessary reforms as I saw
6 fit. I want to--I will take advice and consent
7 happily working with the Council on how the role of
8 the position should be defined. I understand the
9 statutory responsibilities of the adjudication of the
10 disciplinary and the disqualification hearings right
11 and clear. But I think that I'm not adverse to--to
12 getting into areas that may need to be expanded upon
13 from, you know, prior administrations.

14 LARRY DAIS: I would like to amplify my
15 perspective colleague point that it's important to
16 review and evaluate those frameworks which prescribe
17 what you can and cannot do. And I think it's
18 important that the commissioners when appropriate
19 have internal discussions as to how they can improve
20 what they are charged with doing. I also recall or
21 understand based upon experience as an independent
22 arbitrator that as such I was bound by the contract
23 between the parties. I could not rewrite it. I had
24 to interpret it, and live by it. On occasion,
25 though, I would call for a sidebar, and take the

2 parties outside off the record and say, listen,
3 here's what you should think about. This is what you
4 might want to do. I can't dictate or legislate, but
5 I think it would be healthy for the employer and the
6 union to rethink your positions. And I must say, on
7 many occasions that worked very, very well. I'm not
8 sure if the environment within the Commission and the
9 city agencies will permit that, but I think it's
10 something that the Commissioner should at least
11 internally consider

12 CHAIRPERSON LANDER: All right, thank you
13 both for those thoughtful answers and--and also the
14 openness and willingness to consider working with the
15 Council. I'll--I'll be honest. I--I have not
16 focused on the Civil Service Commission before
17 today's hearing in my seven years in the--in the
18 Council, and I think in general we think of labor
19 relations as a matter that is bargained between the
20 unions and the city and kind of handled by the Office
21 of Labor Relations and not as much something the
22 Council focuses on. I think seeing that the Charter,
23 in fact, empowers us to work with the Commission to
24 think about matters of policy where those are
25 relevant, and obviously in many cases they are.

2 We've made progress as the city in moving all our
3 municipal employees up toward \$15 an hour in--in
4 moving toward paid family leave and in other ways as
5 well. So I think, you know, I appreciate those
6 answers and that willingness to work with Council.
7 With that, I will hand it off to the Chair of the
8 Council's Civil Service and Labor Committee Daneek
9 Miller, who will be followed by Council Members
10 Kallos and Rodriguez, and I will also note that we
11 have been joined by Council Member Levine and after
12 Council Rodriguez will be Council Member Rose. And
13 let me just remind members we're not--we don't do the
14 clock in here because it's a small committee. But
15 we'll have another nominee waiting. So please ask
16 the essential questions.

17 COUNCIL MEMBER MILLER: Yeah, thank you
18 Chair Lander. We appreciate the opportunity to be
19 here this morning to address our candidates, which I
20 believe was such an important position, which leads
21 me to my first and very basic question, why do you
22 want to do this? [pause, laughter]

23 LARRY DAIS: Well, first and foremost
24 I've had the pleasure of serving in two important
25 sectors, community and public, and I've gained

2 tremendous experiences. I think I've become a better
3 person because of having the opportunities to look at
4 individuals who are less fortunate than I at some
5 moment in time, and then have the opportunity to work
6 with them to improve their station life. And in New
7 York City there are so many New Yorkers in need. In
8 New York City there are hosts of vehicles that as New
9 Yorkers we can use to improve the lives of other New
10 Yorkers. My engagement with community organizations
11 and agencies have been a learning experience for me,
12 an eye opener and sense of worth. So to serve as the
13 Commissioner on this body will continue that
14 opportunity for me, and provide a vehicle to do so.
15 I sincerely believe that my contact with some young
16 folks on the front end of my career allowed me to
17 move forward. As I stated, I'm a first generation
18 graduate. I was fortunate enough to be able to enter
19 the workplace because of having the network of
20 individuals that helped me. I made an early
21 commitment that if I'm able to do so for others, I
22 would do one. One individual as a high school
23 student introduced me to community work. His name was
24 John Bess. John was a talented young man, a very
25 bright young man, who left us at a very early age.

2 But it was John that introduced me to the not-for-
3 profits in Harlem. It was John that introduced me to
4 the New York Urban League, and then the National
5 Urban League. So I am willing to look at individuals
6 without having any biases regarding the age, sex, as
7 someone that could--that I can learn from and can
8 work with. This opportunity comes to me at a stage
9 in my life where I think I can continue to offer my
10 personal and professional services if given the
11 opportunity

12 COUNCIL MEMBER MILLER: Mr. Cappelli.
13 Mr. Cappelli.

14 ALLEN CAPPELLI: Yes, Councilman. I--I'm
15 a son of an immigrant who came to this country. My
16 mother was widowed with four children. As a young
17 man we were poor, dirt--dirt poor. We didn't--I
18 didn't take the bus, I walked and I walked many
19 places, and I worked hard--a lot of small jobs to get
20 myself through school I went to public colleges
21 here and received opportunities. I was fortunate to--
22 -to meet some people who got me into government and
23 government service where through my education and
24 through my interaction I became a disciple of Robert
25 Kennedy. I learned at the foot of Mario Cuomo, who

2 instilled in me a sense of an obligation to the
3 community in which we live to--to give back and
4 provide the opportunities for others. Unlike the
5 MTA, which the question could be, you know, what ever
6 possessed you to do that. Okay, and I'm still
7 banging my head on the wall over the amount of hours
8 and the pain that has been inflicted in me for doing
9 that, but understanding what a vital government
10 service it is. I love helping people is--is the
11 answer. I'd love to be in a position to help my
12 fellow man and woman to--to get ahead to--to have--
13 have an opportunity. I--I believe in public service,
14 and this board will allow me an opportunity, if--if
15 you confirm me, to be able to do that for next
16 several years, and work in collaboration with other
17 like minded people such as yourself, and others who
18 are really helping to make New York a--a great
19 progressive city, and I look forward to hopefully
20 having that opportunity. Thank you.

21 COUNCIL MEMBER MILLER: Thank you. So as
22 a life long civil servant myself obviously I would
23 like to see people that share that value in the
24 system and that--so that we can protect the integrity
25 of the system [ringing cell phone] as is. Obviously,

2 over the years there's been some problems with it,
3 but also there--there have been administration have--
4 that have played roles that have diminished the Civil
5 Service system. I had--there were some--some
6 discussion about the rise in the roles once again
7 recently, but I--I think that speaks to how services
8 get deliver, but also impact on communities. While
9 the role that the board plays is mostly adjudicating
10 appeals and so forth. Is there a broader policy and
11 I--I know Mr. Dais spoke to this briefly, a role that
12 he can play that would protect the integrity of--the
13 diversity of the workforce? I think that the Civil
14 Service system was kind of derived with that in mind
15 that it would not be patronage, but it would be merit
16 based. How do we then protect the diversity of the
17 workforce in doing so?

18 ALLEN CAPPELLI: [pause] Well, I think
19 that as a citizen if we see an injustice we're
20 obliged to speak out against it, and I agree with you
21 that the Civil Service was designed to be a merit
22 based system to protect against the abuses of--of an
23 executive who may not see the value in meritocracy
24 system as pathway for--for all. Or who may not be
25 aware that--that--that it's a problem. Certainly, if

2 I am selected by the Council to perform this
3 position, I will speak up and I will work with you to
4 bring about the kinds of reforms and certainly the
5 spotlight on where those abuses may be taking place.

6 COUNCIL MEMBER MILLER: If there were an
7 agency that--

8 ALLEN CAPPELLI: [interposing] Are we
9 staying with me or we going to him?

10 COUNCIL MEMBER MILLER: No, it doesn't
11 matter. If--if there was an agency that you saw that
12 it may have been some dis--some systematic
13 disqualifications as we have seen in the past,
14 certainly how--how would address that? How and that
15 would be for either one of you .

16 ALLEN CAPPELLI: Well, let me take this
17 one first. I'm on a roll here a little bit. If--if I
18 saw that there was a particular problem, the first
19 thing I would do is talk to my colleagues on the
20 board and ask, you know, what's the history here?
21 What's going on? It just seems to me every time
22 agency X comes in here, there a problem with, you
23 know, it just seems to be a pattern, and find out the
24 internal history of it and what communication may
25 have taken place prior to my arrival on the scene.

2 You know, but--and hopefully I would get an answer
3 that satisfied me. If not, then I would be--I would
4 push the entity to be more aggressive in dealing with
5 that agency as to those aspects. I mean, you know,
6 I've had some informal chats already on that subject
7 with some of the board members, and there--you know,
8 there is a give and take that goes on behind the
9 scenes and that should be allowed to exist for a
10 period of time. You know, you're dealing with a case
11 on its merits, but then you've got the pattern. But
12 at some point, you've got to address the pattern.

13 LARRY DAIS: I would like to amplify my
14 colleagues' comments, and focus on the latter part.
15 As I stated by--early on rather, that it's extremely
16 important that there is a collaborative environment
17 within--among the commissioners. And I think the
18 same thing should take place among the agencies. I
19 would encourage within the law to have sidebars with
20 the leadership of any agency that we deem to be off
21 track as it relates to being fair to New Yorkers.
22 With respect to those communities that may have been
23 neglected perhaps not intentionally or intentionally
24 I think we should look for opportunities again to
25 identify partners where permissible, and again within

2 the law, and responsibilities of the Commissioner--
3 Commission to encourage conversation, to figure out
4 how we can go about developing working relationships
5 to improve the flow of candidates. And working with
6 the agencies to ensure that they understand their
7 responsibilities within the law again, and hope that
8 we can influence them via persuasion, not necessarily
9 getting involved in policy areas. A lot will depend
10 upon the environment that we are operating in. I'm
11 like the virgin here. I don't know what that
12 environment is, but I'm willing to learn with respect
13 to my colleagues. I think this committee could be a
14 resource for us, and at the end of the day, we should
15 do what is right for New Yorkers.

16 COUNCIL MEMBER MILLER: Yeah, I--I--I--I
17 believe that there is a role for the Commission to
18 play that we've seen historically throughout and--and
19 the--the city of New York, but I think that some
20 agents--agencies are--are--have--have come to grips
21 with--with that running through the courts or through
22 their own volition, but I think they're doing a
23 better job. But we would like to see the agency kind
24 of act as eyes and ears in doing so as well. Mr.
25 Dais, also am--am I correct that you--you were also a

2 part of the Public Employees Review Board, the PERB?
3 Were--were you a part of PERB?

4 LARRY DAIS: I am a member of PERB.

5 COUNCIL MEMBER MILLER: You're--you--
6 you're a member of it?

7 LARRY DAIS: Yeah, I'm one of the
8 arbitrators. I serve on their panel.

9 COUNCIL MEMBER MILLER: Uh-huh.

10 LARRY DAIS: As well as CSEA and Triple
11 A.

12 COUNCIL MEMBER MILLER: So--so then you
13 have a direct--having received that initially so you
14 actually have direct--work directly with some of the
15 Civil Service bargaining units throughout the state.

16 LARRY DAIS: On a state level, yes sir.

17 COUNCIL MEMBER MILLER: Okay, so you are
18 familiar with--so, the--so the Section 71s and 73s
19 disqualifications that may become before--for being
20 held and not being able to perform the duties more to
21 the end or things of that nature there. How then do
22 you see that translating to what you are currently
23 doing now?

24 LARRY DAIS: Now, as a member of--
25

2 COUNCIL MEMBER MILLER: [interposing] I'm
3 sorry. What--what you would do as--as--

4 LARRY DAIS: As a member of the
5 Commission?

6 COUNCIL MEMBER MILLER: As a member of
7 the Commission.

8 LARRY DAIS: Well, [coughs] within PERB
9 we as arbitrators rely on the contract as well as the
10 guidelines from PERB, which tell us what we can and
11 cannot do. But with respect to the parties, it is a
12 contract. Within that contracts, as you know, they
13 are conditioned to establish as to how you will
14 proceed with--to bring closure to any grievances
15 advanced to the body. In many instances you cannot
16 as an arbitrator operate outside of that contract.
17 You must adhere to the contract. Within this
18 Commission I think we have the same--as a
19 Commissioner, we have a similar responsibility to
20 make sure that we stay within the law.

21 COUNCIL MEMBER MILLER: So--so in a case
22 where there may be a conflict between the collective
23 bargaining agreement and one of these articles such
24 as, you know, a--a civil service role or law, would
25

2 you then be make--the interpretation would that be up
3 to you to decide the merits then of that case?

4 LARRY DAIS: As a Commissioner, I'm not
5 sure at this point in time.

6 COUNCIL MEMBER MILLER: No, no I mean as--
7 -is your current role in PERB?

8 LARRY DAIS: Oh, yes, yes, yes. Again,
9 we are to rely upon the contract, and then the
10 parties at the table, but to make sure we comply with
11 the contract, which dictates what we can and cannot
12 do or what we can consider or not consider in
13 deciding a--a case.

14 COUNCIL MEMBER MILLER: So again if--if,
15 in fact, someone--if--if the union is arguing that--
16 that according to Section 73 that the person that
17 they were held out unduly, and that they should not
18 be terminated, the contract there would then speak to
19 that. That's more of the Civil Service role. Is
20 that something that you've--you've seen in the past
21 or would--would that be still that would enhance what
22 you would be doing as part of the Commission?

23 LARRY DAIS: Yes, I--I--I think it's
24 transferrable. In that instance it would be contract
25 interpretation where there's a dispute between the

2 parties and ask you what they think the contract is
3 saying and what, in fact, it is saying--saying. The
4 arbitrator in that situation would make a decision,
5 but could not change anything in the language. Will
6 it help the parties to come to a position of
7 agreement, and I think working with fellow
8 commissioners, if--if we had a similar situation we
9 would try to approach it the same way.

10 COUNCIL MEMBER MILLER: Okay, so--

11 CHAIRPERSON LANDER: Chair.

12 COUNCIL MEMBER MILLER: Yeah.

13 CHAIRPERSON LANDER: Chair Miller in the
14 interest of time.

15 COUNCIL MEMBER MILLER: I know. I know.

16 CHAIRPERSON LANDER: It just sounds like
17 outstanding questions for an oversight hearing in the
18 Civil Service and Labor Committee--

19 COUNCIL MEMBER MILLER: --Yes.

20 CHAIRPERSON LANDER: --with the Civil
21 Service Commission.

22 COUNCIL MEMBER MILLER: So, I--I--is
23 that--

24 CHAIRPERSON LANDER: In fact, we almost
25 do a dent:

2 COUNCIL MEMBER MILLER: I just have one
3 more.

4 CHAIRPERSON LANDER: Great.

5 COUNCIL MEMBER MILLER: Just one more
6 question, and--and--and--and that would be again in
7 the--in your role [coughs] on--on the Commission, do
8 you--do you see that as an opportunity of oversight
9 and kind of--and you both agreed that you--that--that
10 you saw value in the Civil Service Commission. Do
11 you see that--a role in oversight that protects the
12 integrity of that, and what would that role be moving
13 forward?

14 ALLEN CAPPELLI: I'm not sure if I
15 understand exactly what the question was but--

16 COUNCIL MEMBER MILLER: How would you--so
17 aside from--aside from appeals, how you help to
18 bridge the gap and advance the Civil Service
19 Commission and the roles of Civil Service employees?

20 ALLEN CAPPELLI: Well, as--as--as the
21 Chairman--Chairman Lander mentioned before, there is
22 a broader--there's some broader language that exists
23 in this statute that may or may not have been
24 utilized in the past, and I would be willing to have
25 a discussion with the Council and with my colleagues

2 if I'm confirmed first as to, you know, what that
3 means and where we ought to be going, particularly as
4 it relates to the protection of the Civil Service
5 system.

6 COUNCIL MEMBER MILLER: Thank you so much
7 and thank you, Mr. Chair.

8 CHAIRPERSON LANDER: Thank you, Chair
9 Miller. No and I--these are really interesting and
10 important questions. I 'm glad we're opening the
11 dialogue, and I hope we'll continue them. We have
12 been joined by Council Members Palma, Dickens and
13 Chin. Because--because we do have additional, not
14 many and from a separate agency, I--we are going to
15 move to a clock then as we have four folks testify.
16 Let's do it at five minutes so there's--there's
17 plenty of time, but I will let you guys know that
18 Council Members' questions, it's question and answer
19 time. So, people may ask you to hurry along if they
20 have more than one question. So all right, we have
21 Council Members Kallos, Rodriguez, Rose and Dickens
22 with questions.

23 COUNCIL MEMBER KALLOS: Thank you Chair
24 Lander, and thank you Chair Miller. It's always a
25 pleasure to with you on these issues. I'd like to

2 cover the exam timelines, and provisionals and
3 recruitments. So we have five minutes to do so. Are
4 you familiar with the Mayor's Management Report?

5 [pause]

6 ALLEN CAPPELLI: I'm familiar with it as
7 a--as a--as a document. I'm not familiar with the
8 current Mayor's Management Report.

9 CHAIRPERSON KALLOS: Are you?

10 LARRY DAIS: I am not.

11 CHAIRPERSON KALLOS: I would recommend
12 visiting nyc.gov/mmr. I'm a huge fan of it. In the
13 Mayor's Management Report, one of the goals for DCAS,
14 Goal 1C is for ensure timely administration of civil
15 service exams. This is something that Chair Miller
16 and I have been focused on, and we've gotten it down
17 from 251 days in Fiscal 14 for median time from exam
18 administration to exam results complete days to 209
19 days in Fiscal Year 2015 down to-- But Fiscal Year
20 '16 for the four-month actual, it's actually gone up
21 to 310 days. We--we--it's--it's increased by 33%.
22 That is bad. You as Civil Service Commissioner play
23 a role in determining the eligibility list and being
24 a part of that process. Will you make sure that we
25 keep that number down to that 210 number? Do you

2 have any strategies you might have to do so? People-
3 -people shouldn't have to wait almost a year or a
4 more. When we started, it was actually over a year
5 to find out whether or not they got the job after
6 they took the Civil Service exam.

7 ALLEN CAPPELLI: Well, I agree with the
8 general premise. I mean once you take an exam, you--
9 you--there's expectation that people are going to be
10 notified within a reasonable amount of time. Now,
11 you know, sometimes there--I understand there are
12 some legitimate problems, but the--the grading of
13 these exams and that can lead to delays. But, you
14 know, if the number is trending upwards, an
15 explanation is certainly required from the agency
16 administering it. And if their answer is
17 satisfactory, well then you can look at as a glitch.
18 And if it's institutional then the corrections need
19 to be taken in order for the situation to move back
20 in a---in a positive direction.

21 COUNCIL MEMBER KALLOS: The--the Civil
22 Service Commission is theoretically--it might be
23 theoretically be part of the problem. So I guess
24 along those lines, the Charter Section 813, which
25 creates the Civil Service Commission gives you a

2 power under Section E, The Commission on its own
3 initiative or upon request, the Mayor, Council or
4 commissioners shall have the power to--and duty to
5 conduct reviews. That is your analysis of the
6 administration or personnel in the city including the
7 classification of titles by the Commissioner. Is
8 this a power that you would be willing to use in the
9 instance that you feel that the timeliness of exams
10 or provisionals is headed in the wrong direction.

11 [pause]

12 ALLEN CAPPELLI: You can answer that.

13 LARRY DAIS: Well, again I'm on a
14 learning curve relative to the Commission and working
15 as a member of the Commission, but I think anything
16 that we can do to improve the process and timeliness,
17 we should embark upon within our charges. Looking at
18 the agencies having, as I stated earlier, sidebar
19 conversations with them to identify problems and
20 hopefully work collectively to find solutions. That
21 I think is important for the Commission.

22 ALLEN CAPPELLI: And I think this also
23 is--was covered by the--my answer to Chairman Lander
24 as to the broader powers of--of--of the Commission
25 other than the judicial function of it. But yes, I

2 would be willing to work with the Mayor's Office and
3 with the Council to exercise those powers if--if that
4 should be.

5 COUNCIL MEMBER KALLOS: The--the good
6 news is you have them on your own, and I'd suggest to
7 use them. And then one last piece. We've been
8 focused on provisionals. Provisionals are basically
9 political appointees. They can create the appearance
10 of impropriety. The Civil Service was actually an
11 answer to political patronage appointments in
12 Tammany, and in--in 2014, 23 had 22,954 provisionals.
13 That went down by 1,418 in February 28th of 2015.
14 However, as of February 29th, 2016, the last report
15 from DCAS we now are at 23,052 provisionals, which is
16 actually more than when this administration started.
17 And I think this would be ripe for a third hearing on
18 provisionals since as soon as we stop paying
19 attention, things go the wrong direction. But how can
20 the Civil Service Commission work with us to replace
21 all these provisionals with civil servants who have
22 taken an exam and have the skills [bell] and the
23 knowledge and have been tested to prove it?

24 [pause]

2 ALLEN CAPPELLI: The answer is please,
3 yes. [laughter] The--I'm sorry--the--what I would
4 do first day if I am fortunate enough to--to be
5 appointed or confirmed by the Council is raise those
6 issues with my colleagues at the--at the Commission,
7 and I'd be--I would welcome an opportunity to sit
8 down offline and have conversations with you as to
9 how to better and effectively meet some of the
10 objectives that you talk about here.

11 LARRY DAIS: I would amplify that. I
12 would make sure that I would have conversations with
13 my fellow commissioners and a one-on-one conversation
14 with the Chair person to ensure that we are looking
15 at this properly. And then suggest where
16 opportunities present themselves to work with the
17 Council and others to do so to find solutions that's
18 in the best interest of New Yorkers and in particular
19 the workers.

20 CHAIRPERSON LANDER: Thank you both very
21 much. Council Member Dickens has to go to chair a
22 subcommittee meeting so she is going to jump the
23 staff. We'll have Council Member Dickens followed by
24 Rodriguez and rose.

2 COUNCIL MEMBER DICKENS: Thank you so
3 much, Chair and I--I thank my colleagues for allowing
4 me. I have a very contentious issue in the next
5 committee that I have to get to. Good morning to
6 both of the candidates. Mr. Cappelli, it's good
7 seeing you again. We worked together for years when
8 I was the First Vice Chair of the State. So it's
9 good to see you again. Thank you for reaching out
10 to--to my office.

11 ALLEN CAPPELLI: It's always a pleasure.

12 COUNCIL MEMBER DICKENS: Good seeing you.
13 Mr. Dias, you reside in my--in my district, my
14 Council District but I have not heard from you, but I
15 did hear from my counsel. For about 40 years you've
16 been at Columbia--you were at Columbia as a Community
17 Affairs Director, is that right and the Assistant VP
18 at Columbia?

19 LARRY DAIS: 38 [coughs]--38 years.

20 COUNCIL MEMBER DICKENS: Well, that's
21 phenomenal. Congratulations.

22 LARRY DAIS: Thank you.

23 COUNCIL MEMBER DICKENS: And at capacity
24 since Columbia was doing a rezoning in that area,
25

2 were you able to assist in getting MWBE contracts for
3 minorities and women?

4 LARRY DAIS: I would say that I have in
5 my position as vice president--well prior to that
6 position when I was with Columbia College, had an
7 opportunity to open up the campus to students from
8 the Harlem community. Did so to ensure that they had
9 a summer program provided with academic skills to
10 ensure that they had proper counseling so that they
11 could apply to college. Our success rate at Project
12 Double Discovery, that I was head, was ranked as the
13 number one program within Upward Bound. Based upon
14 that--the performance of that program I served at a
15 national level, working with other Upward Bound
16 programs across the country. With respect to
17 immediate surroundings of communities of the
18 university, I thought it was extremely important that
19 we not only support the community based organizations
20 financially, that we also engage the faculty and
21 students in terms of human capital to have them to
22 participate in programs in the community service in
23 the Harlem YMCA as Chairperson, we were able to bring
24 resources to the Harlem YMCA, which allows them to
25 purchase a building. Because at that point in time,

2 Harlem Hospital was having a very difficult time
3 recruiting nurses because the other hospitals are
4 able to offer employment and housing. The University
5 made a contribution of \$100,000 at my request to the
6 Harlem for the C.T. Walker Building with the
7 understanding that they would only have to pay a
8 dollar year for the building. When I've looked at
9 the work that was done through Abyssinian Development
10 Corporation when I was chairperson in the early 2000,
11 it was a period of time where measurable growth took
12 place. The University is involved in supporting that
13 effort, and serving on Community Board 9 I think
14 there's an opportunity to do so. Now, specifically
15 to your question about whether or not I contributed
16 to employment opportunities--

17 COUNCIL MEMBER DICKENS: No, what I was
18 asking for, Mr. Dais, was in the capacity as--as the
19 Vice President--

20 LARRY DAIS: [interposing] Right.

21 COUNCIL MEMBER DICKENS: --and as the
22 Director of Community Affairs and particularly during
23 the time that just prior when all of the conflict was
24 going on about the rezoning for the expansion of
25 Columbia, were you able to assist in--in securing

2 minority, MWBE contracts that actually raises the
3 economic base of the area that they were servicing?
4 Because Columbia was not known as a good neighbor.

5 LARRY DAIS: I can honestly say to you
6 Councilwoman, that by voice yes. Did I have the
7 responsibility for it? No, but internally and having
8 conversations with those persons having the
9 responsibility yes. With respect to my work with
10 Harlem Business Alliance yes. With respect to the
11 service with Harlem Community Development, yes. But
12 as Vice President of Community and Government
13 Affairs, I did not have direct responsibilities--

14 COUNCIL MEMBER DICKENS: [interposing] No
15 I understand.

16 LARRY DAIS: --of the department

17 COUNCIL MEMBER DICKENS: I just wanted to
18 know what--what you're able to help with. What would
19 you say was the percentage of your success at
20 security with either HBA or with the Chamber, the
21 Greater Harlem Chamber of Commerce? And I thank my
22 colleagues for allowing me this time.

23 LARRY DAIS: Success in what regard?

24 COUNCIL MEMBER DICKENS: Of securing
25 contracts that were actually enforced, acted upon?

2 LARRY DAIS: As I stated, Councilwoman,
3 that was not my area of responsibility.

4 COUNCIL MEMBER DICKENS: Okay. Thank you
5 so much.

6 LARRY DAIS: You're welcome.

7 CHAIRPERSON LANDER: Thank you, Council
8 Member Dickens. We have Council Member--Council
9 Member Rodriguez has stepped out. Council Member
10 Rose you are up.

11 COUNCIL MEMBER ROSE: Good morning and I
12 think you've been pretty thoroughly vetted. So I'm
13 not going to use my time asking redundant questions.
14 But I--I did want to say that, you know, I'm really
15 pleased today to welcome a fellow Staten Islander and
16 a friend, Allen Cappelli, who was nominated by the
17 Mayor to serve on the Civil Service Commission, and
18 I've known Allen to--to be a distinguished public
19 servant. He has a proven record of service, which is
20 evidenced by his tenure on the MTA Board where among
21 many other achievements he spearheaded the reopening
22 of the old South Ferry Subway Station. After Super
23 Storm Sandy, which was then a new station, which--
24 which had been closed to water damage, Allen was
25 instrumental in reopening the station in a timely

2 manner and saving thousands of Staten Islanders from
3 having to walk from the ferry to Rector Street to
4 access the train. He's always been a strong advocate
5 and voice for the transit riders. His time and
6 tenure on the MTA Board was distinguished as having
7 a loud active voice for--for not only Staten Island,
8 but all of the riders all of the consumers that were
9 affected by the MTA. He's also a great advocate, a
10 stalwart defender of social justice issues, and he
11 had a distinguished employment--he served with
12 distinction on the Unemployment Appeals Board, and he
13 worked with numerous labor unions and has held
14 managerial positions as well. I--I just needed to
15 say today that Allen Cappelli is--is distinctly
16 qualified for this position. His experience uniquely
17 qualifies him to perform the work of the Civil
18 Service Commission with fairness and integrity.
19 It's--which is a quality that we've seen him
20 demonstrate over and over in his legal career. So--
21 and that he wasn't afraid to raise the thorny issues,
22 and one of my colleagues talked about some of the
23 issues, and problems with the Civil Service
24 Commission, and whether or not these candidates would
25 address them. I can, you know, say without any

2 hesitation that I know that Allen Cappelli would not
3 run away from a thorny issue, and would address it,
4 and--and bring it to some area of consensus that I'm
5 sure would be beneficial to the--the consumers of the
6 Civil Service Commission. So, I just wanted to say
7 thank you, and I'm glad to see you here.

8 CHAIRPERSON LANDER: Thank you very much,
9 Council Member Rose. Council Vacca you have a
10 question I believe.

11 COUNCIL MEMBER VACCA: I--I also wanted
12 to speak about Allen. I've known Allen since the
13 1980s, and you did refer to it in your testimony.
14 Allen was Press Secretary to Fernando Ferrer, Bronx
15 Borough President, and I was District Manager to
16 Community Board 10. So I became acquainted with
17 Allen many, many years ago, and then ran into Allen
18 again, of course, when I chaired the Committee on
19 Transportation here at the Council, and he's a good
20 guy. He's a dedicated guy. He's--he's responsible.
21 He's very blunt, and I think he's going to do a great
22 job on the Civil Service Commission. I think we need
23 someone with his experience, but also someone of his
24 character. So--although I don't live on Staten
25 Island, of course, but I know he's done great work,

2 but I would certainly recommend to the Council that
3 Allen Cappelli be moved--moved up and confirmed.

4 CHAIRPERSON LANDER: Thank you, Council
5 Member Rigue--Rodriguez.

6 COUNCIL MEMBER RODRIGUEZ: Thank you
7 Chairman Lander and Miller, and no doubt that the
8 Administration has referred three great qualified
9 candidates. The two that--

10 CHAIRPERSON LANDER: There's just two.

11 COUNCIL MEMBER RODRIGUEZ: --the two that--
12 -the two that--

13 CHAIRPERSON LANDER: The third is not
14 referred by the Administration.

15 COUNCIL MEMBER RODRIGUEZ: Okay so we
16 have three candidates in front of us today, but
17 before I get into the question, I want to remind
18 everyone that the reason why we have these lighted
19 candles here is in honor of the 49 lovely people that
20 we lost in Orlando. So we are still remembering the
21 men and women that we lost knowing that this was not
22 only an act of terrorism, but this is also an act of
23 hate towards the gays and lesbian community. After
24 we saw the many negative messages that that community
25 have been dealing with for decades. So this is

2 something I want to remind everyone. You know, I
3 believe in this administration because this
4 administration is all about breaking the cycle of
5 poverty. We inherit a city where based on the budget
6 director, 46% of New Yorkers live in poverty in one
7 of the most developed city in the world. And I think
8 that sometimes it's, you know, it's a challenge for
9 people to move from a privileged sector to address
10 and understand the reality of other sects. If you've
11 been part of the upper class, you can go and talk
12 about other initiatives that we have, other
13 resources, but sometimes we are not into breaking
14 that cycle of poverty. And I believe that where
15 you're going to be, this is the place that we can say
16 we can train our New Yorkers to get good jobs. But
17 also we have to make that connection. We have to
18 clear the system. People should not be waiting so
19 long to be placed in a job. It cannot be that a lot
20 of the jobs that we have in the city are not for
21 people who live in the five boroughs. How can we,
22 you know, from the Civil Service, have a plan--and I
23 hope that with your experience the only thing my
24 expectation is only don't come and tell us that we
25 have done it for 25 years because all of us are

2 responsible including places that you have served

3 where we are today to have a city or the 1% and the

4 99% even though this administration is so committed

5 to pool resources to identify men and women that

6 really is trying to make a difference in our city.

7 So from your perspective based on the experience that

8 you already will bring if you will be approved by

9 all, by--by--not only by this committee later on, but

10 also by the whole Council, how--what is the changes

11 that you are planning to bring to the Civil Service

12 so that we could really have a system in place that

13 we can say this is the legacy that I will leave on

14 connecting more New Yorkers to those exams. Some

15 people they don't know about those exams. I live in

16 the underserved community where essentially a lot of

17 people believe that the Latinos community live in

18 area that they are undocumented and all they have is

19 a green card. That those people they don't speak the

20 language. Just there's some community that they

21 don't have a system where they can say what DCAS is

22 saying we're actively promoting this exam. We have

23 certain groups that they are doing--doing--doing--

24 they are doing--that they are doing better than

25 others. That they provide the closes, that they

2 provide training, that they know when the exams are,
3 but there's other communities that they don't have
4 this information. So, what is the change that you
5 are expecting to bring us as members of that
6 commission in the previous experience that you have
7 so that we can continue working along the vision of
8 Mayor de Blasio or providing more opportunity for
9 working class and middle-class to be connected with
10 good jobs.

11 LARRY DAIS: Yes, as a product of the
12 projects, I understand the lower class or the class
13 of low-income individuals who are worthy if given an
14 opportunity. It was a public service employee that
15 encouraged me [bell] to move forward on a path that
16 led me to employment and a better understanding of
17 self-worth. My mother used to tell me anything worth
18 having is worth working for. If a person gives you
19 something, and you think it's worthless, take it
20 anyway because one day they might give you something
21 that's worth a lot. So my foundation has been and
22 will continue to be to share information with those
23 persons who can benefit what I have to offer, and I
24 think as a commissioner within the law and within my
25 networks, I will work to make sure that people are

2 better informed about the opportunities in New York
3 City in terms of public service. In the network that
4 I'm engaged in is with people from various walks of
5 life, different organizations, but there is an
6 opportunity not to misrepresent or make commitments
7 or promises but to share information about
8 opportunities. Last [background comments]. Oh,
9 lastly [laughs] I think we all have a responsibility
10 to make sure the people are well informed. Often
11 times it's the lack of information that keep people
12 out of opportunities that they are deserving. So
13 with that I'll close, and let you. (sic)

14 ALLEN CAPPELLI: [off mic] I--I know
15 that--if I can just have 30 seconds to be responsive.
16 The--first of all, we had a discussion offline about
17 this before. I'm very pleased that the City Council
18 put the money in the budget for Summer Youth
19 Employment Program. It is a such a great thing for
20 the City and, you're all to be congratulated for that
21 because there-- Yeah, that is the beginning of the
22 process getting young people employed, beginning to
23 get them trained and get them, you know, the
24 understanding of having a regular paycheck to be able
25 to--to--to make their way. You know, then you couple

2 that with additional efforts such as we spoke about
3 offline to increase information available to
4 communities. I know that there are efforts going
5 around to teach people about Civil Service
6 opportunities, and I think that that's something that
7 needs to be expanded upon, and to schools and
8 community colleges, and community based, faith based
9 groups. So that people understand what great
10 opportunities do exist. And then I think it's
11 incumbent upon those of us who serve in this area
12 including the Civil Service Commission to try to
13 eliminate the obstacles and streamline the process so
14 that people have greater access to these jobs on a
15 consistent basis. I will not accept the--this is the
16 way we've always done it, and as a--as an answer
17 particularly as it models the status quo that I'm not
18 happy with it.

19 CHAIRPERSON LANDER: I want to thank my
20 colleagues for the thoughtful questions. It's always
21 a fine line in this committee where we are up, you
22 know, where between are these nominees qualified for
23 the positions to which they've been nominated, and
24 how do we engage with the function between the
25 Council and that commission? I think it's useful to

2 use these hearings, but especially when we haven't
3 done an appointment to civil service in quite a long
4 time to explore that relation, and I'll encourage the
5 Chair and--and other members to continue to explore
6 these questions in the Civil Service and Labor
7 Committee where I think that they would be very
8 useful to continue to explore and push. I think it's
9 well worth spending some time in this hearing going
10 beyond the narrower questions of their fitness for
11 services, which I--I think in this case are pretty
12 straightforward to this broader set of questions
13 about the function of the Commission. That said, out
14 of respect for our next nominee I'm going to move us
15 along. Actually, one more small question, though.
16 Mr. Cappelli, it's my understanding that if confirmed
17 for this position you would step down, you would
18 resign from the MTA Board where you currently serve?
19 That's correct?

20 ALLEN CAPPELLI: I think there's a matter
21 of practicality. That decision will be removed from
22 me because I believe that Mr. Redanis (sp?) and his
23 colleagues are going to be confirmed hopefully in the
24 next day or two, and in that group of appointments is
25 my successor. It's not a mayoral appointment but a

2 gubernatorial that will effectively eliminate my
3 service on the MTA.

4 CHAIRPERSON LANDER: Which will be great
5 and we will be thrilled to have our colleague there.

6 ALLEN CAPPELLI: [interposing] So if--so
7 I--it's my understanding that by Tuesday it will be a
8 moot question.

9 CHAIRPERSON LANDER: So and I--and I--
10 again we--you know, we wish that would have happened
11 with respect to your service quite some time ago.
12 That said, if for any reason that didn't--that didn't
13 happen--

14 ALLEN CAPPELLI: [interposing] If it
15 didn't--if it didn't take place, and the law required
16 me to step down then I will obviously step down.

17 CHAIRPERSON LANDER: [interposing] Just,
18 you know--

19 ALLEN CAPPELLI: If the law says that I
20 can't, and the city doesn't have representatives,
21 then we can have a conversation about that because I
22 am an advocate for New York City.

23 CHAIRPERSON LANDER: Okay. Thank you
24 very much. Thanks to both of you for your time, for
25 your thorough answers, for your interest in this

2 commission. We don't vote at the end of these
3 hearings. We-we close the hearing, and we will
4 schedule a Rules Committee vote next week to vote on
5 your nominations. Thank you very much.

6 ALLEN CAPPELLI: Thank you, Mr. Chairman.
7 Thank you all.

8 LARRY DAIS: Thank you and the committee
9 members.

10 CHAIRPERSON LANDER: Okay, we will now
11 move to our third nominee and second agency for this
12 morning's hearing, and we will now consider candidate
13 Rosanna Vargas to the Council of the City of New York
14 nominating her for appointment by the Council to the
15 New York City Board of Elections. As the members of
16 this committee well know, the Board of Elections, the
17 Board and its commissioners are responsible for the
18 maintenance and administration of voting records and
19 elections. The Board also exercises quasi judicial
20 powers by conducting hearings to validate nominating
21 petitions of candidates for nomination to elective
22 office. It oversees the elections themselves as well
23 as maintenance of the voter lists. Of course, this
24 is no secret in this body it's ability and strength
25 in meeting those tasks has been subject to some

2 debate in the--in the public, and--and that we've had
3 conversations here at the Council about. There Board
4 is required to make an annual report of its affairs
5 and proceedings to the Council once every 12 months
6 and no later than the last day of January in any
7 year. As a matter of state law, the composition of
8 the board is ten commissioners, two from each of the
9 five counties, and the process for nominating and
10 appointing moves essentially back and forth between
11 the city's county political committees and the
12 Council. Generally, the--under state law, the county
13 political committees from each of the five boroughs
14 have the authority to recommend a commissioner for
15 appointment to the Council at least 30 days prior to
16 the seat representing the county and party becoming
17 vacant. That comes to the Rules Committee and then
18 the full Council has the authority to appointment
19 the--each recommended commissioner. If the Council
20 as a whole does not appoint a recommended
21 commissioner within the 30 days of the recommendation
22 by the county, party political committee, the
23 applicable political party caucus within the Council
24 becomes empowered to approve or reject
25 recommendations democratic vacancy by the vote of the

2 Democratic Party Caucus, Republic vacancy by the vote
3 of the Republican Party Caucus and then if after
4 another 30 days, the party caucus in question is not
5 appointment the recommended commissioner, then the
6 applicable county committee may file another
7 recommendation within 30 days of the point in time.

8 So it pings back and forth between the county
9 political committees and the party caucus. In the
10 case of a vacancy due to expiration of a term, the--I
11 won't go into it because that's not the situation we
12 have here. But there's a--a similar essential
13 responsibility, and again if the Commissioner
14 services as a holdover after the expiration of his or
15 her term. So we are in the first of those
16 circumstances. We are more than 30 days within the
17 time of a seat representing the Bronx Democratic
18 position on the Board of Elections becoming vacant.

19 And the Bronx County Democratic Committee had
20 exercised their authority under state law to appoint
21 Rosanna Vargas, which is what brings us here today.

22 Ms. Vargas, thank you very much for your patience
23 while we went through our first hearing. I thought
24 that one would be faster than--but as you see, the
25 Council takes seriously its responsibilities to ask

2 questions and get answers, and meet our duty under
3 the City Charter, and-and we're honored for the
4 opportunity to do that here as well. As you know,
5 the Board of Elections and its ability to deliver
6 good effective elections, maintain the voter list and
7 ensure that the smooth practice of local democracy,
8 which--for which for us there's nothing more
9 important. It's a matter of--of high importance to
10 both the Council and to the public. So we're honored
11 to have you before us here today. I will point
12 members of the committee to Ms. Vargas' background
13 materials and response to pre-hearing questions in
14 your red binder. I will now turn it over to her for
15 her opening statement. I have some questions. I
16 will then go to Chair Kallos who chairs the
17 Governmental Operations Committee, which oversees
18 from our point of view our relationship to the--to
19 the Board of Elections and then other members also
20 are signed up to testify. So, Ms. Vargas, if you
21 will raise your right hand to swear or affirm your
22 testimony.

23 LEGAL COUNSEL: Do you swear or affirm to
24 that the statement you're about to make will be the
25 truth, the whole truth and nothing but the truth?

2 ROSANNA VARGAS: [off mic] Yes.

3 CHAIRPERSON LANDER: Now, we--your
4 opening statement.

5 ROSANNA VARGAS: Good morning, everyone.

6 I want to thank everyone for coming, the New York
7 City Council Members and the Committee on Rules,
8 Privileges and Elections for holding this important
9 hearing to consider my nomination to serve as the
10 Bronx Democratic Commissioner of the Board of
11 Elections. As this committee is aware, I was born
12 and raised in the Bronx. I'm a practicing attorney
13 in Akerman's New York Office. I'm an associate in
14 the litigation department and my focus--and my focus
15 is on commercial litigation in state and federal
16 court, mediations and arbitrations. I believe that
17 my experience as a lawyer and the analytical skills
18 that comprise much of my practice will be an asset in
19 identifying the issues and challenges of the Board of
20 Elections. I'm an active member of the Dominican Bar
21 Association, the Puerto Rican Bar Association, the
22 National Hispanic Bar Association and Latinas
23 Organizing in Action. I'm also a member of the Law
24 Committee of the Bronx Democratic Council Committee,
25 which has been led by Council to County. The Law

2 Committee will focus on the needs of the community
3 such as the youth seminar and events to assist the
4 people that live in the community such as college
5 applications, review of their personal statement,
6 introduction the LSAT, mock job interviews and resume
7 reviews. I'm also part of Akerman's internal network
8 of Women's Initiative Network alongside with the
9 CASA, which is the Court Appointed Special Advocates
10 Association program to promote volunteer advocacy for
11 abused and neglected children in the foster care
12 system. I am committed--I am committed and
13 personally vested in the Bronx and in the State of
14 New York. I believe that I'm able to protect each
15 citizen's fundamental right to have their votes heard
16 and counted through the electoral process. My goal
17 is to ensure that the Bronx Community voice and every
18 other voting individual is heard by ensuring their
19 access to the ballots. I am confident that I am
20 qualified for this position, and that I am prepared
21 to serve as the Bronx Democratic Commissioner at the
22 Board of Elections, and I hope you appoint me. I
23 look forward to working with the Board and all the
24 other commissioners.

2 CHAIRPERSON LANDER: Thank you for that.

3 Before I get to some questions more broadly about
4 issues of reform at the Board of Elections, we'd just
5 like to get a little more sense of your experience on
6 election matters. You refer in your--in your written
7 statement to work you've done on the nuts and bolts
8 of campaigning, on collecting signatures, on
9 petitioning, on binding, on challenges. I wonder if
10 you could just share a little more about that, both
11 what your experience has been in--in doing that work,
12 and what that has shown you about the Board and its
13 functions and how it's working and not working, and
14 you know.

15 ROSANNA VARGAS: Yes. Well, over the
16 last six years, I have volunteered with the Bronx
17 Democratic County Committee. I've been involved in
18 reviewing and designating for possible challenges,
19 binding the petitions, assisting in preparation of
20 the challenges for the designated positions. I have
21 engaged in the practice of election law such as
22 working with the matters from their commencement
23 before the Supreme Court all the way out to the New
24 York Court of Appeals. I've also worked on several
25 campaigns and their related election law matters. I

2 have gone door to door to collect signatures, review
3 the [banging door] petitions of the candidates. Made
4 and answered challenges to the counted petitions, and
5 followed those through the Board of Elections as
6 well.

7 CHAIRPERSON LANDER: And can you give me
8 any sense for out of that experience? You know, what
9 are some things that are working and what are some
10 thing that are not working? You know, the challenge
11 process, for example, is one that people have raised
12 questions about. Is that the right way to, you know,
13 get candidates on or off the ballot or just, you
14 know, from that experience you've had. All of us
15 have done--that are up here have done some amount of
16 that work. So we all stand out there with our
17 clipboards and green petitions, and we're aware of
18 the processes of challenges and binding, and I'm
19 just--I wonder if you could give us some reflections
20 on what you've-- You know, things you've learned from
21 doing that work that you would bring to the Board
22 that you think would be valuable in either
23 strengthening things that are working or raising
24 questions about things that should be addressed or--
25 or perhaps improved?

2 ROSANNA VARGAS: Yes. Well, definitely I
3 will agree with strengthening things that are working
4 such as the specific deadlines for everybody to
5 submit their petitions, their cover letters and the
6 challenges--and the objection sheets.

7 CHAIRPERSON LANDER: I'm sorry. Can you
8 tip your mic up just a little so we can--there
9 better.

10 ROSANNA VARGAS: [laughs] Okay, am I
11 better now?

12 CHAIRPERSON LANDER: Thank you.

13 ROSANNA VARGAS: Yes, I was saying to
14 strengthen the deadlines that we have such as
15 submitting all the cover sheets, the objections
16 because it's very important for people to meet
17 everything that we submit since the entire process
18 must be done in such a short amount of time that
19 making sure everyone knows when everything has to be
20 submitted. For example, if they're not aware that
21 their cover sheets are not properly filled out, and
22 then they're trying to submit it after the deadline.
23 It can--the deadlines cannot be moved for anyone
24 specifically because of the short amount of time that
25 everything must be done. So strengthening that and

2 also stressing the fact that everything must be
3 submitted by a certain date.

4 CHAIRPERSON LANDER: And anything from
5 those experiences that has led you to think, I--I
6 don't know if this is the way we should be doing
7 things here, or surely we could do this process
8 better. Anything that, you know, the experience of
9 campaigning and--and working with campaigns has led
10 you to think should be improved or altered or
11 changed?

12 ROSANNA VARGAS: Yes, well definitely. I
13 think that a lot of things should be improved. Such
14 as the assistance to some of the people when they
15 submit their own campaign--when they submit their
16 petitions to support their campaign maybe they should
17 be more--how can I explain this? They should have
18 more knowledge towards it so they will minimize their
19 own errors.

20 CHAIRPERSON LANDER: So education to
21 candidates and campaigns could--that's something that
22 you're--you found could be strengthened or--

23 ROSANNA VARGAS: Yes.

24 CHAIRPERSON LANDER: And anything within
25 the board itself, anything in terms of the practices

2 and whether they--as opposed to participants ought to
3 better understand the rules, anything in the rules or
4 processes themselves that you think would be worth--

5 ROSANNA VARGAS: [interposing] Yes.

6 CHAIRPERSON LANDER: --improvements to.

7 ROSANNA VARGAS: Definitely. I believe
8 that the voter goal should definitely be improved,
9 specifically the accuracy of the people listed on it.
10 Also an implementation to make sure that the machines
11 are working properly in each poll site. So the
12 elections can run smoothly, there should be several
13 improvement in how people can--once they submit their
14 registration information to ensure that they will be
15 appearing on the ballot and they will be permitted to
16 vote in every election.

17 CHAIRPERSON LANDER: Okay, so these last
18 issues that you're mentioning are issues that is--
19 have been in the news a great deal lately as a result
20 of problems on their vote file, obviously
21 predominantly in Brooklyn, not in the Bronx, and on
22 the functioning of machines, something that's been an
23 issue everywhere.

24 ROSANNA VARGAS: Yes.

2 CHAIRPERSON LANDER: And so I want to ask
3 a couple of questions about that set of issues in
4 terms of how those reforms can move forward. Let me
5 start with the Department of Investigations report,
6 which is now a couple of years old and proceeded the
7 most recent elections, but identified 40 some odd
8 recommendations that need to be--that the--that the
9 Department of Investigations Commissioner recommended
10 needed to be changed. Quite a few of those
11 recommendations have been implemented, but it's my
12 understanding that some of them still have not. You
13 know, have you taken a look at that report, and do
14 you support all of its recommendations? Are they
15 ones that you think are especially important? Are
16 there any that you don't--that you don't support?

17 ROSANNA VARGAS: Yes. I am familiar with
18 the report, and yes it was conducted in 2013, which
19 was before the debacle, but--

20 CHAIRPERSON LANDER: [interposing] There
21 have been many debacles to beat there.

22 ROSANNA VARGAS: [laughs]

23 CHAIRPERSON LANDER: Almost every
24 election cycle is a debacle, which is why it's our
25 job to ask hard questions and do our best to try to

2 help make sure we get improvements there. The most
3 recent one are, you know, most in our minds, but that
4 report was commissioned as a result of problems that
5 had taken place in the 2012 election cycle so--

6 ROSANNA VARGAS: Yes, and yes, I am
7 familiar with the report, and I do agree. I would
8 like to stress the importance that I believe that the
9 process should be more open enabling the candidates
10 for key positions that were not recommended by a
11 party to be interviewed and considered. Also,
12 pursuant to the law, however, we cannot change the
13 ultimate requirement, which is to have a balance
14 between the Democrats and the Republicans listed, and
15 the recommendations by the Department of
16 Investigations should, for the most part, be
17 implemented, if it's allowed by the state statute.

18 CHAIRPERSON LANDER: All right. So let
19 me just drill down a little on this. Obviously for
20 the Commissioners themselves state law provides the
21 balance of five and five appointed through the
22 process that we are currently engaged in. So this
23 one was not posted online for nominations. This one
24 the state law clearly provides that the county make a
25 nomination to us. But at least as I understand the

2 DOI report, for all staff positions the
3 recommendation there is that those be posted online
4 and fully open and hired through a merit-based
5 process. Is--is that a recommendation that you--
6 that you support?

7 ROSANNA VARGAS: Yes.

8 CHAIRPERSON LANDER: Okay. I think Chair
9 Kallos will drill down a little more on some of those
10 specific questions as well. I'm going to move along
11 to, as you know, recently Mayor de Blasio in the
12 budget put forward a \$20 million enhancement offer to
13 the Board of Elections if it would agree to a series
14 of reforms hiring an outside operations consultant,
15 and handling a blue ribbon commission; enhancing poll
16 worker training; increasing salaries and bonuses; and
17 ensuring transparency in hiring and the same on the
18 issues that we just talked about as well as providing
19 new email and text notification for voters as
20 legislated by the Council. Unfortunately, as a
21 budget adoption we still don't have that, and
22 obviously you're not privy to those negotiations or
23 conversations. But do you support all of the
24 recommendations that the Mayor made with that offer?
25 If not, can you tell us which ones and--and why and,

2 if so, what would you do as a commissioner to advance
3 those things?

4 ROSANNA VARGAS: Well, yes, I do agree to
5 enhance the personal qualities, and definitely to
6 improve how everything is conducted, and making sure
7 that the professionals know exactly what they're
8 doing. However, for the Mayor to select individuals,
9 pursuant to the law, it must adopted by a Legislator
10 but what I can do to support it will be once it's
11 adopted to enforce it, and pursue with the rules of
12 the Legislator.

13 CHAIRPERSON LANDER: So I was not--I mean
14 as I read the Mayor's proposals I--I--none of them
15 need adoption by state law. They're not him
16 appointing people. Which--which ones of them do you
17 read to require changes to state law?

18 ROSANNA VARGAS: No, I'm to the extent if
19 the Mayor if has to select himself new individuals,
20 then that must be adopted.

21 CHAIRPERSON LANDER: So that none of the
22 Mayor's proposals involve him selecting any
23 individuals. The Mayor--the only--the transparency
24 in hiring at least as I read the Mayor's statement is
25 the--and you just said that you agreed to--

2 ROSANNA VARGAS: Yes.

3 CHAIRPERSON LANDER: --which is online
4 posting of all staff positions and a merit-based
5 hiring process for those things, which aren't like
6 your position required by state law to be a county--a
7 political party appointments. So, you--you--you had
8 said you support that, yes?

9 ROSANNA VARGAS: Yes.

10 CHAIRPERSON LANDER: Okay, so it sounds
11 like all other--at least as I'm--I'm not aware of any
12 elements of the Mayor's proposals that would require
13 state law changes.

14 ROSANNA VARGAS: Well, I was saying I do
15 agree with everything you're saying only to the
16 extent that they're not the--specifically if he has
17 to appoint them, if none of them that he is proposing
18 if he doesn't have to appoint any one individual,
19 then yes I fully agree with his proposal.

20 CHAIRPERSON LANDER: Okay, which is good.
21 He definitely is not proposing to appoint any
22 individuals to the Board himself.

23 ROSANNA VARGAS: [interposing] Good.

24 [laughs]

2 CHAIRPERSON LANDER: So, all right. So
3 then let me just ask that second question, which is
4 what, you know, what, you know, I--what are the
5 things that you'll do to help move that forward?

6 ROSANNA VARGAS: Well, once it's proposed
7 that's something that we can definitely discuss at
8 the Board or with the other commissioners to
9 implement strategies and also to make sure that we
10 can have enough training for the personnel, and have
11 enough improvements for the program itself.

12 CHAIRPERSON LANDER: So you'd be a vote
13 on the board to adopt those recommendations to take
14 \$20 million and move forward to more?

15 ROSANNA VARGAS: Well, right now, I will
16 not commit to any vote. I have to ask all these
17 specific facts in front of me. But if the situation
18 is that the Mayor's--all the Mayor's proposals are
19 exactly as--as I read that is to hire an individual
20 committee to do the appointments of the personnel,
21 then yes I will agree.

22 CHAIRPERSON LANDER: Okay. So I guess I
23 might ask you after this hearing then and before we
24 go back and take a look. I don't read the--the, you
25 know, fairly detailed proposal the Mayor made. I

2 don't read any of those things that's requiring
3 changes to state law. SO I guess if you could get
4 back to us after this hearing, and if there are
5 things you think require changes to state law, make
6 that clear. If there are things you don't support
7 from there, I'd love to get that answer, but
8 otherwise, I would love it, and you don't have to do
9 it today, but if you could get back to us before we
10 vote on whether you would commit to support those
11 things, it would be very helpful to us. And-and at
12 least to me in--in making my--in making my decision
13 here.

14 ROSANNA VARGAS: Yes.

15 CHAIRPERSON LANDER: Okay, I have one
16 last area before I turn it over to Chair Kallos and
17 other members here, and this is something we've
18 talked about in advance. It's my understand that
19 you're currently in your employment a registered
20 lobbyist.

21 ROSANNA VARGAS: Yes.

22 CHAIRPERSON LANDER: And you've lobbied
23 in the past to various city and state elected
24 officials?

2 ROSANNA VARGAS: Well, not various. I
3 would like to specify that I have done minimal work
4 with lobbying. It's a--as part of the firm I'm part
5 of the Litigation Department, and as my three years
6 in the firm, I have done two projects with the Real
7 Estate Department of lobbying, and to that extent is
8 to the beginning of the projects. And I do not plan
9 or foresee myself being highly involved in the Real
10 Estate Department. I am a litigator, and my focus is
11 on state and federal court cases.

12 CHAIRPERSON LANDER: And it's--it's--
13 it's--you're--you're aware of the fact that in this
14 term and the prior term it's been the Council's
15 practice to request that any nominee for any panel
16 not just the Board of Elections, but any nomination
17 that we appoint, if they've engaged previously in
18 lobbying we are fine with that. We have in all cases
19 asked people to commit not to lobby in general, and
20 obviously specifically elected officials in cases
21 where they might be involved in decision making that
22 relates to those offices.

23 ROSANNA VARGAS: Well, pursuant to the
24 law, I am committed to be a lobbyist and also a
25 commissioner. However, to the fact that I have

2 personally lobbied a council member and that's a
3 person coming before me. If I feel that there is any
4 issue, I can bring that up to the Conflict of Issue
5 Committee, and decide amongst. But to what I have
6 been involved in the past, and what I see it will be
7 a very minimal expense of my involvement with any
8 lobbying matters.

9 CHAIRPERSON LANDER: But you're not
10 prepare to commit that you won't engage in any
11 lobbying?

12 ROSANNA VARGAS: No, I--I am registered
13 by the firm to be a lobbyist, and I am--I will not
14 commit to the extent because I don't see that being
15 an actual conflict in this point because in the three
16 years, as I said, it's only been very minimal two
17 cases. And I don't foresee myself being as a Real
18 Estate Department attorney because I am part of the
19 Litigation Department.

20 CHAIRPERSON LANDER: Okay, so--and just
21 to clarify the issues, you--you're--you're right that
22 there is not a legal prohibition on being a
23 registered lobbyist while serving on the Board of
24 Elections. And I think you're also correct that the
25 appropriate thing to do in that case would be seek

2 guidance in any particular instance from the
3 Conflicts of Interest Board. But I just, you know,
4 for this Council it's been our practice for the
5 entirety of this term and for most of the prior term.
6 And again, with all appointments. This is not about
7 you. It is not about the Board of Elections. With
8 all appointments to--to request that people who have
9 been lobbyists commit to cease engaging in lobbying
10 in general, and obviously especially with specific
11 reference to elected officials for situations in
12 which they might be involved in decision making as--
13 as you will be here on--on the Board of Elections.
14 So that's--the--all of that is your understanding as
15 well?

16 ROSANNA VARGAS: Yes, and I also want to
17 clarify that myself or the firm has never come before
18 the Board of Elections. We've never done a matter
19 before the Board of Elections, and that to the extent
20 that I have been involved with the lobbying, it will
21 be to the initial steps, and from that anything after
22 the initial meeting or the initial--the initial
23 introduction of the project will be taken upon the
24 Real Estate Department and the partners in charge of
25 that matter.

2 CHAIRPERSON LANDER: Okay, I will--
3 there's a lot of folks signed up. So I'm--I'm going
4 to leave it there. I may come back and asks some
5 additional questions, but we've got a lot of members
6 signed up to ask questions as well. We will go ahead
7 with a--with a five-minute clock here because we have
8 a lot of folks signed up to testify, and we can do a
9 second round if necessary. We'll give the Chair
10 discretion, but--so we'll start with Chair Kallos and
11 then we'll move onto Council Members Garodnick,
12 Levine, Palma, Gibson and Vacca.

13 COUNCIL MEMBER KALLOS: Thank you, Chair
14 Lander. As the Chair of the Council's Committee of
15 Governmental Operations with oversight of the Board
16 of Elections I know that law board has made progress
17 under current Executive Director so many of the 40
18 different items in the Department of Investigation
19 report for the reform is still needed to ensure
20 elections and our democracy is run fairly and
21 transparently by individuals with a background and
22 their knowledge in running elections. So, many of
23 these decisions from some date of the operations for
24 broader policy is actually rather than being set by
25 the Executive Director will actually be set by you

2 and nine of your colleagues. Which makes this one of
3 the most powerful commissioner appointments we have,
4 and one of the most important for making sure that
5 democracy works. So I want to thank you for coming
6 before us, and for your civic engagement. So I guess
7 the--the first piece is do you promise to attend
8 hearings of the Committee on Governmental Operations
9 upon invitation without the necessity of a subpoena?

10 ROSANNA VARGAS: Yes. COUNCIL MEMBER

11 KALLOS:

12 ROSANNA VARGAS: Yes.

13 COUNCIL MEMBER KALLOS: Do you promise to
14 give testimony under oath before the Committee on
15 Governmental Operations?

16 ROSANNA VARGAS: Yes.

17 COUNCIL MEMBER KALLOS: At the next Board
18 of Elections meeting will you swear or affirm that
19 you yourself will motion for or second a motion and
20 vote in favor of requiring public job postings for
21 all vacant permanent and temporary positions
22 substantially similar to the public postings
23 recommended by the Department of Investigations?

24 ROSANNA VARGAS: Read it one more time.

25 I would like know what I'm supposed to agree to.

2 COUNCIL MEMBER KALLOS: Sure. So a--a
3 lot of the time people come in and they say oh, I
4 support this, I support that, and then nothing
5 happens, and talking with the Editorial Boards, the
6 thing you can actually do is you can make a motion.
7 You can give your word now that you will make a
8 motion. You will put this before the Board. Your
9 predecessor actually did so, and it is the--the thing
10 you can do. You can't promise to deliver the board,
11 though. It would be amazing if you could convince
12 three of your colleagues to vote with you. Sorry,
13 five of your colleagues, which would be the majority
14 to make this happen. But at least you can promise
15 that you'll actually go through the motions
16 technically putting your vote there.

17 ROSANNA VARGAS: Yes, I will agree to the
18 ex--extent that everything is pursuant to the state
19 law.

20 COUNCIL MEMBER KALLOS: Yeah, says you
21 can--you can--

22 ROSANNA VARGAS: [interposing] I should
23 be specific because of the--

24 COUNCIL MEMBER KALLOS: --you are fairly
25 empowered--

1 COMMITTEE ON RULES, PRIVILEGES AND ELECTIONS 78

2 ROSANNA VARGAS: [interposing] Yes.

3 COUNCIL MEMBER KALLOS: --empowered. And
4 so you've read all 55 pages of the DOI Report?

5 ROSANNA VARGAS: I am familiar with the
6 DOI Report, yes.

7 COUNCIL MEMBER KALLOS: And do you agree
8 with every recommendation therein?

9 ROSANNA VARGAS: I agree with the
10 recommendations to the fact that I do believe that
11 the party county committees are allowed and permitted
12 by law to submit recommendations to the Board of
13 Elections for positions.

14 COUNCIL MEMBER KALLOS: Okay, and--and so
15 I think you already answered this, but you agreed to
16 require Civil Service exams and--and replace as many
17 of the provisional employees as many as the
18 appointment as well--as--as many of the patronage
19 appointments as you can with civil servants who are
20 full-time and actually earning a--a \$15 minimum wage?

21 ROSANNA VARGAS: Well, what I'll say is
22 that I agree, but to the extent that all candidates
23 will be considered, and that it will be widened and
24 allowed to improve the talent pool for it. Only
25 because it's something-- Well, do you mean it's

2 accepting all Civil Service exams? Everybody must
3 take the Civil Service Exam in order to accept a job?

4 COUNCIL MEMBER KALLOS: We--we just had
5 the Civil Service Commission here. One of the
6 answers to patronage, one of the answers to Tammany
7 is to replace patronage appointments with civil
8 servants appointments. You can still require certain
9 representation at certain levels of the Board of
10 Elections, but so many of your workers are temporary
11 employees who don't even make the \$15 minimum wage
12 that our Governor and Mayor have promised. And so,
13 I'm--I'm asking for your commitment that you will pay
14 people a living wage. That they will make at least a
15 \$15 minimum wage that the temporary employees will be
16 replaced with full-time employees and wherever
17 possible that you're going to bring in civil
18 servants?

19 ROSANNA VARGAS: Well, where possible I
20 will agree because I have to have all the facts, and
21 particular--

22 COUNCIL MEMBER KALLOS: Well, will you
23 dig into that? Because you'll be a Commissioner.
24 You will be one of ten people who get to decide how
25 this operates. Our Executive Director has pretty

2 much told us during the Executive Budget hearing that
3 he doesn't have the power to hire--fire or--hire or
4 fire. It's--it's up to you. So either you're doing
5 it or you're empowering him to do it. Would you
6 consider empowering the Executive Director with
7 hiring and firing for people who perhaps hundreds of
8 thousands of voters?

9 ROSANNA VARGAS: What I will say is that
10 I will agree, but I would not commit to any permanent
11 answers beforehand because I have to--you--as you
12 mentioned, you said there is over 40 or 50
13 recommendations. Now, there's submitting including
14 the exams that you're saying now, and also replacing
15 the--all of the temporary workers to full-time.

16 COUNCIL MEMBER KALLOS: But that's not--
17 that's not DOI. That's just to me good governance
18 and if you have employees they're going to work
19 better for you when they actually know that they
20 have a job versus at-will employment.

21 ROSANNA VARGAS: I agree that a lot of
22 people are not paid barely the minimum wage, but to
23 that extent, in order for me to commit to an answer
24 to you, I will have to know that that is permitted,
25 and also that it's capable. That we have the

2 capability to improve and to replace all the
3 temporary workers to full-time workers.

4 COUNCIL MEMBER KALLOS: Great. So--so
5 pending when you find that to be accurate, hopefully
6 that will happen. With regards to the Presidential
7 Primary, what is your plan to avoid the improper
8 purging of voters?

9 ROSANNA VARGAS: Well, my--

10 COUNCIL MEMBER KALLOS: [interposing]
11 Would you--would you support removing people who
12 improperly purged voters and yeah.

13 ROSANNA VARGAS: My plan for the
14 elections and in order to avoid the purge is actually
15 to establish a system that will be I'll say checks
16 and balance. That it will make sure that before you
17 delete or before you remove a member from a specific
18 poll site, that they have to be scrutinized by a
19 higher authority, individuals to be reviewed such as
20 the voter poll must be updated in order to ensure
21 accuracy, in order to avoid the purge. Which only
22 the members can be removed as they are deceased, if
23 they are not in the residency or for another reasons.
24 That before a person is able to be removed by a
25 certain number that that must be reviewed by the

2 Commissioners of a managerial position to prevent.
3 Because inevitable there might be human errors, but
4 if we have established a checks and balance in place
5 that will make sure before you delete a certain
6 number of candidates that that must be scrutinized.

7 COUNCIL MEMBER KALLOS: I'm going to wrap
8 up with two questions and give it back to my
9 colleagues and then go to second round. As my
10 colleague Council Member Lander referred to the \$20
11 million for Mayor de Blasio whether or not you would
12 accept that for your budget. Specifically
13 recommendations whether or not you would agree to
14 guarantee transparency in hiring by posting all job
15 vacancies prior to hiring, which I think you said yes
16 to Council Member Lander. I'd just like to hear that
17 again. Poll training enhancements and then a salary
18 increase for poll workers to \$15 an hour. And last,
19 but certainly not least, with regard to that \$20
20 million creating a voter information portal so people
21 can check their registration status, track absentee
22 ballots, Council Member Vacca's email and text
23 messaging as well as Council Garodnick's poll site
24 modifications.

25 ROSANNA VARGAS: Yes.

2 COUNCIL MEMBER KALLOS: Would you support
3 all of that?

4 ROSANNA VARGAS: Yes, I would agree.
5 Also, in this spread that I think we should
6 considering implementing more social media or just
7 implement a type of social media in order for people
8 to receive more notifications--

9 COUNCIL MEMBER KALLOS: [interposing] So-
10 -so you--

11 ROSANNA VARGAS: --such as the one that
12 Council Member Jimmy Vacca wants to put in place of
13 the emails and the texting so people are updated
14 where is my poll site? Where am I going to go vote?
15 Am I prevented to vote? Is there something that that
16 individual can do before election day in order to
17 ensure that it will run smoothly, and they won't
18 encounter any problems.

19 COUNCIL MEMBER KALLOS: And I think
20 you're headed in the same direction as I am, but do
21 you support expanding the franchise to unregistered
22 residents with Internet access or even just Smart
23 Phones with online by implementing online voter
24 registration at the City Board of Elections with--
25 which it appears that our Attorney-General Art

2 Schneiderman has opined on for Nassau that can be
3 done. So we've got legislation on it. Would you
4 support it, and make it happen?

5 ROSANNA VARGAS: I do agree and I will
6 support it because I feel that right now in--in this
7 day and age, a lot of people learn what's going on
8 through Social Media and through notifications
9 instead of watching the news. So, yes.

10 COUNCIL MEMBER KALLOS: Thank you.
11 That's my line of questioning. I'm leaving it to
12 some of my colleagues to ask a little more about the
13 lobbying, which I think is a concern for many of us.

14 CHAIRPERSON LANDER: Thank you, Chair
15 Kallos. We have Council Member Garodnick, followed
16 by Council Member Levine and then Palma.

17 COUNCIL MEMBER GARODNICK: Thank you very
18 much and I will take that point and follow up on the--
19 -the lobbying issue, and thank you for your presence
20 here today. Obviously, you have--there's a lot of
21 affection for you from our colleagues. Some of our
22 colleagues who've expressed interest in your
23 candidacy from the Bronx. But an appointment here of
24 a registered lobbyist would be a departure for this
25 Council at least among recent years. So I did want

2 to talk to you a little bit about that. I understand
3 from your testimony a moment ago that you are part of
4 the Litigation Department at Akerman, and that you
5 worked on two projects in the Real Estate Department,
6 and that you don't necessarily expect to be part of
7 future projects in the Real Estate Department. But
8 you do leave open the possibility that you may be
9 involved in projects in Real Estate Department in the
10 future. Is that accurate?

11 ROSANNA VARGAS: Yes. I will be in--if I
12 am involved in the future, it will be to a very
13 minimal event.

14 COUNCIL MEMBER GARODNICK: And only in
15 the projects involving the Real Estate Department
16 would you need to be registered as a lobbyist? Is
17 that correct?

18 ROSANNA VARGAS: Yes.

19 COUNCIL MEMBER GARODNICK: So then help
20 us understand why you wouldn't be willing to forego
21 being a registered lobbyist in this context if there
22 really is an unlikely situation for you at the firm?

23 ROSANNA VARGAS: Well, as part of the
24 firm's standard practice in--in our Litigation
25 Department here in the New York office, sometimes

2 they use other associates from other departments
3 depending on the projects that they're working on.
4 Right now, we are over 600 attorneys, and the
5 likelihood of constantly using another associate from
6 another department is very low. It does occur
7 depending on how many projects that they're having,
8 and in the busy season I have been appointed twice in
9 three years, but most of the times each department is
10 separate and conduct of each other. But once the
11 firm will keep me registered, in the event that I
12 have to do something minimal or even go to the
13 initial meeting or do the initial presentation of the
14 actual project matter, it would not be to the extent
15 that I am spearheading the meetings, or that I am
16 conducting it, and that I am taking charge of
17 everything. It will only be to the initial stages of
18 the actual project.

19 COUNCIL MEMBER GARODNICK: Let me try to
20 articulate the concern that I think I--I know that I
21 have, and I'm sure others have, too. Can you
22 envision a scenario in which you are lobbying the
23 City Council as you have on those projects the Real
24 Estate Department previously, and contemporaneously
25

2 making decisions on election-related matters
3 involving council members?

4 ROSANNA VARGAS: Well, we--we can go over
5 a lot of theories and speculations or review what can
6 occur and what cannot occur, but what I can certainly
7 tell you is that I will never jeopardize my integrity
8 as a Commissioner if I'm appointed, and my integrity
9 as an associate of the law firm. The law firm
10 wouldn't itself either. If I feel to the point that
11 there might be an appearance or an issue of conflict
12 depending if I am personally lobbying a council
13 member, and then that same council member is before
14 me at the Board of Elections, then that is something
15 I will definitely bring up to the Board or the
16 Conflict of Interest Committee to let them know
17 exactly what's going on, and make a decision on it.

18 COUNCIL MEMBER GARODNICK: Well, let me
19 ask you your own view on the subject because I think
20 that's independently important in light of the fact
21 that it would you and the situation would be raising
22 a point of discomfort if it happened. Do you think
23 that that would be an appropriate situation for you
24 to be lobbying the City Council at a time when you
25 had matters pending before an individual council

2 member or other council members pending before the
3 Board of Elections?

4 ROSANNA VARGAS: The--whether or not I
5 have an issue pending with them, I know and I do not
6 see myself being very involved in any of the matters.
7 I won't see the issue if I'm the one doing the
8 initial steps such as preparing the--the plans to--to
9 be brought to the initial meeting, going there and
10 preparing the--the client not to enter into too much
11 specifics. But I don't see an issue when I'm not
12 highly involved in another project, and would not be
13 involved to this extent, and I don't--I don't see
14 myself being highly involved in any of the real
15 estate projects considering the lobbying.

16 COUNCIL MEMBER GARODNICK: Are you
17 prepared to commit today that you would not appear
18 before the City Council in a lobbying context?

19 ROSANNA VARGAS: No.

20 COUNCIL MEMBER GARODNICK: Okay. Thank
21 you.

22 CHAIRPERSON LANDER: Council Member
23 Levine followed by Council Member Palma.

24 COUNCIL MEMBER LEVINE: Thank you, Mr.
25 Chair. Good morning, Ms. Vargas.

2 ROSANNA VARGAS: Good morning.

3 COUNCIL MEMBER LEVINE: You--you have an--
4 -an incredibly impressive background, and you could
5 pursue a career not only corporate involved with--
6 with your skills, but the fact that you're choosing a
7 public service option is something I'm--I know we're
8 all very grateful for. In New York and nationally
9 we're confronting a new era of voter suppression,
10 which in particular has fallen heavily on local (sic)
11 communities of color and particularly immigrant
12 communities. I'm wondering if--if you can speak a
13 little bit about what you're seeing up close in the
14 Bronx about challenges of any of those communities in
15 being full participants in the electoral process?

16 ROSANNA VARGAS: Yes. Thank you. I
17 would like to stress the fact that my involvement
18 with the community is something that I have a passion
19 for. It's something that I feel I have a duty for my
20 own community to give back, and to make sure that
21 people that are coming from the same background that
22 I have, which is being--coming from a low-income and
23 from the same Bronx Borough have the same
24 opportunities I have, and that my involvement with
25 the Board of Elections will give me an opportunity to

2 give back to them by ensuring that every single vote
3 matters, and every single vote is counted, and that
4 they are permitted to vote. That's the only way that
5 the majority of the low-income communities have a
6 voice, or else everyone will not have the opportunity
7 to even have a say in the matter. My way of making
8 sure that a lot of people are involved in voting is
9 as--as have been involved in the past is ensuring
10 that the law committee through the Bronx Democratic
11 County Committee continues to be enabled, and
12 continue to have these events in ensuring that all
13 the youth knows about the voting, and that they're
14 registered. That their parents know. That can be
15 done in multiple languages. The attorneys that we
16 have are already part of that law committee. Speak
17 different languages. There is something that we can
18 bring the materials to enhance. And as a
19 commissioner, I feel that it will be very important
20 to continue or to start the spread of social media
21 and have Facebook pages in different languages, and
22 even Twitter accounts. People whether or not they
23 are proficient in speaking English or any other
24 language everyone has the majority if everyone has a
25 Facebook account. We can have that in different

2 languages. We can have that in Mandarin or we can
3 have that in Spanish, and make sure that it reaches
4 everyone, and now days, people receive a
5 notification, and Tweet alert before they even look
6 at the channel and turn on the TV. So they're already
7 aware of what's going on. If we can have updates,
8 and ensuring that the people understand that their
9 vote matters, that they must have a say in this
10 election, and every election. How this is such a
11 dire need that everyone must vote, and make sure. If
12 they don't vote, they're not going to be heard.
13 Their issues will not be presented before the elected
14 officials. The challenges that they face will not be
15 known to the people that can make a difference in
16 their life and in their community.

17 COUNCIL MEMBER LEVINE: Well, those are--
18 those are great ideas to be sure, and you identified
19 rightly issues of language access, which is important
20 not only in the Board's community to the public, but
21 when someone goes to vote that they would have
22 translation services available. Can you comment on--
23 on what you've seen in the Bronx and elsewhere about
24 how consistently available translation services are,

1 and--and what if anything the Board can do to improve
2 that?
3

4 ROSANNA VARGAS: The--in most--most of
5 the sites do have translation available to the fact
6 that they are a lot of bilingual workers at these
7 sits. But I feel that as a commissioner and if I am
8 appointed that it's important that we ensure that is--
9 --that one community whether it's a poll site, the
10 majority of that language if anything else in Spanish
11 that at least one of the poll workers will speak the
12 other language in order to translate and communicate
13 to the voters how is the procedure, how can they pull
14 the lever. How can they vote, and explain to them
15 the process. Also, by reviewing the background of
16 that community whether or not they speak three or
17 four other languages or two or three and ensuring
18 that the person in charge of that borough, that
19 commissioner will delegate the task to their
20 managerial positions to ensure that they have a
21 minimum one, maybe more depending on how big or small
22 that poll site is. And that they are able to
23 translate properly the procedure by the managerial
24 going over with the specific individuals that they
25

2 understand and they can translate the procedure
3 properly to the other language. [bell]

4 COUNCIL MEMBER LEVINE: All right, thank
5 you very much. Thank you, Mr. Chair.

6 CHAIRPERSON LANDER: Thank you, Council
7 Member Levine. We have Council Member Palma followed
8 by Council Members Gibson, Vacca and Williams.

9 COUNCIL MEMBER PALMA: Thank you, Mr.
10 Chair. I--I have a--a quick--some remarks about Ms.
11 Vargas, and--and then a quick question. I want to
12 thank the committee members for their interest in--in
13 making sure that the candidates before us answer the
14 questions or concerns that they have. I know you're
15 known to be a person of great character, and
16 integrity and have demonstrated that, you know,
17 professionalism. That she's been charged with has
18 demonstrated to be, you know, to have commitment and
19 passion to what's she--what--what she brings to--to
20 the Bronx by making sure that our young people are
21 engaged and involved. And, you know, whether Rosanna
22 Vargas realizes it or not, her contributions extend
23 beyond the direct efforts because of your and your
24 commitment and your passion for a rigorous, a
25 participation. And I want to thank you for always

2 being present when we've needed someone to volunteer
3 or help out. You've never turned away from any task
4 that you were given, and so I appreciate all that
5 you've done for us in the Bronx, and helped us
6 forward. I know that you will bring the same passion
7 and--and commitment to the Board of Elections, and to
8 take to a higher standard in the future. So I look
9 forward to the--to when the vote is taken, and--and
10 my colleagues in this committee support your
11 confirmation. With that being said, I--I want to ask
12 you a little bit about the--the lobbying efforts.
13 When--when you say it has been to a minimal can you
14 explain a little bit like what your exact role has
15 been in those two efforts in--in lobbying those two
16 specific council members when you've come before the
17 City Council?

18 ROSANNA VARGAS: Thank you very much.

19 Thank you for the introduction. I want to say that
20 my efforts as a lobbyist, as I stated, it is very
21 minimal, and what I have done for those two specific
22 situations--two projects that I have worked in have
23 been initial setup of the meeting such as making sure
24 that it is scheduled, and that everybody will be
25 present as well as the initial meeting itself for the

2 project members and the council member that
3 everything is there and present. And so far that has
4 been my involvement. let's say if a person can or
5 cannot attend and needs me to go and to make sure
6 that the first meeting is set up, and they have the
7 project, just to introduce the--the location of it,
8 and who's proposing. That has been my extent in the
9 last two projects, and as I said before, I understand
10 that it's perceived to be one firm and that everybody
11 goes in jointly, but it is very separately and
12 divided each department. We have our own tasks in
13 which we are trained for, and we are counted upon the
14 partners to be there. I am counted upon, and being a
15 litigator I go to court. I do arbitrations,
16 mediations, and also the--the firm understand that
17 that is my role. That's what I've been given to do,
18 and also that my partake in the lobbyist it's very
19 minimal, and I feel that every situation should be
20 taken for itself, and reviewed of the particular
21 facts. Every single case is not the same. Every
22 single member is not the same. That's like deciding
23 a court case. You must take the case for itself, and
24 what it specifically involves in. In this matter, I
25 am registered as part of the firm to do exactly as I

2 stated the initial steps of the project, and for that
3 I continue the remainder, 95 or 98%, which is
4 litigation.

5 COUNCIL MEMBER PALMA: And--and the firm
6 clearly understands the--the position that you will--
7 you now may be tasked with if--if confirmed. Do--do
8 you see any issue moving forward if presented--if the
9 firm asks you-- If you can engage in some lobbying
10 efforts will you-- I--I--I--I'm confident that you
11 will have the ability to look at what's before you on
12 it and--and ask the firm if they can--do you see--do
13 you see that being a problem?

14 ROSANNA VARGAS: I agree to your first--
15 to your first question. Yes, the firm does
16 understand and they do know how this procedure works,
17 and as being commissioner I have to [bell] preserve
18 the integrity of the firm and myself. I do now see
19 this being a problem. The firm does not see this
20 being a problem. To the extent that there might be a
21 problem and they want to assign a litigator a big
22 task of being a land use [laughs] associate to
23 spearhead and take charge of a project, that is
24 something that we will definitely consider. And I
25 can see myself requesting to even be removed from the

2 project. However, the firm knows what this
3 responsibility will take, and how passionate I am to
4 become and to continue to give back to my community,
5 and how important this is to me, and this is
6 something that they understand and took once I told
7 them of my nominations.

8 COUNCIL MEMBER PALMA: Thank you so much.
9 Thank you, Mr. Chair. [pause]

10 CHAIRPERSON LANDER: Thank you, Council
11 Member Palma. Council Member Gibson followed by
12 Vacca, Williams and if he gets back, Torres.

13 COUNCIL MEMBER GIBSON: Okay, my time is
14 running. Good afternoon, Ms. Vargas. Thank you so
15 much for being here. Thank you Chair Lander and
16 Chair Kallos, and to all of my colleagues who are
17 here. I'm delighted to be here, and I want to thank
18 the entire Rules Committee. You know, we do have a
19 procedure here, and you have truly been vetted, and I
20 appreciate, you know, your interest in this position
21 to serve as a Commission for the New York City Board
22 of Elections. Recognizing that we have a lot of
23 challenges. I think as a city and an administration
24 we've done an incredible amount of work around voter
25 education and voter empowerment, around reducing some

2 of the deficiencies we've seen in the system. But
3 certainly we know there's a lot of work that needs to
4 be done. So I am very proud that this nomination is
5 before the City Council. I've known you for several
6 years. I know the work you've done speaks volumes as
7 not just a resident of the Bronx, but certainly the
8 Caliber and quality you bring as a candidate I am
9 very proud of. I've looked through the report here,
10 and many of the questions during the pre-
11 qualification process, and I know and I will say with
12 confidence that you are absolutely more than
13 qualified for this position. And I want all of my
14 colleagues, Chair Lander and Chair Kallos to
15 understand that we ask these questions because we
16 simply want to make sure that you understand what
17 you're undertaking in this position. And I do
18 believe that voter education, and the new texting
19 campaign and education, and making sure that the
20 Mayor's recommendations, and to the extent that we
21 can get a lot of that done. I do think that we have
22 a lot of work to do. I--I know your record, and I
23 simply have just--just two questions, and
24 understanding the challenges before us as a City
25 Council as the Board of Elections, we have had

2 Michael Ryan here many, many times, and we know that
3 there is a lot of work to be done . So what I'd like
4 to ask you is based on all of your experience, all of
5 the petitions, the challenges, the designating
6 petitions, everything that you have been through,
7 what are some of the things that you think you are
8 uniquely qualified for in this position? And what do
9 you think we as a City Council obviously need to look
10 at in terms of reform, election reform, and making
11 sure that voters are empowered, voters are engaged in
12 the process. There's a lot at stake as you know, and
13 we want to do all that we can in the next several
14 months to make sure that any reforms that we can make
15 as a Council we will. So, I'd like to ask you what
16 do you think in all of your experience that we as a
17 Council should be prioritizing as it relates to
18 election and voter reform?

19 ROSANNA VARGAS: Thank you, Council
20 Member Gibson. I would like to start by saying that
21 yes, I do agree with all of the reforms that you were
22 just mentioning and examples. Also, that what I'm
23 bringing to the table other than my analytical
24 skills, my practicing attorney skills and my
25 experience is to refresh that of the whys. It's

2 something that I can identify the issues and
3 challenges to the Board of Elections as well as my
4 experience a voter and as a community from the Bronx
5 I understand what other people have difficulties
6 with. And I understand that--their lack of
7 understanding of the election process. Their lack of
8 not having enough education of how does--how does it
9 work and even for the poll trainers. The--the
10 implementations that are planned to bring up to the
11 board, and to bring up to other commissioners are
12 very specific to the issues that we face such as they
13 don't understand the process. There must be more
14 education to the people. Specifically, the poll
15 trainers. Everybody always complains that the people
16 on sites don't understand, don't tell them where to
17 go, and I feel that the training should be more
18 tailored to the specific issues that are there. One
19 of them that I mentioned before will be speaking
20 other languages depending on the background of the
21 community as well as--as having specific training for
22 the election day for the people in the poll sites to
23 understand what's going on, how to explain it to the
24 other people, what to look for, and to make sure that
25 that person is there. Also, as part of the training

2 to the community that they receive the knowledge that
3 they are permitted to vote. That everything is in
4 line, that they have submitted their documentation
5 and the proof that they need to the Board of
6 Elections, and that they will be permitted to vote.

7 COUNCIL MEMBER GIBSON: Right. So I
8 guess the other two issues that I--I think are very
9 important is you would be one of ten commissioners
10 the faces of the Board of Elections. It's really
11 important that we look at changing the culture at the
12 various Boards of Elections, and I expect many of our
13 commissioners to do so. And then also the community
14 ties. We want you to be more than just a name and a
15 title. I think there's a lot of opportunity to
16 engage voters [bell] in the community, and I see a
17 lot of your community ties, and I do believe that
18 this position will be an extension of that. So is
19 there anything that you could speak to in terms of
20 changing the culture at the Board of Elections as
21 well as community ties?

22 ROSANNA VARGAS: Yes, as to changing the
23 culture as the Board of Election, what I will is that
24 I'm not coming in with any preconceived notions or
25 any other expectations of any of the past

2 environments at that level. That as my culture I'm
3 bringing in my experience, but I expect--what I would
4 like the people from my community to feel and to grow
5 and to continue being the community that everyone
6 always is permitted to vote. As well as my ties to
7 the community. It will continue to grow. This will
8 be an improvement because in this one I can actually
9 impact more of my community by actually implementing
10 programs and events that will enable my community and
11 the people to be permitted to have their--their
12 ballots ready and to vote. In this tie, I would
13 implement programs that are specifically tailored to
14 the that, and continue to speak go the community and
15 see what they want, what they're willing to do, and
16 implement a program specifically tailored to them.

17 COUNCIL MEMBER GIBSON: Thank you very
18 much. My time is up, as you can see, but I look
19 forward to working with you and certainly I will work
20 with my colleagues through this process, and thank
21 you for being here, and certainly thank you for your
22 interest in becoming a Commissioner of the Board of
23 Elections, and thank you so much, Chair Lander for
24 having this hearing today. Thank you.

2 CHAIRPERSON LANDER: Thank you, Council
3 Member Gibson. Next up is Council Member Vacca.

4 COUNCIL MEMBER VACCA: Thank you, Chair
5 Lander and it's an honor to have you here today.
6 We've met so many times before, and looking at your
7 resume and knowing you as I do, you're going to be a
8 fantastic asset to the Board of Elections. And I--as
9 a Bronx person I'm proud of your nomination. Some of
10 the things that I see in your resume, of course,
11 speak to community involvement and community action,
12 and we do want to have people serving in government
13 who have a grassroots connection, and you certainly
14 do. Based on your background as an attorney, that
15 supplements that type of activity and commitment. I
16 was pleased to note when you were being questioned by
17 another member about your--your commitment to using
18 technology at the Board of Elections, and social
19 media. Because a concern that I've had is that
20 younger people are often not voting, and we in the
21 Council have financed voter registration days for
22 high school students who are turning 18. but the
23 issue becomes how do we get them to vote? We
24 registered them, but how do we get them to vote? So
25 I'd like you to speak a little bit about what you

2 would see as a possible plan of action for the Board
3 of Elections to implement that would involve younger
4 people, social media, technology. How would we
5 incorporate all these things that we get younger
6 people more involved?

7 ROSANNA VARGAS: Thank, Council Member
8 Vacca. I agree with everything you're saying.
9 Technology right now has advanced so much to the
10 point that they use these towers with iPhones and
11 iPads, and they can understand and use it so much
12 well than turning on the TV. People would rather
13 just see it on the devices. But to specifically say
14 a plan for the Commissioners and for the Board to
15 have, I will say it's implementing a way that even if
16 we can have an app and call it the BOE App, because
17 nowadays everybody downloads an app, and they can
18 have updates. The app will be accessible between 7
19 and 8--17 and 18 year olds just to get the
20 familiarized with the actual information of how
21 they're registered to vote. How can they understand
22 it. But not only the app itself, but also having
23 these Facebook pages the Twitter accounts even an
24 Instagram page where it shows videos because nowadays
25 we don't have to only have it listed on paper or have

2 it as a handout. We can have a video of a quick snip
3 or a snapshot where it has the--an actual person
4 sampling the voting and how the process goes, and
5 also having a--a way to encounter the youth by having
6 them--the individuals themselves submit videos and
7 why they want to vote and why they want to receive
8 updates. And that encourages the rest of their
9 community to also be involved. For example, once you
10 turn 18, why you want to vote to keep the momentum
11 going. Once you turn 20 what you want--what have you
12 learned, and why you want to continue to vote. Then
13 as part of that progressive movement, it will also
14 have--once you turn 23, why you want to continue to
15 vote, and continue reaching the young individuals and
16 also our community. Because that's something I would
17 like to see, I would like to get done as being part
18 of that--close to that generation itself, too. I
19 would like to know my updates and my apps, and that's
20 something I can open up and see as a train ride. Or
21 a lot of them while they're in recess anybody can
22 just check their phone, or in colleges. So let's say
23 right before they vote, and they want to check the
24 notification on Facebook or Twitter or the app or
25 Instagram, and they want to see oh, tomorrow is

2 voting day. I don't know if I want to vote, but
3 people check in. Nowadays you can check in on the
4 app. Oh, my colleagues checked in. I want to go and
5 meet with them right after we vote, and we can have a
6 voting party, and have small little events within the
7 page itself. It can be a Facebook page, a Twitter
8 page. You just accommodate to their specific
9 programs, software, and have that soft--software
10 accessible to everybody around us, and that's
11 something that can be done very easily because we
12 have more than enough people trained for this, and
13 it's so common that I feel and I do believe if it's
14 implemented the voting for the youth will increase by
15 far, double digits in one or a couple of years that
16 has never been seen before because that's a day and
17 era that we live now, technology. So I fully support
18 your proposal and improving and spreading social
19 media and continue to just grow our votes, the youth
20 they will also be voting. I just think we have to go
21 with the generation and the era.

22 COUNCIL MEMBER VACCA: Boy that was
23 great.

24 ROSANNA VARGAS: [laughs]

2 COUNCIL MEMBER VACCA: I thank you and,
3 you know, I do want to remind you that, too that I--I
4 would like you to follow up when you become a
5 commissioner hopefully [bell] on the commitment to
6 train staff because many of the inspectors of many,
7 many years, inspectors who were there for years.
8 When we brought in the new technology, the new
9 machines, they quit, and then they were not able to
10 cope with the technology. So there has to be a
11 commitment to ongoing training of election inspectors
12 so that they can keep up. Many of them depend on
13 that check, and I don't want them to fall through the
14 cracks. I need them to be trained. I hope--and I
15 did note that you were committed to it, but I want to
16 reinforce that for you.

17 ROSANNA VARGAS: Yes, I am definitely
18 committed to it. That is something I have
19 encountered myself at my voting poll site [laughs]
20 with my-- But to continue the training, and when I
21 mean continue the training not something in general.
22 I think there should be changes done. I have a lot
23 of ideas and specific circumstances that I have
24 incurred myself, and by tailoring the training itself
25 to the specific issue is more beneficial to the

2 inspector, and the people at the poll sites than just
3 having a general program. Let's say for example that
4 this is a poll site where the inspectors are not
5 familiar with exactly what to do right after they're
6 right in front of the poll site. I know it sounds
7 very simple with the pulling of the lever. But let's
8 say that it stuck. You know, you automatically have
9 to call the Board of Elections or move them over to
10 the other one. Just training them on the issues
11 that--that site faces, and the problems that they
12 specifically have.

13 COUNCIL MEMBER VACCA: I thank you, Mr.
14 Chair. Thank you, Commissioner to be.

15 CHAIRPERSON LANDER: Thank you, Council
16 Member Vacca. We'll have Council Member Williams
17 followed by Council Member Torres, if he returns, and
18 then Council Member Chin, and I have to step out for
19 just one second, but I will return.

20 COUNCIL MEMBER WILLIAMS: Good afternoon,
21 Ms. Vargas.

22 ROSANNA VARGAS: Good afternoon.

23 [laughs]

24 COUNCIL MEMBER WILLIAMS: Thank you so
25 much for being here, and for providing your testimony

2 and answering questions. I know it can't be easy on
3 that side. I appreciate it. You do look like you
4 have great credentials to be--to be here--to be a
5 rep, and I'm generally inclined to try and support
6 the County's recommendations. I think we do have to
7 do so with the mind frame that very many people are
8 unhappy with the way the Board of Elections are
9 running, and we have to do so knowing that some of
10 the people they are mad at came through these halls
11 and we supported and put in those positions. With--
12 with that said, the--the one thing that really
13 concerned me is the assistance to continue to be able
14 to lobby council members. So I want to talk about
15 that a little bit. Why do you feel that you need to
16 retain the ability to lobby council members?

17 ROSANNA VARGAS: It's not something that
18 I feel that I need to continue doing. It is
19 something that the firm will continue to do as a
20 precaution, and as a measure. They are going to
21 continue to have me registered as a--as a lobbyist in
22 the event that they need me to do in the future some-
23 -one more or two more or however more projects as the
24 ones I've done in the past. For example, during the
25 initial meeting and attending the meeting, they feel

2 that I should continue to be registered as a
3 lobbyist. I do not see myself or I don't plan to be
4 a--to have many more projects as a lobbyist. As I
5 said, in the three years with the firm, I have only
6 had two matters, and then those two matters have been
7 very specific with just setting up and scheduling the
8 initial meeting and attending the initial meeting.
9 It has not gone to any further extent. And I plan
10 that as a precaution I would follow what the firm
11 will have me to do, which is to maintain my status as
12 a registered lobbyist.

13 COUNCIL MEMBER WILLIAMS: I think it's--I
14 mean some people are concerned even the firm is--is
15 going to be lobbying or could be lobbying us. I mean
16 I think there's a problem, and though it's not
17 technically illegal, but I think it does give an
18 appearance of conflict if you are not willing to even
19 say that you won't be the person that's lobbying
20 council members particularly when you're overseeing
21 city elections. Do you at least see why that would
22 give the appearance of conflict?

23 ROSANNA VARGAS: Well, yes, as you say
24 it--it is permitted by law to be a registered
25 lobbyist and to also be a commissioner. There is no

2 issue under the law. Also, as myself in speaking in
3 this particular situation, referencing me I do not
4 see an issue with myself making a decision that has
5 to do with the Board of Elections as a commissioner,
6 and a project that has been put forth by any other
7 department. Once the--the actual positions or any
8 specific facts are put in front of me, that will be
9 decided according to and pursuant to the law. I
10 don't see an issue for myself making any decisions
11 because, as I mentioned, I am not fully engaged or
12 fully in the project of any of the real estate one.
13 I will not move forward, and I do not usually know
14 what happens after I do my initial meetings. That is
15 not dealing with my department, and in my instance, I
16 do not see an issue, but in the event that I do,
17 that's something I will bring up to the Conflict of
18 Issues Committee, but I don't see an issue at that
19 point.

20 COUNCIL MEMBER WILLIAMS: So I'm--I'm
21 thankful that you at least do why it would appear to
22 some people there might be a conflict even if you
23 don't agree. I do think whatever the project might
24 be it still might be concerning that you're a part of
25 the City Board of Elections, and whatever project

2 even if it--even it's not a problem, you're going to
3 be lobbying council members. So I--I--it would be
4 helpful. I'm not sure where the stumbling block is,
5 but I think saying that you won't lobby council
6 members for the time period you're on the board I
7 think is a--not a big thing. I think it would ease a
8 lot of people's minds, and hopefully you would at
9 least--we--we consider that just for a little bit.
10 The last time that I remember we had such an issue
11 was with the DOI Commissioner a few years back, and
12 he, too, mentioned that he didn't view any kind of
13 conflict. It turns out that there was, and he
14 actually didn't immediately recues himself. It took
15 a little while for that to happen. So these things
16 do happen even if we don't foresee it. Again, I'm
17 inclined generally to support the County's people in
18 decisions. This one does provide a little hesitation
19 for me just because particularly where we are right
20 now, and the city looking at the Board of Elections
21 and the dysfunction that has occurred, that the
22 appearance of conflict can--will [bell]--it still can
23 be a problem with people having confidence in the
24 Board of Elections. So it's just something hopefully
25 that you will think about a little bit more.

2 ROSANNA VARGAS: I understand what you're
3 saying, and that is something that it could be
4 considered. However, the firm will continue to take
5 its own precaution measures, and continue to list me
6 as the lobbyist. The firm understand and I
7 understand that in taking this position would be an
8 impact, of course, of my workload and my specific
9 matters at the firm. However, in--as I have done,
10 and what I am going to continue to do is to be part
11 of my Litigation Department, which encompasses state
12 and federal court cases. As I mentioned arbitration
13 and mitigation. That's what I do at the firm.
14 That's what I was hired for, and that's my
15 responsibility. In the even that another couple of
16 cases come down the line in another three years or
17 five years, and the partner expects me to go the
18 first meeting and present the--the initial fact of
19 where the location is of the project, where the site
20 might be, that's something else. But I do not see an
21 issue in myself to be having any type of conflict,
22 and as the example that you said before when that
23 person had a problem, as I stated, every single case
24 should be taken for one at a time, review those
25 specific facts, review particularly what were the

2 issues. And in this one, the issue will not be
3 present because my involvement has been minimal to
4 none, and I do see that the firm will continue to
5 proceed in its own way. And once you are--how
6 Akerman deals is once you in the department they
7 expect you to--the majority of all you work has to be
8 part of them. You have people that you work with all
9 the time, but people I work with all the time is in
10 the Litigation Department. Those are my workload,
11 those are my people that I work for, the partners.
12 They give me the work, and that's my involvement for
13 over 95% of my workload of the year that is not
14 something that the firm plans to change. We have
15 never been before the Board of Elections. The firm
16 does not plan on taking any case. I don't think they
17 would because there's no such--we don't take those
18 cases at all.

19 COUNCIL MEMBER WILLIAMS: So thank you.

20 My time is up, and I want to just ask if I can ask
21 one more question. I appreciate it, and I appreciate
22 what--what you're saying. Perhaps--I don't know if
23 the firm would maybe write a letter delineating
24 exactly what it is you would be doing and not doing.
25 So we can see if for whatever reason they want to say

2 you won't be lobbying city officials, God bless you
3 on the state and federal officials. Lobby away, but
4 perhaps we can see in writing what your duties would
5 actually be if some issue would arise, and what it
6 won't be. So that we can see a little clearer what
7 will be going on.

8 ROSANNA VARGAS: Well, that is something
9 I can definitely present to the firm. I don't know
10 if they want to fully commit to a letter unless it's
11 something of--to the point saying among and other
12 things including, but that is something I can bring
13 up, and I can discuss with the firm to see if they
14 want to send a letter of--tailoring my specific
15 duties, and see what will they decide.

16 COUNCIL MEMBER WILLIAMS: Thank you.
17 Thank you.

18 CHAIRPERSON LANDER: Council Member Chin.

19 COUNCIL MEMBER CHIN: Thank you, Chair.
20 Good afternoon, Ms. Vargas.

21 ROSANNA VARGAS: Hello.

22 COUNCIL MEMBER CHIN: Thank you for being
23 here, and thank you be willing to serve, and I heard
24 from many of my colleagues. They are very proud of
25 your achievements, and as a, you know, an immigrant I

2 think we're growing up in a low-income family, and
3 your willingness to really commit to public service
4 and helping others in the community is very
5 admirable, and I think that what you've talked about
6 in terms, you know, creating more opportunities for
7 people to make sure they exercise their right to
8 vote, and you highlighted social media, getting young
9 people. Those are great ideas, and hopefully you
10 will have an opportunity to implement those. And one
11 of my concerns is that to really make sure that
12 especially in immigrant communities when they
13 register to vote, they get the information in a
14 timely manner because a lot of times we register at
15 the last minute, you know, right before the deadline,
16 and they never hear from the Board of Elections. And
17 often times I, myself, have to go online and check
18 for them. So I think that's something that we really
19 need to do as part of the whole--for the Board of
20 Elections. I just also want to follow up with what
21 my colleagues have said, and I really urge you to
22 talk to your firm because I really don't want to see,
23 you know, that as a problem for you, and it shouldn't
24 be. And I agree with you and you know yourself that
25 you can--will have the judgment and recues yourself

2 from being inside of that. But the problem right now
3 is the issue with the Board of Elections, and the
4 perception of conflict. It's there, right. So just
5 even minimize that if you can, you know, talk to your
6 firm. And I think that they probably love the idea
7 that you are doing public service, and being a
8 commissioner on the Board of Elections it's a very
9 prominent position. I think it's also--it's good for
10 the firm to have their associates on that position.
11 So if they can really understand what we are looking
12 at, maybe then can sort of reiterate to you that look
13 they're not going to--they don't have to put you in
14 those positions because you've got a lot of lawyers
15 right? So you actually can just focus on your job,
16 which you stated, and you do litigation. And those
17 other things, you know, preparing for a meeting and
18 scheduling. Somebody else can do that, right? It's
19 large law firm. So this way it's just minimizes the
20 perception, and I--I hope you would do that because
21 you will be a great asset--you know, asset to the
22 Board of Elections, and I don't want that to be one
23 thing that holds you back. I know because some of my
24 colleagues is asking the same question. So, if you
25 can commit to like talking to the firm, and asking

2 them to sort of understand the situation, and make it
3 easier for you, and just look, they said they won't
4 put you in--in those positions because you've got a
5 main job to do, and they could have other people to
6 do what you were talking about these initial
7 meetings. It doesn't need to be you. So if you can
8 talk to the firm and have them sort of help reiterate
9 that, I think that would really increase the comfort
10 level of a lot of my colleagues.

11 ROSANNA VARGAS: I will definitely relay
12 the message to the firm regarding the letters of the
13 parameters of the duties, but the firm will not
14 commit to--it would have me to continue as a
15 lobbyist. However, the letter detailing the par--
16 parameters could be something to be brought up. The-
17 -the firm maintains it's not a final problem because
18 it is permitted by the law. It is not required by
19 the law for me not to be a registered lobbyist. It
20 is something that it can be done. It should not be a
21 conflict. They--they do understand that, and I
22 understand that myself. That is something that I
23 will continue to make sure I'm in mind. I would
24 have--I would continue my integrity as a commissioner
25 if I'm appointed, and regardless I will continue my

2 integrity as an attorney, as an individual that I
3 bring to court everyday, that I bring to myself, that
4 I bring to my community. I uphold myself to be doing
5 some responsibilities that have to continue to
6 maintain in order to continue to help and advise my
7 community to follow through on the correct things to
8 do and, therefore, that's why myself I don't see an
9 issue because I don't plan on continuing, but I will
10 definitely bring up the letter to the firm.

11 CHAIRPERSON LANDER: I was going to
12 nominate Council Member Chin to call the firm and
13 make an appeal because I found her very persuasive on
14 all the ways they will benefit from your--the cache
15 of your service on the Board and, therefore, should
16 agree to not have you be a registered lobbyist. But
17 the good news is you don't even need to make the
18 phone call because there's a representative firm
19 signed up to testify. We have three people. So
20 stick around Council Member Chin and you can make
21 your pitch live and in person. Okay. Just--well,
22 first I want to say that it really is great to hear
23 the enthusiasm for your colleagues especially your
24 colleagues from the Bronx who have worked with you
25 for your service, and also your enthusiasm for

2 talking about getting people involved in voting, and
3 getting people on the voter roles, engaging people
4 over the social media and in person. So I really
5 appreciate hearing all those--all those things from
6 you, and--and from them. I--I want to apologize. I
7 know you've been asked, but I--I want to ask one more
8 time. I'll give you two examples of situations where
9 lobbying and serving on the Board could present a
10 conflict that has nothing to do with you or your
11 integrity. So I just want to give you these two
12 examples, and kind of get your response on them, and
13 I think they both would be situations that would--in
14 which you could have impeccable 100% integrity, and
15 still a problem not just of appearance but of--of--of
16 conflict that exists. One is that you come before a
17 member. You come to lobby one of us on a--on a real
18 estate deal even at that first initial meeting and,
19 you know, it's not that far before an election, and
20 we know that we have a contested election coming, and
21 that the Board is going to be who rules on our--our
22 challenges around our nominating petitions. So
23 that's--so now, even if you would never in a million
24 years allow that to influence what you did, it's in
25 the head of the elected official, the person sitting

2 before me and lobbying me is someone who is going to
3 rule on something that matters to my political
4 future. And unfortunately, you can't control the
5 integrity of all the elected officials [laughs] and I
6 guess the second concern that I have is that I know
7 you said you said you would seek guidance from COIB.
8 But one thing COIB could recommend in some
9 circumstances is recusal, right? That's often how
10 someone deals with a situation where they've got a
11 conflict is that they recues themselves. But recusal
12 here could be a real problem. The Board is 5/5
13 Democrats, Republicans and so recusing one of the
14 five Democratic voters could present a, you know, a
15 situation in which decisions get made again. And so
16 in both of those situations your trustworthiness,
17 your integrity it--I don't--I won't say they're
18 irrelevant, but the--the question is not would you do
19 what's right. I trust from what I've heard from my
20 colleagues. You would do what's right, but those
21 might still present conflicts. So I guess I'll give
22 you the opportunity to help me understand why we
23 shouldn't be concerned about those things, you know.

24 ROSANNA VARGAS: Well, I guess we can go
25 over so many speculations and so many theories of

2 specific circumstances. But to address the two that
3 you brought up, that is something that I feel depends
4 on every single case. Let's say that the--the--that
5 I'm lob--that I'm lobbying a council member, and I
6 was there for the initial meeting, and they submitted
7 their petitions with no cover sheet, and there's
8 objections. That is something that is plain on site
9 to be--if it's pursuant to the law, and there are
10 specific decisions that must be followed because of
11 precedence in the law, then there is--

12 CHAIRPERSON LANDER: [interposing] My
13 concern is not that you would make a decision that
14 was based on how that meeting has gone at all. I
15 trust that you would make the decision based on the
16 rules in the law. My concern is that that elected
17 official that you're lobbying is sitting there
18 thinking, ha, this is a person who could be deciding
19 on my fate. I should be inclined toward the position
20 that she's representing in the lobbying visit.

21 ROSANNA VARGAS: Well, I understand what
22 you're saying, but that is something that I'll
23 definitely take into account. If it's right election
24 seasons, I have to consider the--the specific people
25 coming up, what am I doing, what are my tasks, what

2 assignments am I receiving. And that is something
3 that I will bring up even to the firm, and our
4 Conflicts of Interest that we have there, too. I do
5 not see an issue because if it's permitted by the
6 law, that means that it should be allowed, and I
7 understand that you say the appearance will be a
8 conflict. However, I don't see the conflict because
9 I don't see one thing involving a council member
10 being or jeopardizing another decision on a petition.
11 Let's say that petition, as I said did not finish or
12 did not sign the witness statements in the cover
13 sheet, or did not sign their petitions. Then those
14 things are overrules according to law itself. There
15 are some things that are just binding on the
16 petitions itself, and the candidates. Also, there
17 are things that must be considered, and I'll bring it
18 up to the Conflicts of Interest at the Board of
19 Elections, and as well I would consider as part of
20 the firm the elections that are coming up, and the
21 cases that I potentially will or will not receive.

22 CHAIRPERSON LANDER: And if you bring it
23 up to COIB, then they recommend recusal, would you
24 recues yourself?

2 ROSANNA VARGAS: I--I really wouldn't see
3 an issue of recusing, but that is something that I
4 will speak to them about, and see what's the best
5 step for us to take.

6 CHAIRPERSON LANDER: Okay, but if they
7 recommend recusal, would you recues yourself or
8 you're saying you wouldn't necessarily? If the Board
9 could--if you sought COIB guidance, and COIB
10 recommend--recommended recusal on a vote, would you
11 commit to recues yourself?

12 ROSANNA VARGAS: If it's reviewed and the
13 facts are particular and the circumstances call for
14 something specific, that is something that the
15 Conflicts of Interest would recommend, then I will
16 follow. But to the extent that that probably will
17 occur, I don't see that issue happening because of
18 the difference of responsibility in doing it. It's
19 that each thing has such as the commissioner position
20 and such as the attorney lobbying. If I have
21 received two matters in three years, the--the work
22 for I to receive in the future and now the firm will
23 take this into--into consideration of giving me tasks
24 or giving me anything that has to do with lobbying,
25 that's something that we are taking not very lightly.

2 We're going to plan it and the firm is taking it into
3 consideration.

4 CHAIRPERSON LANDER: And just understand,
5 you know, when you say only two times in three years,
6 of course, my response is great. It would be so easy
7 for them just to say let's not do it in the future.
8 So I hear you, but I just on--I guess on the recusal
9 point, do you understand my concern. You know, I--
10 we--we can't know the circumstances. So you seek
11 COIB guidance. COIB recommends recusal. If you
12 recues yourself there's now a 5/4 vote or not
13 necessary a 5/4 vote but there's 5 eligible
14 Republicans and 4 eligible Democrats to vote on that
15 matter whatever it--whatever it might be.

16 ROSANNA VARGAS: But those are mere
17 speculations. If we can think of all the negative and
18 all the worse ideas and the worst events that can
19 happen, what is in four or five years and that we
20 haven't even received another case or another
21 lobbying-

22 CHAIRPERSON LANDER: [interposing] That
23 would be fantastic.

24 ROSANNA VARGAS: --that--everything would
25 be moved.

2 CHAIRPERSON LANDER: So I hope that's
3 where we'll end up, but anyway it's--

4 ROSANNA VARGAS: [interposing] The firm
5 will not commit to--to saying that I'm not because in
6 the event that I'll have to do something.

7 CHAIRPERSON LANDER: It's our--look, it's
8 our job to speculate here. That's why we have this
9 hearing before we take the very significant step of
10 voting on your nomination, which I think is--you have
11 presented us in a--in a very strong way. That's, you
12 know, we only get to do that at the beginning, and
13 then every one of those speculations happens after
14 that, and that's what it's our job to do. So all
15 right. Council Member Torres is back. He's the
16 final one on the first stack. Then Council Member
17 Kallos and then as I mentioned we do have three
18 individuals signed up to testify about the nominee.

19 COUNCIL MEMBER TORRES: How are you, Ms.
20 Vargas.

21 ROSANNA VARGAS: Hi, how are you?

22 COUNCIL MEMBER TORRES: Hopefully, you're
23 enjoying the hot seat so--

24 ROSANNA VARGAS: [laughs]

25 COUNCIL MEMBER TORRES: --all right.

2 CHAIRPERSON LANDER: We're going to give
3 her some water as well so--

4 ROSANNA VARGAS: [laughter]

5 COUNCIL MEMBER TORRES: It's--it's not--
6 it's not everyday that Board of Elections nominees
7 are subject to inquisitions, but I'm kidding, I'm
8 kidding.

9 ROSANNA VARGAS: [laughs]

10 CHAIRPERSON LANDER: You should look at
11 the hearing of the last one. It is everyday that we
12 have them. Yes, it is. Well, this is only our
13 second, and the last one was just as long.

14 COUNCIL MEMBER TORRES: But I'm--I'm
15 proud to be supportive of your selection. I think
16 the three criteria that matter to me the most is
17 first you have deep roots in the Bronx. You have
18 experience with and knowledge of election law, and
19 you have character. I think you have as stellar a
20 reputation as anyone in the Bronx. All my colleagues
21 speak the world of you. On the subject of lobbying,
22 you know, it's one thing to be a registered lobbyist
23 on paper. It's something else to have an active
24 practice, and your practice has been minimal. Is
25 that correct?

2 ROSANNA VARGAS: Yes.

3 COUNCIL MEMBER TORRES: And so that's a
4 meaningful distinction.

5 ROSANNA VARGAS: Yes.

6 COUNCIL MEMBER TORRES: And there's
7 reason--there's no reason I think that when you
8 become commissioner it's going to remain minimal. Is
9 that a fair--would that be a fair assumption?

10 ROSANNA VARGAS: That it would remain
11 minimal?

12 COUNCIL MEMBER TORRES: Yes.

13 ROSANNA VARGAS: Yes.

14 COUNCIL MEMBER TORRES: Okay, and as you
15 rightly pointed out there's no legal prohibition, but
16 what prevents a conflict between our role as a
17 lobbyist and your role as a commissioner of BOE is
18 your character as an individual.

19 ROSANNA VARGAS: Yes.

20 COUNCIL MEMBER TORRES: And so I have
21 enough confidence in your integrity to keep yourself
22 honest and to hold yourself accountable. So for
23 those reasons I'm proud to be supportive. So thank
24 you.

25 ROSANNA VARGAS: Thank you.

2 CHAIRPERSON LANDER: Thank you, Council
3 Member Torres. Next up for a second round is Council
4 Member Kallos.

5 COUNCIL MEMBER KALLOS: So Akerman has
6 how many attorneys would you say? Is it around 600?

7 ROSANNA VARGAS: Yes.

8 COUNCIL MEMBER KALLOS: And at the New
9 York office there's more 60?

10 ROSANNA VARGAS: Yes.

11 COUNCIL MEMBER KALLOS: And then within
12 the lobbying practice for it appears to only be about
13 six or seven?

14 ROSANNA VARGAS: Partners, yes.

15 COUNCIL MEMBER KALLOS: So I guess the
16 question that Council Member Lander, Chin and others
17 have asked, if it's such a small part of your
18 practice and I'm--I'm attorney. I'm a litigator.
19 That's what I do, federal court dozens and dozens of
20 case. State Court thousands of cases. That's what I
21 do. That's my bread and butter. I never had to
22 lobby. Do you want to be a litigator?

23 ROSANNA VARGAS: Yes.

24 COUNCIL MEMBER KALLOS: Do you want to be
25 a lobbyist?

2 ROSANNA VARGAS: Yes--no.

3 COUNCIL MEMBER KALLOS: It's okay. So if
4 you don't want to be--

5 ROSANNA VARGAS: [interposing] I just
6 have to registered as a lobbyist as part of the firm.

7 COUNCIL MEMBER KALLOS: [interposing] But
8 if you--if you want to be a litigator, it's a very
9 separate and distinct skill set. Like I wouldn't
10 hire a lobbyist to represent me in court, I would--

11 ROSANNA VARGAS: [interposing] So you
12 wouldn't hire a litigator to represent you for a
13 lobbyist.

14 COUNCIL MEMBER KALLOS: So--so I guess
15 the question is it seems like based on all the things
16 that we're hearing from the colleagues in the Bronx
17 and whatnot the--the big sticking point is whether or
18 not you'd be willing to just say you know what, I'm
19 not willing to be registered as a lobbyist, and I'm
20 not willing to meet with elected officials on
21 business for my clients. You--you can still advocate
22 and--and do things for free as a member of the Bronx
23 County Committee, and as an active citizen in the
24 Bronx and at your community board. But here just
25 saying at Akerman with 600 other attorneys if they

2 can use the 599 other folks or the 7 other big
3 lobbyists ferks--folks who appear at Akerman, is that
4 something that you could--would be willing to do and
5 just focus on the litigation practice, focus on the
6 Board of Elections.

7 ROSANNA VARGAS: That would--that--that
8 is my plan to continue to focus my litigation
9 practice, as you stated, being a litigator and being
10 a lobbyist are two completely different fields. They
11 do not--you have to have a level of expertise for
12 each one, and as I am a litigator, I do plan to
13 continue being in litigation. I plan that all the
14 majority to all of my work will be on litigation, and
15 once I become a commissioner--

16 COUNCIL MEMBER KALLOS: [interposing] So
17 can you just give us--can you please just commit that
18 you will--even if you have to take a sidebar with
19 whoever is here from your firm to just get their sing
20 off to say, I--I won't sit in these meetings, and I
21 won't actively participate in it because I'm a
22 litigator and there--I shouldn't be lobbying. I
23 should be focusing on my primary skill set.

24 ROSANNA VARGAS: I cannot commit and the
25 person here from the firm actually had to leave.

2 They had a partner meeting. So he--I saw him when he
3 had to leave, but he was here scheduled I think from
4 10:00 to 12:00 something like that.

5 COUNCIL MEMBER KALLOS: [interposing] So,
6 I--I think that it's--it's disappointing because just
7 because you could doesn't mean you should. There are
8 many different things that we as elected officials
9 can do that are legal, but we don't do because it
10 would create the appearance of impropriety. And
11 along those lines, can you tell me a little bit about
12 the clients that you've lobbied for?

13 ROSANNA VARGAS: Well, along those lines
14 I will also state that it--it just--and every case is
15 different. When the firm requires to be registered
16 for whatever precaution that they're taking, you
17 follow what the firm has, and as Council Member
18 Torres said being a lobbyist on paper, and practicing
19 and doing the majority of you work as a lobbyist is
20 two different things. I've also done one case in
21 Latin America. I'm not an international attorney,
22 but when they require you to bring in and do a case,
23 that is something that you have to fulfill and do.
24 The two cases that I have done is to just to save

2 the--to mention the location to the council members
3 and to bring up the environmental project.

4 COUNCIL MEMBER KALLOS: So which are the
5 two clients that you're representing in your lobbying
6 capacity?

7 ROSANNA VARGAS: This will be very sad if
8 I tell you I don't know their cite.

9 COUNCIL MEMBER KALLOS: It's okay. It's
10 Azimuth and Acadia. Do those sound familiar?

11 ROSANNA VARGAS: Yes.

12 COUNCIL MEMBER KALLOS: So I guess one
13 concern just to make it very real Azimuth has a
14 property in my district.

15 ROSANNA VARGAS: Yes.

16 COUNCIL MEMBER KALLOS: So I guess one
17 concern just to make it very real, Azimuth has a
18 property in my district. Azimuth wants something
19 from me. They don't want to have to pay taxes on
20 their property. I have an election coming in 2017.
21 What now? Are you going to be able--are you going to
22 be an advocate in--in my elections process? Are you
23 going to have to swear yourself out? Acadia
24 Properties has properties in almost everyone else's
25 district. Between Azimuth and Acadia they've got

2 dozens and dozens of properties in Corey's district,
3 in multiple parts in Brooklyn, in Northern Manhattan.
4 What happens when somebody you're representing as a
5 lobbyist has business in our districts and wants
6 something from us, and we need your vote in 2017 to
7 get on the ballot?

8 ROSANNA VARGAS: Well, you know, and I
9 definitely understand. I don't see a conflict
10 because you shouldn't see a conflict in it either.
11 When a person is put in a specific situation, they
12 have to decide within themselves and their integrity
13 what they're going to decide. It's not the
14 circumstance that places the person, it's the
15 individual itself deciding. If I have to decide
16 something in your ballot in 2017, it has nothing to
17 do with whatever project they have before your
18 district or anything that they're trying to propose.
19 I don't see an issue for myself making an unbiased
20 mutual decision for a petition or for any of your
21 people work for--for you going for re-election.

22 COUNCIL MEMBER KALLOS: And--and what
23 about the--the appearance of impropriety on the other
24 side of people saying well, Ben supports, you've
25 given that affordable housing a tax rebate and now

2 the Bronx Commissioner is--is voting in favor of him
3 getting on the ballot? You're putting us in a bad
4 position because you're representing somebody who has
5 something in my district, and I'm trying to do it on
6 the merits, but now I have an appearance of
7 impropriety because of whatever actions I've taken
8 and people can say well, he just did it so he
9 wouldn't have to worry about getting knocked off the
10 ballot.

11 ROSANNA VARGAS: The--I don't see one
12 thing going in with the other because you say the
13 appearance, but the appearance of deciding the--your
14 petitions and your paperwork can also be decided by
15 the law. Let's say if you did not submit one of your
16 paperwork, if your signatures or if you're missing
17 your cover sheets and there's objections and there's
18 challenges, then that's something automatically that
19 you will be either removed or not follow as a
20 candidate for that re-election. Those are some of
21 the circumstances that already present itself of
22 individuals bringing in their own petitions. I don't
23 see an issue with me deciding one thing doing with
24 another as a Commissioner.

2 COUNCIL MEMBER KALLOS: So as a
3 Commissioner, you could have the choice whether or
4 not to put the Public Advocate on or off the ballot
5 because of a typo on their cover sheet?

6 ROSANNA VARGAS: That is something we
7 have to decide amongst the board.

8 COUNCIL MEMBER KALLOS: And--and so--

9 ROSANNA VARGAS: [interposing] That's a
10 Board decision.

11 COUNCIL MEMBER KALLOS: --in that case
12 history shows that in 2009 when Bill de Blasio was
13 taken off the ballot because of his cover sheet, and
14 then he was later put back on. So the law isn't
15 always very clear, and perhaps if we are taking the
16 legalistic approach and the Board having overruled
17 the law in that case, and corrected for that error,
18 we would not have Mayor de Blasio, but I think these
19 are very real questions. Would you be willing to
20 share your current client list, and billing list with
21 the City Council had further consideration so that we
22 know exactly what apparent conflicts may be apparent
23 for all the different members?

24 ROSANNA VARGAS: That is something I have
25 to bring up to the firm.

2 COUNCIL MEMBER KALLOS: Okay. I--I guess
3 the--the big concern is just--I'll just say on behalf
4 of myself, assembly members, senators it might not be
5 the best position for an elected official to be
6 sitting across the table from a commission of the
7 Board of Elections when somebody has something in
8 their district.

9 ROSANNA VARGAS: But that's like having a
10 case and then you see a judge in the courtroom. I
11 mean--or you see them having a dinner plan or a
12 party. The two things are completely different.
13 That's up to your conscience and your integrity. In
14 my conscience and my integrity I would perceive two
15 completely different things. Your petitions and how
16 the Board decides things, and how we encounter the
17 meeting with the petitions have nothing to do with
18 any project before you, or anything that the lobbyist
19 has brought up to your county.

20 COUNCIL MEMBER KALLOS: Right now when
21 somebody comes before me, I have to worry about my
22 residents, my constituents. I have to worry does
23 this person what they want agree with their
24 constituents? Is there support from the
25 neighborhood? Is there support from the community

2 board? Some members may consider is this person
3 giving money or not? There are a lot of articles
4 about campaign finance contributions, but that's all
5 public. There are lobbyists. They are capped at
6 \$250 or \$400. I have legislation that would actually
7 limit matching for lobbyists bundles because maybe
8 they could give six figures, and I don't support
9 that. But ultimately, I think it would be a whole
10 new rub for elected officials to have to wonder when
11 they're being lobbied about that person's additional
12 power over them within the Board of Elections.

13 ROSANNA VARGAS: By having additional
14 power what do you mean? Because that--that just goes
15 directly to the specific individual. What power
16 would I have over the petitions and the lobbyists if
17 whatever has been presented to you in one situation f
18 the lobbyist, would not endure or make me biased in
19 any way. I would remain neutral in considering the
20 petitions and everything before the Board?

21 COUNCIL MEMBER KALLOS: I think that's
22 what I--

23 CHAIRPERSON LANDER: [interposing]
24 Council Member, you've--you've explored this issue.
25

2 COUNCIL MEMBER KALLOS: I--I have and
3 just I--I would hope that despite a lot of us giving
4 you very tough questions that should you be appointed
5 that you--you won't hold it against us, and you'll
6 make unbiased decisions.

7 ROSANNA VARGAS: As I repeated, I won't
8 hold anything against one thing. [laughs] It's--
9 it's--such as yourself, if you're a litigator you
10 understand that you just have to look at the facts,
11 the particular circumstance before you, and that's
12 how you make the decision. By you raising or not
13 raising the lobbyist cap or not the cap, it does not
14 have nothing to do with me, my decision, my--my way
15 of reviewing your petitions in anyway I'll bring. If
16 there's something that it must be contested or not,
17 and it's before the rules, just follow the rules of
18 elections in your position. You'll be fine. I don't
19 see my decisions impacting in anyway myself in
20 anything of the lobbyists or the two matters.

21 CHAIRPERSON LANDER: Thank you, Chair
22 Kallos. All right, Council Member Palma for our
23 final second stack--second round.

24 COUNCIL MEMBER PALMA: Thank you. It's--
25 it's more of a statement. I think, you know, we can

2 ask the question maybe in more ways. I believe that
3 she has responded to if--if ever presented with a
4 situation I also believe that that in the course of
5 the questioning we ask. If--if she was presented with
6 a case where it was to come before the City Council
7 and Ms. Vargas response was that she will then at the
8 firm level ask them, ask the firm to recues her or to
9 excuse her from having to lobby the City Council.
10 And she--her response was she saw--she didn't see a
11 problem with it. So I believe we need to be
12 confident that at the firm level, the firm will do
13 everything it can--it can within its power to protect
14 not only Ms. Vargas but also the firm's integrity
15 and--and that I--I'm definitely confident. I don't
16 think we'll ever see Ms. Vargas lobby any Council
17 Member after this hearing.

18 CHAIRPERSON LANDER: Thank you very much
19 for the time your patience. This has obviously been
20 a--a long morning. We appreciate it. I will say
21 that when we close these hearings, we just recess
22 them. So we may ask additional questions in writing
23 or ask you to come back again. We don't vote at the
24 end of the first hearing. That provides some
25 opportunity for additional dialogue and back and

2 forth. We have three individuals signed up to
3 testify. I understand that one of them is not here,
4 which is--it is unfortunate Steven Polivy from
5 Akerman, but I will ask Maria Keary and Marissa Soto
6 who have signed up to come and testify. Ms. Vargas
7 you can--

8 ROSANNA VARGAS: Great.

9 CHAIRPERSON LANDER: --take a seat.

10 ROSANNA VARGAS: Thank you very much.

11 CHAIRPERSON LANDER: Thank you.

12 [background noise, pause]

13 MARIA KEARY: I was going to say good
14 morning, but I'll say good afternoon. [laughs] Mr.
15 Steven--

16 CHAIRPERSON LANDER: [interposing] I'm
17 sorry, please identify yourself.

18 MARIA KEARY: Oh, Maria Keary. thank you
19 very much. Good afternoon, every one. Thank you so
20 much for allowing me the opportunity to
21 enthusiastically speak on behalf of how proud we are
22 as a community and as individuals to support an
23 individual like Rosanna Vargas to be our
24 representative and to be the Commissioner of the
25 Board of Elections. Before I do that, Mr. Steven

2 Polivy, who is the Chief Managing Partner for
3 Akerman, the firm that Rosanna is also employed at
4 was are certainly more than willing to be here and
5 represent his thoughts, his firm's thoughts as to
6 what an asset she is to Akerman, what a woman of
7 honest and integrity she is and how she upholds
8 herself to always the right thing by the law. And so
9 that was his statement, and I wanted to provide that
10 to you, and how you can understand the passion that
11 they have in understanding and supporting her in this
12 role. It is important for me to portray. I am just
13 a lay person. I am not a politician. I've never
14 been one, and my digestion of what has happened here
15 has been to portray an individual who obviously wants
16 to represents a community that she understands. She
17 is the face of today, but she certainly is the face
18 that we need for tomorrow. Rosanna Vargas is a young
19 woman representing not only the Bronx but beyond.
20 She represents exactly what we need as a commissioner
21 in the Board of Elections. Someone that will not
22 tell you what you want to hear because obviously this
23 is a position that she wants, and she's going to do a
24 really good job at. But someone who understand that
25 she needs to be upholding herself to higher grounds

2 in ethics. That she needs to be mindful of what she
3 will--the decisions that she will make, and no unlike
4 all of our pasts and all our lives where we're
5 confront with people that we know and on a business
6 we may disagree, but certainly on a personal level we
7 can have a different type of relationship. It is I
8 think for her an individual that has not have--had an
9 experience in the political world to sit here as a
10 woman of integrity, a woman in law of integrity, a
11 woman of the face that we recognize and understand.
12 Some who understands technology who is going to bring
13 the level that's important to the Board of Elections,
14 I can't say any more. One of the things that I
15 observed and I was taking just certain notes that I
16 believe are going to be important in the decision,
17 and I believe that this body has a tremendous
18 opportunity to send a message, a positive message to
19 the individuals that do not trust the Board of
20 Elections. That believe that the Board of Elections'
21 only right is to think of not the people but not the
22 voters and not the people, but to think of the
23 representatives that should be elected. Her
24 creativity, her recommendations will take the Board
25 of Elections at a storm. They--she will certainly

2 step up to the plate to assure that there is a well
3 run election. Knowing Rosanna and the things that
4 I've asked her to do--many have expressed her
5 volunteerism. I certainly had that opportunity to
6 volunteer. Rosanna was the individual that gave an
7 invocation to 17 minority students receiving
8 scholarships from the Dominican Day Parade, and the
9 students were expressing that when that money came in
10 it was the money they needed to be able to graduate
11 from college, and this is the young lady, not a
12 priest, not someone from the clergy, that gave them
13 an invocation that they will never forget. Many of
14 them, if not all of them, we received letters of
15 congratulations where they were touched. That's the
16 kind of spirituality, and that's what she dialogues
17 with. Her transparency I--Rosanna is transparent in
18 every way that I think of in the way that she does
19 her work, in the way that she communicates with you.
20 You will never see here waiver as to what she thinks
21 is the right thing to do. Here highest levels of
22 compliance. She complies, she--she dialogues. She
23 understands your points of view, but she will not
24 waiver in making sure that she stands firm on what
25 needs to be said. She is engaging and involved.

2 She'll work to ensure voters know everything they
3 need to know. That I understand that she has taken
4 to task within our scholars to engage them to speak
5 to them to tell them her story, the story where she
6 came from, the struggles that she had, the--what she
7 needed to do to be where she is. To understand that
8 there is a woman that can represent these faces and
9 tell them listen these opportunities are available to
10 you, and these are the opportunities you need to take
11 hold of, and do not--do not say to yourself I won't
12 take the challenge. It is unheard of in her mind.
13 The integrity of the family she comes from. Hard
14 working individuals. Parents that are involved in
15 community, and that's what they instilled in here.
16 There is no doubt that Rosanna will want to take the
17 commission and the actions to make sure that the
18 rules are not broken. Most importantly, Rosanna will
19 assure recommendations are evidence-based, and I
20 heard many times when she was being, you know, asked
21 that that question. And, listen, I'm a layperson.
22 More than anyone else I could be very judgment.
23 Conflict of interest, and what's being presented, and
24 why is this person talking to that person. But what
25 I understand from her is that here decisions are

2 going to be evidence-based. If the evidence is
3 clear, it doesn't matter what the relationship exists
4 outside of her role as a commissioner. And the
5 voters. I certainly look forward to her clarity, and
6 to make things simple to make sure that the voters
7 understand that there is a simple process. There is
8 a simple understanding on how you get yourself to the
9 ballot because voting is important and often times
10 our youth don't get that. Our elders get that
11 because the struggle has been strong, and sometimes
12 people just don't care because they feel that's not
13 going to make a difference. She knows that it makes
14 a difference, and she will be proud to make sure that
15 that information and that education gets out to the
16 masses. And I believe in my heart of hearts that her
17 interest is the voters, and because of that, I have
18 all the trust in the world. The voters are always
19 and must be first. Thank you very much for your
20 time.

21 MARISSA SOTO: I would first like to say
22 and disclose that I am Counsel to the Bronx
23 Democratic Council Committee. However, I speak today
24 not in that capacity but in--I speak as a woman and a
25 Latina who has practiced law both in large law firms

2 as well as in private practice, and I just wanted it
3 to be clear that although Rosanna is a lawyer who has
4 her own independent license, as junior attorney at
5 this large law firm, she has very little discretion
6 over exactly what the firm will permit and what the
7 firm will permit. As Council Member Levine mentioned
8 earlier in his comments, Ms. Vargas has the
9 opportunity to pursue an exclusively corporate career
10 where, you know, her sole motivation and--and goal
11 and purpose can be basically profit, money and making
12 the most that she can in--in, you know, here career.
13 However, Rosanna has a commitment to the community,
14 which won't allow her to do that. So, she has gone
15 out on a limb professionally and with her firm by
16 even requesting to pursue this commissioner position.
17 Because this is not something that is in furtherance
18 of the firm's goal. This is in furtherance of her
19 commitment to her community and to the society in
20 general, and I just wanted to be in clear in that
21 while yet it does seem like a simple task for her to
22 say oh, I won't--I won't lobby the City Council.
23 It's not exclusively within her authority to say.
24 The firm has its own interest when they need her to
25 remain a lobbyist. Let's say they ask her to do

2 something where there's even a possibility that it's
3 something restricted to something only a registered
4 lobbyist might do. If she does it, then the firm is
5 exposed because it's the ultimate--it's the partner
6 who directs her at the firm whose--whose
7 professionally liability is at stake in whatever
8 action she takes. So by the firm requiring her to
9 remain a registered lobbyist, that could be
10 completely precaution--a precautionary measure to
11 make sure that the firm is covered in the event that
12 she does something that that might--that those
13 credentials might become a necessity for her. And
14 then similarly in terms of her involvement, you know,
15 as a young Latina lawyer at one of these large firms,
16 I can tell you she is not in the majority, not by any
17 stretch of the imagination. Nor is she one who is
18 going to be mentored by many other partners of color
19 who are there and available to assist her and bring
20 her through the process. That's not the current
21 society in which we live, and it most certainly is
22 not the demographics of the large law firms in which
23 Rosanna is an associate. So in that role, she's
24 really trying to maintain a very delicate balance.
25 She's trying to advance our interests as Latinas as

2 women as lawyers by staying at this law firm where
3 she is not the majority. And in--and in experiencing
4 life in that way, of being a constant minority, and
5 also giving back on the more macro scale by engaging
6 in the Board of Elections. Because this is something
7 that she's personally passionate about, and I--I
8 would hate for--and, you know I--you had mentioned
9 earlier that perhaps Councilwoman Chin could reach
10 out to the firm and--and I would think that that
11 would probably have much greater sway upon the firm's
12 opinion of which matters Rosanna should participate
13 in going forward if the City Council were to reach
14 out directly to them. But for Ms. Vargas, it's not
15 really in her power at this point to make those
16 determinations or to make commitments on--on behalf
17 of the firm because she just doesn't have that
18 position within the firm.

19 CHAIRPERSON LANDER: Thank you both, and
20 I--I don't think anyone was suggesting that she
21 should put her job at risk, you know, and that, you
22 know, tell the firm what--what's what. I think as
23 Council Member Chin said it's pretty clear. You
24 know, two things are pretty clear from my kind of
25 point of view. You know, I think you are--this is

2 not a--in many ways this is not about Ms. Vargas. We
3 have had a practice this Council of not appointing
4 registered lobbyists to any boards. We, you know,
5 even the dangerous dog Advisory Board. That's just
6 in our--our practice, and even though it's not
7 required by law in every one of those cases, we think
8 it's a sensible precaution to take. And that's not
9 because we doubt the integrity of any individual. I
10 think she showed beautifully today her integrity and
11 her passion and her commitment. That's a practice
12 we've taken and--and I personally think it's a good
13 practice. So, you know, I--I--I think that Council
14 Member China also eloquently articulated why this is
15 a very good case to the firm to in this case decide
16 that it's appropriate to say that she doesn't need to
17 remain a registered lobbyist so that she can continue
18 to do her litigation work at the firm, and serve the
19 people of the City on the Board of Elections. So
20 that seems to me, you know, that's all. I mean I
21 appreciate your points both about her, which I think
22 she showed us today and the reasons for wanting a
23 smart young Latino woman representing New York on the
24 Board of Elections, and more broadly are--are clear
25 to all of us. That's something that this Council

2 under the leadership of our Speaker has been very
3 strong on, and that we're all proud to be a part of.
4 So, anyway, I--I appreciate the points that you both
5 made, and I also appreciate the time you spent today
6 here with us so--

7 MARISSA SOTO: And so--and I'm sorry, if
8 I--

9 CHAIRPERSON LANDER: [interposing] Of
10 course.

11 MARISSA SOTO: --if I may just one--one
12 more point is going back tot he firm. Well, I can't
13 speak specifically to Akerman. I--I was not an
14 associated in my--in my prior life as an--as an
15 associate at one the big law firms. I was not
16 Akerman, but I can say that the--the perception of
17 conflict of interest and--and the fallout from that
18 is something that will also be on Akerman's radar.
19 It's not something that they would be deaf to. It's
20 something that they would consider. Many firms
21 especially of that size have internal conflicts of
22 interest counsel that b--any associates can consult.
23 The consultations for the most part can be had and
24 discussed outside of any partner involvement. That
25 way the associates may speak freely about whatever

2 issues they enter--excuse me--they're encountering.

3 So I think that not only will Ms. Vargas have the

4 Conflicts of Interest Board at her disposal to

5 discuss analyze any potential issues that may arise,

6 but she will also have the firm's resources in terms

7 of evaluating whether or not she can continue on a

8 project or even join a project. So that's another

9 kind of issue. I know that you had mentioned the

10 Conflicts of Interest Board before, but you know, Ms.

11 Vargas would also have the resource of the firm's

12 internal Conflicts of Interest Board that she can

13 consult with about any matters that may be--that they

14 may be trying to assign her to.

15 CHAIRPERSON LANDER: Understood though

16 obviously their obligation is to their clients and

17 not to the voters of the city of New York so--

18 MARISSA SOTO: [interposing] Oh, no, but

19 their--their issue would be that if she were to

20 perform some kind of malpractice--if she were--if

21 there were to be a real conflict then it would be on

22 the firm because she would be doing so in her

23 capacity as a member of the firm, and not as a solo

24 practitioner. So their interest would be more in

25 terms of her professional defenseur (sic). As a

2 lawyer she has separate fiduciary obligations and
3 ethical obligations that exist and are imposed upon
4 her regardless of whether she works in government or
5 whether she works in private practice or a large law
6 firm.

7 CHAIRPERSON LANDER: Understood.

8 MARIA KEARY: So one more question. So
9 basically the--the Council has decided through a
10 consensus not to appoint individuals to the--any
11 commissionership if there is--if they're a registered
12 lobbyist, correct? So you're not actually digesting
13 the individual's personal resume per se. You're
14 making an assumption, and you're stereotypically
15 saying therefore because we have one example that
16 probably showed very bad discretion and absolutely in
17 the eyes of the voters and the lay person makes us
18 look like there is a terrible conflict and that
19 things are not being run the way they should. Then
20 you're--you're alleviating or so you're releasing the
21 opportunity for someone that can certainly show that
22 these individuals can certainly serve and serve in
23 the best way. Am I understanding that correctly?

24

25

2 CHAIRPERSON LANDER: We have a very wide
3 range of rules some by law, some by Council rule and
4 some by practice--

5 MARIA KEARY: [interposing] Right.

6 CHAIRPERSON LANDER: --that are designed
7 to prevent conflicts.

8 MARIA KEARY: Right.

9 CHAIRPERSON LANDER: So we don't allow
10 lobbyists or people who do business with the city, to
11 get that mass campaign contributions or to give at
12 the same level--

13 MARIA KEARY: [interposing] Right.

14 CHAIRPERSON LANDER: --and we're not
15 interested in the individuals. Most of those
16 individuals would not abuse it if they could do it,
17 but some of them might, and that's why that's law we
18 passed. We have rules at the Council regarding our--
19 we just strange to them what our--we banned outside
20 income for all New York City Council members just a
21 couple of months ago because even though most people
22 would not abuse the discretion that that would allow,
23 some combination of the occasional person who might,
24 and the appearance led us to strengthen our rules on
25 ourselves, not by law but by Council Rule. And then

2 in this case yes we have a practice now not forever--

3 -

4 CHAIRPERSON LANDER: --but it's some
5 meaningful number of years that even though most
6 people would not abuse that relationship, the
7 combination of the possibility plus the appearance of
8 appointing lobbyists to the wide array of
9 commissionerships and other appointments that the
10 Council considers is something we don't do. That's
11 been our practice, and I believe it's the right
12 practice, and that is not casting dispersions on any
13 individual. It's saying the practice of doing that
14 as a rule is better than not doing it. And in each
15 individual case having to do some combination of, you
16 know, hoping, crossing your fingers and setting
17 failsafe. So, this is really not about whether we
18 believe or don't believe Ms. Vargas, who has high
19 integrity. I'm persuaded by her appearance before us
20 today, and everything I've read that she has high
21 integrity, but asking the body to depart from a
22 practice we've set up to, you know, that's a--that's
23 a question this body is going to have to consider.
24 I--I believe that practice is the right practice.
25 Again, that's why it seems to me the easiest thing

2 for all of us here. and the right way to proceed is
3 for the firm to conclude that they don't need her as
4 a registered lobbyist, and remove any potential
5 conflict. You know, form point of view and I can't
6 speak for other colleagues she's persuaded me in all
7 other matters that she would be a strong appointment
8 to the--to the Board of Elections. We asked a lot
9 of other questions. She asked--answered them.
10 Barring that issue, to me I would be pleased to
11 support her candidacy. That one it's not just about
12 her. It raises questions about our process. If we
13 do it here, will we do it in every case? We've had a
14 practice I think is a good one, and I--I don't think
15 we'd be wise to abandon--

16 MARIA KEARY: [interposing] Uh-huh.

17 CHAIRPERSON LANDER: --and so that's the-
18 -yes, that's the issue that is presented to us.

19 MARIA KEARY: And I can certainly respect
20 your practice, and I can certainly understand your
21 practice, and if there were many individuals that
22 would be before you similar to Ms. Vargas diversity,
23 we understand is a very important thing particularly
24 now in the world that we live in. And because of
25 that, you know, that has to be considered. This is

2 an opportunity to identify the face that is very
3 important representative of the voters of the city of
4 New York. And having said that, I certainly respect
5 your position. I think it's a very good practice,
6 but I believe that if you can have 20 Ms. Vargas
7 before you it's just standard practice, but in her
8 case, and maybe I'm being biased, it is something
9 that really needs to be looked at, and maybe could be
10 resolved by Ms. Chin [laughs] making a--a quick phone
11 call but I--what--what I think you need to walk away
12 with is, and you said it yourself, the way that she
13 handled the grilling time and time of her
14 registration as a lobbyist shows tremendous honesty
15 and in her the ability to understand her positions
16 and respect that.

17 CHAIRPERSON LANDER: Thank you very much
18 for spending your time with us today. We'll put this
19 hearing into recess, and resume it next week.

20 [gavel]

21 CHAIRPERSON LANDER:
22
23
24
25

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 June 22, 2016