



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

2 10:05 a.m.

3 AGENT FLETCHER: Okay. I'm going to  
4 call the next case. Would the parties in the  
5 matter of Bale come forward? This is Case No.  
6 18-PRO-00061, Wyoming Cube & Bale, LLC, 3251  
7 Prospect Street, N.W., License No. ABRA-110062.  
8 This is a Retailer Class CR new application.

9 The protest issues are adverse impact  
10 on peace, order and quiet.

11 My name is LaVerne Fletcher. I'm  
12 conducting the Roll Call Hearing as the Board's  
13 Agent.

14 Introductions beginning with the  
15 applicant, please.

16 MS. LEFF: Hello, my name is Rona  
17 Leff, R-O-N-A Leff, L-E-F-F.

18 AGENT FLETCHER: Thank you, Ms. Leff.  
19 Present on behalf of ANC-2E?

20 MS. CRUSE: I'm sorry? Oh, Karen  
21 Tammany Cruse for ANC-2E.

22 AGENT FLETCHER: Okay. And present on

1       behalf of the Citizens Association of Georgetown?

2                   MS. CRUSE:   Karen Tammany Cruse.

3                   AGENT FLETCHER:   Thank you, Ms. Cruse.

4       We have two groups of individuals and possibly  
5       abutting property owners.

6                   Is Edward Emes here?   Mr. Emes, could  
7       you, please, state your name?   Well, just spell  
8       your name.

9                   MR. EMES:   Edward L. Emes, Jr.

10                  AGENT FLETCHER:   Thank you.   That's E-  
11       M-E-S?

12                  MR. EMES:   E-M-E-S.

13                  AGENT FLETCHER:   Thank you.   And if  
14       everyone could just state their name into the  
15       microphone right beside Ms. Cruse?   And don't  
16       handle it, because it make a lot of noise for the  
17       court reporter.

18                  MS. EMES:   Elizabeth D. Emes, E-M-E-S.

19                  AGENT FLETCHER:   Thank you.   Oh, I'm  
20       sorry, don't touch the microphone, because it  
21       make a lot of noise.   Sorry.

22                  MS. ACAMPORA:   Carmela A. Acampora, A-

1 C-A-M-P-O-R-A.

2 AGENT FLETCHER: And Ms. Acampora,  
3 your first name is spelled C-A-R-M-E-L-L-A,  
4 Carmella?

5 MS. ACAMPORA: Just one L.

6 AGENT FLETCHER: Just one L. Okay.  
7 Thank you.

8 MS. ACAMPORA: Um-hum.

9 MS. RIVERA: I'm Rosalinda Rivera  
10 spelled R-O-S-A-L-I-N-D-A and my last name  
11 spelled R-I-V-E-R-A.

12 AGENT FLETCHER: Thank you. Anyone  
13 else from, I'm going to call it, Mr. Emes' group?

14 MS. RADLEY EMES: I'm representing  
15 3230 N Street and my name is Virginia Radley  
16 Emes.

17 AGENT FLETCHER: Thank you. Ms.  
18 Radley, could you spell your -- spell Radley,  
19 please.

20 MS. RADLEY EMES: R-A-D-L-E-Y.

21 AGENT FLETCHER: Thank you. Anyone  
22 else? Okay.

1 MS. CRUSE: That's it.

2 AGENT FLETCHER: The -- Mr. Emes --  
3 Ms. Emes, you are the designated representative  
4 for the group?

5 MS. EMES: Yes.

6 AGENT FLETCHER: I have a couple of  
7 questions for you. The protest was filed. So  
8 there is a group of seven, but you filed as  
9 abutting property owners and a group of seven?

10 MS. EMES: Yes.

11 AGENT FLETCHER: So your intention was  
12 to do both?

13 MS. EMES: Yes, yes, Ms. Fletcher.

14 AGENT FLETCHER: And so the properties  
15 do abut. My question is whether or not the units  
16 abut the property. The properties do abut, so  
17 that much I could determine.

18 MS. EMES: The units are all on the  
19 property.

20 AGENT FLETCHER: Either way, you are  
21 going to be granted standing as a Group of Seven.  
22 I'm just trying to determine if the properties

1 abut. The group is going to be granted standing  
2 one way or the other. I'm just trying to make a  
3 determination.

4 MS. LEFF: How about the owners?

5 AGENT FLETCHER: Hum?

6 MS. LEFF: What about the owners?

7 AGENT FLETCHER: The owners?

8 MS. LEFF: Abutting owners.

9 AGENT FLETCHER: That's what I'm  
10 trying to determine, yeah.

11 MS. LEFF: Okay.

12 AGENT FLETCHER: That's what I'm  
13 actually trying to determine right now.

14 I'm looking at the Protest Letter, Ms.  
15 Emes.

16 MS. EMES: Yes.

17 AGENT FLETCHER: And from it, I can  
18 see that you, Edward Emes, Rosalinda Rivera, that  
19 your properties abut, but I don't see unit  
20 numbers for you, like the apartment number or the  
21 unit number. But I can ask you this while you  
22 check. The -- do the units share a common wall

1 with the establishment?

2 MS. EMES: Yes, they do.

3 AGENT FLETCHER: Okay. Not the  
4 building, but like your apartments?

5 MS. EMES: Yes.

6 AGENT FLETCHER: Ms. Leff?

7 MS. LEFF: Yes. Would you agree with  
8 that, that the units share -- you share a common  
9 -- your property shares --

10 MS. LEFF: No, it's not -- their  
11 garden abuts, but the actual buildings do not  
12 share.

13 AGENT FLETCHER: So the buildings  
14 abut?

15 MS. LEFF: The buildings don't share.

16 AGENT FLETCHER: I mean, the  
17 buildings?

18 MS. LEFF: The property.

19 AGENT FLETCHER: Yes.

20 MS. EMES: The property.

21 AGENT FLETCHER: Yeah, that's what I  
22 mean.

1 MS. LEFF: Their garden abuts.

2 AGENT FLETCHER: Yeah, that's -- we  
3 are saying the same thing. What I have to make  
4 sure of is whether or not, for example, Carmela,  
5 you live in Apartment No. 2.

6 MS. ACAMPORA: Correct.

7 AGENT FLETCHER: So the question for  
8 us is if Apartment No. 2 shares a common wall  
9 with Bale? If it shares a common wall.

10 MS. ACAMPORA: Yes.

11 AGENT FLETCHER: You are on one side  
12 and they are on the other?

13 MS. ACAMPORA: Um-hum.

14 AGENT FLETCHER: So it does?

15 MS. LEFF: No.

16 MS. EMES: Yes.

17 MS. ACAMPORA: Yes, it does. On the  
18 bedroom part that is facing --

19 AGENT FLETCHER: Okay. That's the  
20 question for us.

21 MS. ACAMPORA: Yes.

22 AGENT FLETCHER: So that's what I'm

1 trying to determine. And so --

2 MS. LEFF: Wait, what wall? I'm  
3 sorry.

4 AGENT FLETCHER: Well --

5 MS. LEFF: I'm --

6 AGENT FLETCHER: -- the -- so --

7 MS. LEFF: What wall?

8 AGENT FLETCHER: -- the Board's  
9 standard for --

10 (Simultaneous speaking)

11 MS. LEFF: The garden wall?

12 MS. EMES: Yes, that's our property  
13 room. Our property abuts --

14 MS. LEFF: Okay. But she is talking  
15 about --

16 MS. EMES: -- your property.

17 MS. LEFF: -- she was saying buildings  
18 and property. I thought you were making a  
19 distinction between buildings and property.

20 AGENT FLETCHER: I am making a  
21 distinction.

22 MS. LEFF: Okay.

1                   AGENT FLETCHER: The buildings do  
2 abut. I mean, I can look and see that the  
3 buildings abut, but sometimes there is a building  
4 that abuts, but the units that people live in may  
5 be on different floors, so that the unit that you  
6 live in does not abut, although the building  
7 does. I'm trying to determine if the -- if your  
8 apartments abut.

9                   For example, if you live on the third  
10 floor, your building may abut, but you may be  
11 three floors up and so your properties don't --  
12 your unit doesn't touch the establishment.

13                   If you are -- so for us abutting is if  
14 this is the wall --

15                   MS. EMES: Yeah, well, actually she  
16 is.

17                   AGENT FLETCHER: Hum?

18                   MS. LEFF: The two of theirs abut.

19                   AGENT FLETCHER: Well, that's what I'm  
20 trying to determine.

21                   MS. LEFF: The two of theirs abut.

22                   AGENT FLETCHER: Which two?

1 MS. EMES: All the Emes.

2 AGENT FLETCHER: Okay. That's what  
3 I'm trying to figure out. Okay. So Edward Emes,  
4 Elizabeth Emes and Radley Emes?

5 MS. RADLEY EMES: Yes, ma'am.

6 AGENT FLETCHER: All abut?

7 MS. EMES: And Rosalinda Rivera.

8 MR. EMES: Carmela.

9 MS. EMES: Well, not according to what  
10 she said. So if they are on the second floor,  
11 they don't abut?

12 AGENT FLETCHER: That's right.

13 MS. ACAMPORA: I'm right above.

14 MS. EMES: Okay.

15 AGENT FLETCHER: So I have Edward Emes  
16 abutting, Elizabeth Emes abutting, V. Radley Emes  
17 abutting.

18 MS. EMES: Rosalinda Rivera.

19 AGENT FLETCHER: Rosalinda Rivera  
20 abutting. Carmela Acampora is not abutting.

21 MS. EMES: Well, she's on the second--

22 MS. ACAMPORA: I don't --

1                   AGENT FLETCHER: Just so --

2                   MS. ACAMPORA: -- I'm not quite sure  
3 if my rooms are right above theirs.

4                   AGENT FLETCHER: So let me do this.  
5 In this case, because there is at least a Group  
6 of Seven, the whole -- the Group of Seven is  
7 going to be granted standing anyway, that's one  
8 thing. So everybody present today is granted  
9 standing.

10                   I'm just trying to determine if you  
11 are abutting property owners as well. It may or  
12 may not matter to you. The group is granted  
13 standing.

14                   MS. EMES: Okay.

15                   AGENT FLETCHER: But because you claim  
16 to be abutting, we now have to determine whether  
17 or not you abut as well.

18                   MS. EMES: Okay. All the Emes and Ms.  
19 Rivera abut.

20                   AGENT FLETCHER: So what that means is  
21 this. That means the Group of Seven is granted  
22 standing, but Mr. Emes, Elizabeth Emes, Radley

1 Emes, Carmela Acampora in addition to being part  
2 of the Group of Seven, you are also abutting  
3 property owners, so you just have two --

4 MS. EMES: Oh, no, not owners, no.  
5 There are two owners.

6 MR. EMES: Three.

7 MS. EMES: No, two owners. I'm not an  
8 owner.

9 MR. EMES: All right.

10 MS. EMES: It's Mr. Emes and Radley  
11 Emes.

12 AGENT FLETCHER: Okay. Two --

13 MS. EMES: They are the owners. They  
14 are noted as owners on the --

15 AGENT FLETCHER: Because you know what  
16 happens, you have abutting for owners and  
17 neighbors, so that's not what you mean though.  
18 You mean two abutting property owners, that's it,  
19 and everybody else is just a regular protestant?

20 Because the way your Protest Letter is  
21 written, it's what is causing me to clarify.

22 MS. EMES: Okay.

1                   AGENT FLETCHER: But it doesn't matter  
2 too much. You just mentioned that there are two  
3 abutting property owners.

4                   MS. EMES: There are two abutting  
5 property owners.

6                   AGENT FLETCHER: And who are they?  
7 The Emes.

8                   MS. EMES: Mr. Emes is abutting  
9 property owner and Radley Emes is abutting  
10 property owner.

11                   AGENT FLETCHER: Yes.

12                   MS. EMES: I'm an abutting neighbor.

13                   AGENT FLETCHER: So there is no  
14 abutting neighbors by our standard.

15                   MS. EMES: Okay.

16                   AGENT FLETCHER: Okay. So that --

17                   MS. EMES: Even though I live in on  
18 the same level that he does?

19                   AGENT FLETCHER: Yeah, it depends on  
20 whether or not -- yeah, so here is what I'm going  
21 to do, because you are going to be granted  
22 standing anyway. And some of this may not be

1 clarifiable, I don't know, and you can clarify  
2 more later if you want.

3 But what I'm going to do, I'm going to  
4 grant standing as an abutting property owner to  
5 Edward Emes, and you mentioned that, Radley Emes,  
6 you are abutting property owners.

7 MS. RADLEY EMES: Yes.

8 MS. EMES: Correct.

9 AGENT FLETCHER: Okay.

10 MR. EMES: Protestant.

11 AGENT FLETCHER: Because in your  
12 Protest Letter, you mentioned --

13 MS. EMES: Right, but I put by their  
14 names owners.

15 AGENT FLETCHER: Yes, you put two  
16 property owners.

17 MS. EMES: Right.

18 AGENT FLETCHER: But then you went on  
19 to -- referred to five abutting neighbors. There  
20 are no abutting neighbors. Either -- you have to  
21 be an abutting property owner, not an abutting  
22 neighbor. So I don't know what an abutting

1 neighbor is, but I do have to determine who is an  
2 abutting property owner.

3 So you are neighbors, you may just be  
4 a group of -- a part of the Group of Seven.

5 But --

6 MS. EMES: Radley and Edward are the  
7 owners.

8 AGENT FLETCHER: Are property -- so  
9 guess what, there you have it. So Edward Emes  
10 and V. Radley Emes are abutting property owners  
11 also.

12 MS. EMES: Yes.

13 AGENT FLETCHER: So you are granted  
14 standing as abutting property owners and as a  
15 member of the Group of Seven.

16 MR. EMES: Except that it is a  
17 protestant in a prior case before.

18 MS. EMES: Yes, but she is accepted  
19 now.

20 MS. RIVERA: She is now.

21 MS. EMES: She is still accepted.

22 MR. EMES: Ms. Acampora, right?

1 MS. LEFF: There is two kinds of  
2 groups.

3 AGENT FLETCHER: Yes. I'm just trying  
4 to make sure. So --

5 MS. LEFF: Okay.

6 AGENT FLETCHER: -- Mr. Edward Emes,  
7 Vicky Radley Emes, you are abutting property  
8 owners and a part of the Group of Seven.

9 Everybody else -- and then there is a  
10 Group of Seven. Is that -- does -- is that  
11 clear?

12 MS. EMES: Yes.

13 AGENT FLETCHER: Okay. So we have  
14 standing granted to a Group of Seven and standing  
15 granted to two abutting property owners.

16 So what that means is if the Group of  
17 Seven were to decide to enter into an agreement,  
18 the two abutting property owners can stand alone  
19 apart from the group.

20 MS. EMES: Great. Thank you.

21 AGENT FLETCHER: You're welcome.

22 MS. RADLEY EMES: Thank you for your

1       patience.

2                   MR. EMES:  Yes, thank you.

3                   AGENT FLETCHER:  You are very welcome  
4       and thank you.

5                   Okay.  So that's Mr. Emes' group.  We  
6       have got another one.  Benjamin Dower, is Mr.  
7       Dower here?

8                   MR. DOWER:  Yes.

9                   AGENT FLETCHER:  And you can have a  
10       seat, if you like, everyone standing, if you  
11       would like.  I'm done with --

12                   MS. EMES:  I'll sit down.

13                   AGENT FLETCHER:  -- the Group of  
14       Seven.

15                   MR. EMES:  Okay.

16                   AGENT FLETCHER:  Mr. Dower, could you  
17       state your name and spell it for the record,  
18       please?

19                   MR. DOWER:  Yes.  Benjamin Dower, D-O-  
20       W-E-R.

21                   AGENT FLETCHER:  Thank you.  And, Mr.  
22       Dower, are there any other members present from

1 your group today?

2 MR. DOWER: There are not.

3 AGENT FLETCHER: Okay. That's fine.

4 Thank you very much. Okay. Mr. Dower, you are  
5 part of a Group of Five. A Group of Five  
6 protestants?

7 MR. DOWER: Yes. And we are also  
8 abutting property owners.

9 AGENT FLETCHER: You are abutting  
10 property owners as well? You live in Unit No.  
11 410 and your other -- the other protestants live  
12 in Unit 314, Unit 407, Unit 411 and Unit 414.  
13 And so the question is -- so the properties do  
14 abut. They absolutely do.

15 MR. DOWER: We are actually the same  
16 property. All the same address.

17 AGENT FLETCHER: Yes, exactly. And so  
18 what the Board looks at is whether or not the  
19 actual units touch. The buildings touch. But if  
20 you are on the fourth floor, are you still  
21 sharing a common wall with Bale?

22 And if you are not, the same thing is

1 going to apply to you case, your group is going  
2 to be granted standing as a Group of Five  
3 regardless, but because you claim to be abutting,  
4 we just have to determine if you actually abut as  
5 well. And so --

6 MR. DOWER: Well --

7 AGENT FLETCHER: Um-hum?

8 MR. DOWER: If they want to serve  
9 drinks outside --

10 AGENT FLETCHER: Um-hum.

11 MR. DOWER: -- how would you define  
12 the wall around the outside area?

13 AGENT FLETCHER: We don't look at the  
14 wall around the outside. We only look at whether  
15 or not your Unit 410, whether or not 410 touches  
16 Bale.

17 MR. DOWER: It does not.

18 AGENT FLETCHER: Well, then your group  
19 will still be granted standing as a Group of  
20 Five, but not as abutting property owners. And  
21 so your Group of Five is granted standing. And  
22 Mr. Bale, you are the only one present from your

1 group today, so at the upcoming Status Hearing,  
2 the other four people have to appear in person.

3 MR. DOWER: Okay.

4 AGENT FLETCHER: So you are granted  
5 conditional standing actually.

6 MR. DOWER: Is there a date for that  
7 hearing?

8 AGENT FLETCHER: Yes. I'm going to  
9 give you some dates in a minute.

10 So it's fine that just you are here  
11 today. The Board needs to see at least five  
12 people before you are granted full standing. So  
13 at the upcoming Status Hearing, the other four  
14 people need to come. If they don't come, the  
15 Board will -- may dismiss the protest.

16 MR. DOWER: All right.

17 AGENT FLETCHER: But we are fine for  
18 today. What do you want to say, Mr. Dower?

19 MR. DOWER: Yes, at the beginning you  
20 had said that the issue under consideration was  
21 an adverse impact on peace and quiet.

22 AGENT FLETCHER: Yes.

1 MR. DOWER: And I just wanted to note  
2 that in our letter we had also referenced a  
3 negative impact on property value, so I just  
4 wanted to make sure that that is --

5 AGENT FLETCHER: Thank you.

6 MR. DOWER: -- under consideration.

7 AGENT FLETCHER: Thank you. Yes,  
8 thank you.

9 MR. DOWER: Thank you.

10 AGENT FLETCHER: You're welcome. I  
11 just added that.

12 Mr. Emes, your group -- because at  
13 least, I wanted to tell you this, five members  
14 from your group were present today, at the  
15 upcoming Status Hearing, only you, Ms. Emes,  
16 needs to appear.

17 MS. EMES: Okay.

18 AGENT FLETCHER: Because we have seen  
19 five people, so you can just come only to the  
20 Status Hearing.

21 MS. EMES: Thank you.

22 AGENT FLETCHER: You're welcome.

1 MS. EMES: Could every -- others can  
2 come, too, if they want to, can't they?

3 AGENT FLETCHER: If they want to, yes.  
4 Any questions at all?

5 Okay. Ms. Cruse, okay, in terms of  
6 the Citizens Association of Georgetown, the  
7 Protest Letter indicates that you are filing a  
8 protest based on peace, order and quiet, but it  
9 doesn't have that language in it about holding a  
10 meeting, inviting the applicant to the meeting  
11 and giving the applicant at least seven days  
12 notice of the meeting.

13 Did anything like that occur?

14 MS. CRUSE: Yes. I spoke with Mr.  
15 Elliott, who is the applicant, and gave him the  
16 pertinent information. We talked about the  
17 operation.

18 AGENT FLETCHER: Then are you aware  
19 that, Ms. --

20 MS. LEFF: Actually, I was informed  
21 that there was no communication between the two,  
22 but we are willing to waive that. It's fine.

1                   AGENT FLETCHER: Well, if you can  
2 waive it, I would let you, but what -- so what  
3 I'm going to -- because that language is not in  
4 the letter --

5                   MS. LEFF: Um-hum.

6                   AGENT FLETCHER: -- the language I'm  
7 referring to, Ms. Leff, is language that says  
8 "That a citizens association held a meeting, a  
9 duly noted meeting that the applicant was invited  
10 to the meeting, was informed of the meeting at  
11 least seven days before the meeting was held  
12 concerning the application."

13                   MS. LEFF: Um-hum.

14                   AGENT FLETCHER: Well, it's not a new  
15 rule, it's a relatively new rule.

16                   MS. LEFF: Right.

17                   AGENT FLETCHER: And so when a  
18 citizens association files a protest, that  
19 language actually has to now be in the Protest  
20 Letter.

21                   MS. LEFF: Um-hum.

22                   AGENT FLETCHER: And based on what Ms.

1 Cruse is saying, there was some communication  
2 about the meeting, etcetera, but because it's not  
3 written in the letter, the protest filed by the  
4 Citizens Association of Georgetown has to be  
5 dismissed, because Ms. Cruse knows the process.

6 MS. LEFF: Right.

7 AGENT FLETCHER: Which is to ask the  
8 Board to reinstate the protest for the reasons  
9 she just stated.

10 MS. LEFF: Yes.

11 MS. CRUSE: And may I make a comment?  
12 I have a question, please.

13 AGENT FLETCHER: Yes.

14 MS. CRUSE: After this happened last  
15 week, I did what you suggested. I spoke to Ms.  
16 Jenkins.

17 AGENT FLETCHER: Yes.

18 MS. CRUSE: And we applied for  
19 reconsideration. But I also went back and I went  
20 through the statute.

21 AGENT FLETCHER: Uh-huh.

22 MS. CRUSE: And the regulations.

1                   AGENT FLETCHER:  Yes.

2                   MS. CRUSE:  And the most current one  
3                   on the ABRA website, there is nothing about  
4                   sending a letter.  There is nothing about sending  
5                   a letter.  And if this is an internal regulation  
6                   that has changed without notifying the civic  
7                   associations, then I find it highly irregular to  
8                   dismiss us.

9                   It just -- if we don't know about it,  
10                  we can't obey a regulation that we have no  
11                  knowledge of.  So and our general counsel has  
12                  gone and looked through it, he couldn't find  
13                  anything.  So that's my comment.

14                  My question is where can I find this  
15                  language that -- about the new regulation?

16                  AGENT FLETCHER:  So it -- I understand  
17                  what you are saying, Ms. Cruse, and actually the  
18                  language actually says notice, but it doesn't say  
19                  how that notice would be given.  That's what you  
20                  are referring to, right?  It doesn't say written.

21                  So it has been a practice that it's  
22                  written and for the purpose of Roll Call, I have

1 to dismiss the protest, but when you petition the  
2 Board for reinstatement, then you can raise that  
3 issue. You are right, it does not say written.  
4 It has just been required, but it's not in the  
5 regulations. It just says to give notice.

6 MS. CRUSE: How can you say it's  
7 required and not let the people know it's  
8 required? And then make us -- put the added  
9 burden on us to, you know, prove that we --

10 AGENT FLETCHER: Yes.

11 MS. CRUSE: -- it's just not right.

12 AGENT FLETCHER: I'm just the  
13 messenger.

14 MS. CRUSE: I understand that.

15 AGENT FLETCHER: But I understand,  
16 obviously, what you are saying and I know what  
17 the regulation says and you are right about what  
18 you are saying. It's just that for my  
19 instruction under this circumstance today would  
20 be that an association is dismissed. And of  
21 course, the ABC Board can reinstate the protest,  
22 but LaVerne Fletcher cannot.

1 MS. CRUSE: And I did -- I submitted  
2 for the past one, but I can't even cite the  
3 regulation, because there is no regulation to  
4 cite. So I --

5 AGENT FLETCHER: I can give you the  
6 one that we use.

7 MS. CRUSE: Okay. Could you, please?

8 AGENT FLETCHER: I'll give you the one  
9 that we use. You are correct, it doesn't say  
10 anything about writing.

11 MS. CRUSE: 601(3)(b)?

12 AGENT FLETCHER: That's it.

13 MS. CRUSE: Is that what you are  
14 referring to?

15 AGENT FLETCHER: That's it.

16 MS. CRUSE: Well, you can't -- it says  
17 you have to notify seven days in advance.

18 AGENT FLETCHER: I know.

19 MS. CRUSE: Period. It doesn't say  
20 email. It doesn't say letter. It doesn't say  
21 phone call. It doesn't say personal.

22 AGENT FLETCHER: That is true.

1 MS. CRUSE: I know generally what goes  
2 in the past and never had a problem.

3 AGENT FLETCHER: That is true. What  
4 you are saying is true, but the letters have --  
5 there has been a requirement that that language  
6 be put in the letter, but that's for the ABC  
7 Board to discuss.

8 The associations have been required to  
9 put in the Protest Letters that a meeting was  
10 held, that the applicant was given at least seven  
11 days notice of the meeting, which is in the  
12 statute.

13 MS. CRUSE: Um-hum.

14 AGENT FLETCHER: But it doesn't say  
15 anything about how that notification would occur.  
16 You are correct. It doesn't say writing, email.  
17 It doesn't say that. And as you stated in your  
18 last case, you did give them notice, but it  
19 wasn't written and the applicant even agreed that  
20 the -- you didn't notify them and then you all  
21 had talked. But still, it wasn't written in the  
22 letter and so the Board can review that and

1       reinstate the protest for all the reasons you  
2       just said. It's just that the Board's Agent  
3       doesn't have the authority to do it, otherwise,  
4       she would.

5                   Ms. Leff, did you have any questions?

6                   MS. LEFF: No.

7                   AGENT FLETCHER: Okay.

8                   MS. CRUSE: I have one more question.

9                   AGENT FLETCHER: Okay, Mr. Cruse.

10                  MS. CRUSE: Does the applicant have to  
11       show? The applicant -- not the applicant.

12                  AGENT FLETCHER: The applicant -- does  
13       the applicant have to show up for the meeting?

14                  MS. CRUSE: Yes.

15                  AGENT FLETCHER: No.

16                  MS. CRUSE: All the protestants have  
17       to show up at some point, but the applicant  
18       doesn't have to show?

19                  AGENT FLETCHER: That's right. They  
20       have to be given an opportunity to show, but they  
21       don't have to show. So the applicant has to be  
22       told about the meeting.

1 MS. CRUSE: No, I'm talking about  
2 today at the Roll Call and Status.

3 AGENT FLETCHER: Oh, you're asking me  
4 if the applicant has to show up for the --

5 MS. CRUSE: The Roll Call.

6 AGENT FLETCHER: -- Roll Call? Yes.

7 MS. CRUSE: He is not here.

8 MS. LEFF: He wrote --

9 AGENT FLETCHER: Oh, you --

10 MS. LEFF: -- he did give notice.

11 AGENT FLETCHER: -- this is the  
12 designated representative, just so you know.

13 MS. LEFF: Yes.

14 AGENT FLETCHER: He sent a letter  
15 designating Ms. Leff as the representative.

16 MS. CRUSE: Does he have to show up  
17 for the status?

18 AGENT FLETCHER: Yes. Yes, I  
19 understand your question. Yes. So, Ms. Leff,  
20 the owner does have to show up for the Status  
21 Hearing, but he -- yes, he sent a letter  
22 designating you for today.

1 MS. LEFF: Um-hum.

2 AGENT FLETCHER: Now we get to the  
3 dates. The Status Hearing is scheduled for  
4 September the 19th at 9:30 a.m.

5 The Protest Hearing is set for October  
6 3rd at 1:30 a.m.

7 MS. EMES: At 1 --

8 MS. LEFF: P.m.

9 MS. EMES: October 3rd?

10 AGENT FLETCHER: Uh-huh. October 3rd  
11 at 1:30.

12 MS. EMES: Yes.

13 AGENT FLETCHER: We need to set a date  
14 for a mediation.

15 MR. DOWER: Sorry.

16 AGENT FLETCHER: Yes, Mr. Dower?

17 MR. DOWER: The Protest Status Hearing  
18 is September 19th?

19 AGENT FLETCHER: Yes, September 19 at  
20 9:30.

21 MR. DOWER: That's Yom Kippur, which  
22 is a Jewish holiday.

1                   AGENT FLETCHER: Yes.

2                   MR. DOWER: I'm fairly certain that at  
3 least one of the members of my group would not be  
4 able to attend.

5                   AGENT FLETCHER: Okay. You can just  
6 inform the Board of that at the Status Hearing or  
7 just let them know that when you show up for the  
8 Status Hearing --

9                   MR. DOWER: I'm not sure if I will be  
10 able to attend either.

11                   AGENT FLETCHER: Right. So whoever  
12 does come --

13                   MR. DOWER: Yes.

14                   AGENT FLETCHER: -- I mean, we are  
15 familiar with the holiday.

16                   MR. DOWER: Okay.

17                   AGENT FLETCHER: You can just let them  
18 know --

19                   MR. DOWER: Okay.

20                   AGENT FLETCHER: -- the reason that  
21 the people or person is not here.

22                   MR. DOWER: Okay.

1                   AGENT FLETCHER: And so the Board will  
2 take that into consideration.

3                   MR. DOWER: But is it possible that  
4 they would still dismiss our status?

5                   AGENT FLETCHER: So I don't know what  
6 the Board will do, but we recognize the holiday.  
7 If you are not here because of the holiday --

8                   MS. LEFF: Or do we just change the  
9 date?

10                  AGENT FLETCHER: So that's --

11                  MS. LEFF: We can't do that?

12                  AGENT FLETCHER: -- well, you can't do  
13 it today.

14                  MS. LEFF: Okay.

15                  AGENT FLETCHER: So these dates are  
16 set today based on the Board's availability on  
17 their calendar. If you -- you can do one of two  
18 things. You can come or whoever can come can  
19 come and let the Board know that the others are  
20 not here because of the holiday, which we  
21 recognize, or if you wanted to, you could do what  
22 Ms. Leff suggested and ask the Board to schedule

1 the Status Hearing to another day.

2 You would have to let all the other  
3 parties know, including the applicant, because  
4 they would have to have an opportunity to be  
5 opposed to it. It's up to you how you want to do  
6 it, so you can leave it as it is and let the  
7 Board know that, why the other parties aren't  
8 present, because of the holiday or you can ask  
9 the Board to reschedule it to another day.

10 MR. DOWER: Okay. Who at the Board  
11 would we contact to reschedule?

12 AGENT FLETCHER: That would be Martha  
13 Jenkins. Martha is our General Counsel. And I  
14 can give you her email address, it's  
15 martha.jenkins@dc.gov.

16 MR. DOWER: Yep, yep, okay.

17 AGENT FLETCHER: And can we go off of  
18 the record for one minute? I actually left my  
19 calendar on my desk. I'll be right back. We  
20 have got to schedule the mediation. I'll be  
21 right back.

22 (Whereupon, the above-entitled matter

1 went off the record at 10:34 a.m. and resumed at  
2 10:37 a.m.)

3 AGENT FLETCHER: Okay. We're back on  
4 the record. I'm going to give you the next date  
5 available for mediation. The next available day  
6 is Thursday, August 23rd, at 9:00, 10:00 --

7 MS. EMES: What was that?

8 AGENT FLETCHER: Thursday, August 23rd.

9 MS. EMES: That's for?

10 AGENT FLETCHER: For mediation.

11 MS. EMES: Oh.

12 AGENT FLETCHER: That's the next  
13 available day.

14 MS. EMES: And what is after that,  
15 please?

16 AGENT FLETCHER: After that is --

17 MS. EMES: Because it's --

18 AGENT FLETCHER: -- Tuesday, August  
19 28. Is the 23rd good for anybody?

20 MR. DOWER: So the mediation would  
21 precede the Protest Status Hearing and the  
22 Protest Hearing?

1                   AGENT FLETCHER: Yes, the mediation  
2 comes first.

3                   MR. DOWER: Okay.

4                   AGENT FLETCHER: Then the status, then  
5 the protest.

6                   MS. CRUSE: The ANC commissioner who  
7 is working this will not be here on the 23rd.

8                   AGENT FLETCHER: What about the 28th,  
9 is that any better?

10                  MS. CRUSE: The 28th.

11                  MS. LEFF: I would prefer one more  
12 week, but if it had to be the 28th --

13                  AGENT FLETCHER: Well, your Status  
14 Hearing is on the 19th and we need to have it  
15 before then. So you are saying -- so, Ms. Leff?

16                  MS. LEFF: You know, it's -- go for  
17 the 28th then. That's fine if that's --

18                  AGENT FLETCHER: Well, it can be at  
19 9:00, 10:00, 11:00, 11:30, 1:00.

20                  MS. EMES: How about 11:00?

21                  AGENT FLETCHER: 11:00 is good?

22                  MS. EMES: Um-hum.

1                   AGENT FLETCHER: Is that good for you,  
2 Ms. Cruse and Mr. Dower?

3                   MR. DOWER: And what's the obligation  
4 of my other --

5                   AGENT FLETCHER: Of your other --

6                   MR. DOWER: -- required to attend  
7 this?

8                   AGENT FLETCHER: We like the  
9 designated representative to come. But if there  
10 were any other members of your group that wanted  
11 to come, they could, but generally, the  
12 designated representatives come.

13                   MR. DOWER: Okay. The 28th at 11:00?

14                   MS. EMES: Um-hum.

15                   MS. LEFF: And that's here?

16                   AGENT FLETCHER: Yes, it's most likely  
17 in this room.

18                   So I have mediation set for August 28  
19 at 11:00.

20                   Ms. Cruse, you are going to submit the  
21 request for reinstatement, would you be able to  
22 do that today or tomorrow? I'm only asking

1 because the Board is going to be going into  
2 recess, I believe on August 22nd, and if you were  
3 able to get your request in for reinstatement  
4 right away, then that could all be settled before  
5 they go.

6 MS. CRUSE: Later today or tomorrow  
7 definitely.

8 AGENT FLETCHER: Okay. Any questions  
9 at all?

10 Ms. Leff?

11 MS. LEFF: Yes?

12 AGENT FLETCHER: Did you put your  
13 contact information on that sheet already? Oh,  
14 yeah, you did.

15 MS. LEFF: Yes.

16 AGENT FLETCHER: You did it earlier  
17 on. Thank you.

18 MS. LEFF: Yes.

19 AGENT FLETCHER: I remember now.

20 Okay. Any questions at all, Ms. Leff?

21 MS. LEFF: No.

22 AGENT FLETCHER: Okay. Thank you.

1 The Roll Call Hearing is concluded. Thank you.

2 MS. EMES: Thank you.

3 MS. LEFF: Thank you.

4 (Whereupon, the Roll Call Hearing was  
5 concluded at 10:41 a.m.)

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Before: DC ABRA

Date: 08-06-18

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*Neal R Gross*

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Court Reporter

**NEAL R. GROSS**

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