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Transcript of the Meeting of the
CHARTER REVISION COMMISSION
held on Wednesday, March 16, 2005
198 East 161st Street
Borough President's Conference Room
Borough of BRONX

AR-TI REPORTING COMPANY, INC.
305 Madison Avenue 142 Willis Avenue
Suite 405 P.O. BOX 347
New York, N.Y. 10038 Mineola, N.Y. 11501
(212)349-9692 (516)741-5235

1 Meeting convened at 6:30 p.m.

2 P R E S E N T

3 DR. ESTER FUCHS, Chair

4 COMMISSIONERS:

5 JENNIFER RAAB

6 ROBERT ABRAMS

7 CURTIS ARCHER

8 STEPHEN FIALA

9 STANLEY GRAYSON

10 DAVID CHEN

11 ANTHONY CROWELL

12 MARY McCORMICK

13

14

Also Present:

15

TERRI MATTHEWS, Executive director

16

BRIAN GELLER, Analyst

17

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

2 CHAIRPERSON FUCHS: Good evening, and
3 welcome, everyone, to our second public hearing of the
4 New York City Charter Revision Commission. We're really
5 delighted to be in the Bronx tonight and we want to
6 personally thank the Borough President of the Bronx,
7 Adolfo Carriòn for his hospitality in providing us this
8 actually very beautiful space to conduct our public
9 hearing.

10 My name is Ester Fuchs and I'm Chair of the
11 New York City Charter Revision Commission. It's my
12 pleasure this evening to introduce to you the members of
13 the Charter Revision Commission.

14 On my right is the Secretary of the
15 Commission, Steve Fiala. Steve Fiala is the County
16 Clerk and Commissioner of Jurors for Richmond County.
17 Some of us call it Staten Island, and he is a former
18 member of the New York City Council.

19 On my left is Robert Abrams. Many of you
20 from the Bronx should be very familiar with Robert
21 Abrams. He's currently a partner at Stroock,

22 Stroock & Lavan. He was formerly a New York State
23 Attorney General and of course he served as Borough
24 President of the Bronx and a member of the New York
25 State Assembly from the Bronx and I know he's happy to

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1 be home.

2 COMM. ABRAMS: The motherland.

3 Ester, do you know what the Bronx motto is,
4 "no cede malis," yield not to evil.

5 CHAIRPERSON FUCHS: That's actually very
6 profound. Does any other borough have anything as
7 intelligent?

8 BOROUGH PRESIDENT CARRIÒN: Nothing close to
9 it.

10 CHAIRPERSON FUCHS: All the way over to the
11 side here is Curtis Archer. Curtis, who we have
12 discovered was born in the Bronx --

13 COMM. ARCHER: The Bronx.

14 CHAIRPERSON FUCHS: But, alas, no longer
15 lives there, but his heart remains in the Bronx, is
16 executive director of the Rockaway Development and
17 Revitalization Corporation and is the former director of
18 Small Business Development for the Upper Manhattan
19 Empowerment Zone.

20 Next to Curtis Archer is David Chen. David
21 Chen is the executive director of the Chinese American
22 Planning Council and is the founding Chairman of the
23 Board of Directors of the Chung Pac Local Development
24 Corporation.

25 All the way over at the end is Anthony

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1 Crowell. Anthony is a Special Counsel to Mayor
2 Bloomberg and a former Executive Director and General
3 Counsel to several previous Charter Revision Commissions
4 and he's also an adjunct professor at Brooklyn and New
5 York Law Schools, and we're particularly happy to have
6 him on this Charter Commission because of his expertise
7 and of course his memory on how to do Charter Revision
8 Commissions.

9 Next to Anthony is Stan Grayson. Stanley
10 Grayson is the President and Chief Operating Officer of
11 M.R. Beal & Company. He was a former managing director
12 and a director of Prudential Securities' Public Finance
13 Department. Prior to his investment banking career,
14 Mr. Grayson held senior positions with City Government,
15 including Deputy Mayor for Finance and Economic
16 Development, Finance Commissioner and Chief Executive

17 Officer of the New York City Industrial Development
18 Agency, so it's very important for people to know they
19 can come into City Government, make a big difference,
20 and still have a life afterwards.

21 All the way over here on my right is
22 Dr. Mary McCormick. Mary McCormick is the president of
23 the Fund for the City of New York. She is a former
24 Special Assistant to New York City's Deputy Mayor for
25 Labor Relations and Personnel and a professor at

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1 Columbia University and she also received her Doctorate
2 in business from Columbia University, despite the fact
3 that she did receive her degree in business, she spent
4 much of her life really working, I think, for the
5 betterment of the public sector and we're very also
6 delighted to have her on Charter Revision and I should
7 say delighted to have everybody in the room, but I think
8 Mary has a sort of special expertise to lend to us this
9 evening.

10 And last but not least, Jennifer Raab.
11 Jennifer Raab is the president of Hunter College and I
12 have to say somebody who has just mentored an Intel,
13 National Intel Science Winner, so we're very proud.

14 COMM. RAAB: From the Bronx.

15 CHAIRPERSON FUCHS: He is from the Bronx and
16 he is at Hunter High School and has spent his entire
17 educational life in the public school system. Jennifer
18 picked him out early, and it's a really exciting and
19 amazing thing we're celebrating. She is the former
20 Chair of the New York City Landmarks Preservation
21 Commission and also brings -- everybody on this panel
22 brings a special expertise to the panel and we're really
23 thrilled that they're taking their time, volunteering to
24 serve on the Charter Revision Commission.

25 Let me briefly just do a little

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1 housekeeping, which is the announcing of our expert
2 forums and public hearing schedule.

3 After the Bronx, we are going to Brooklyn
4 and our next public hearing and forum will be March 23rd
5 in the Brooklyn Public Library at Grand Army Plaza and
6 the expert forum begins at 4:30 and it will be on fiscal
7 issues, and the public hearing begins at 6 p.m.

8 Wednesday, March 30th, we will have our
9 public hearing in Richmond County, in the Richmond
10 County Juror Assembly Center, courtesy of our member,
11 Steven Fiala, who is hosting us that evening, and

12 Monday, April 4th, we'll be having an expert forum and a
13 hearing at Hunter College, courtesy of our member,
14 Jennifer Raab, in Manhattan, and the expert forum begins
15 at 4 p.m. and the topic will be operational efficiency
16 and accountability and the public hearing will begin at
17 6 p.m.

18 For those of you who are interested in
19 anything Charter related, we have a website:
20 www.nyc.gov/charter, and please feel free to look at our
21 website and tell us your opinions and tell your friends
22 about us or call (212) 676-2060.

23 We are also putting out our -- we have also
24 put out our first report, Summary of Issues Under
25 Consideration for Charter Revision. You can pick up a

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1 hard copy of that in the back of the room or you can
2 download it from our website or you can call and we will
3 send you a copy.

4 At this public hearing this evening, as you
5 may already know, members of the public may testify to
6 the Commissioners on any topic related to the New York
7 City Charter, and there is a signup sheet at the back of
8 the room, so if you want to testify, please sign up on
9 that sheet.

10 Also, just to let you know, we will rotate
11 in any elected official or public official who is
12 interested in testifying, so we will allow them to sort
13 of bump other people in the queue. I hope nobody minds.
14 And each person wishing to testify will have the
15 opportunity to speak for three minutes, although we are
16 willing to expand that in this context, and when
17 30 seconds remain, you will be hearing a bell, so that
18 we will be reminding you that you have 30 seconds.

19 When you finish your oral testimony, please
20 stay at the microphone so that if any of the
21 Commissioners have questions to ask you, they will be
22 able to do so, so we're very interested in hearing from
23 you.

24 It's my pleasure now to begin the public
25 hearing phase of our Charter Commission's meeting,

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1 public hearing as it's called legally, I don't want to
2 get that mixed up. Well, one of the lawyers will
3 correct me, but it's really our distinct pleasure to
4 welcome the Borough President of the Bronx, Adolfo
5 Carriòn, to kick off our public hearing and start with
6 his testimony.

7 Thank you, Borough President.

8 (Applause.)

9 BOROUGH PRESIDENT CARRIÒN: Thank you, Madam
10 Chair. I'll let you know when to start that
11 three-minute clock.

12 CHAIRPERSON FUCHS: We make exceptions for
13 those who host us.

14 BOROUGH PRESIDENT CARRIÒN: First of all,
15 welcome to the Bronx, the mainland United States, the
16 only borough that is attached to the mainland. You are
17 more secure here than anywhere else in the City, and I'm
18 glad to see my colleagues in Government, former Borough
19 President Bob Abrams, Steve Fiala -- we spent time in
20 the Council together and cemented relationships that go
21 across the little bodies of water that divide us, and my
22 good neighbor, Jennifer Raab, who outside of the
23 Government relationship there is a more personal family
24 relationship with our children sharing the same
25 education community and other extra curricular

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1 activities that keep us very, very busy.

2 And to all of the members of this Commission
3 that we hold in high regard, thank you for your public
4 service, and for volunteering for this, or being

5 volunteered.

6 I'm going to start my public comments. I
7 know that you won't get anything like Little Italy food
8 anywhere else at any of these other hearings, but the
9 real Little Italy is here in the Bronx on Arthur Avenue.

10 Let me formally say good evening,
11 Chairperson Fuchs and members of the Commission and to
12 your executive director. A very special welcome to our
13 former Borough President and my other colleagues and
14 thank you for the opportunity to comment at this
15 evening's public hearing concerning the New York City
16 Charter Revision recommendations for 2005.

17 I understand the Commission is focusing on
18 three proposals or three issues; fiscal stability,
19 administrative judicial reform and operational
20 accountability. I wish, however, to address several
21 other areas of City Government that I believe are in
22 need of reform: School governance, the selection of
23 sites for a new school, the annual statement of needs
24 prepared by the Department of City Planning and
25 submitted by the Mayor, and the lack of representation

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1 of certain agencies on the Borough's Service Cabinet and

2 by extension, on the Community Board or Community
3 District Service Cabinet meetings.

4 As you all know or may know, I was a former
5 District Manager of a Community Board before I was in
6 elected office and I know how those bodies work and how
7 important they are in the public conversation about
8 where we're going as a City and how we distribute
9 services.

10 What I will do at this time, rather than
11 read the entire testimony, is I'm going to have my
12 counsel, my good counsel, Lee Llembelis, read this into
13 the record and thank you once again for being in the
14 Bronx and for doing the public service that you're doing
15 in opening up this conversation about how we manage our
16 affairs here in the City of New York.

17 Thank you all very much.

18 CHAIRPERSON FUCHS: Thank you.

19 MS. LLAMBELIS: Good evening, Chairman
20 Fuchs, members of the committee.

21 In 1996, the State Legislature passed a New
22 York City Governance Reform Act. That legislation
23 revamped New York City's educational structure in
24 several ways. One of the key elements was the revamping
25 of the authority of the Chancellor to hold principals

1 and Superintendents accountable for improving failing
2 schools, including shifting hiring and budgetary
3 authority from Community Boards to Superintendents.

4 Our state legislators, cognizant of the need
5 to provide a truly meaningful role for parents, wisely
6 approved legislation requiring a larger role for them in
7 the decision making process. School governance is a
8 complex subject. It will no doubt undergo a number of
9 changes during the next few years.

10 For this evening's hearing, I have decided
11 rather than to speak to a myriad of problems with the
12 current school governance process, I would like to focus
13 on one issue relating to children with Individualized
14 Education Plans.

15 Just a little background. These are special
16 education students, students with disabilities. These
17 are children mandated to receive much needed services in
18 their school setting. Children with special needs are
19 slotted and provided with an Individualized Education
20 Plan evaluation conducted by the school. Special needs
21 students may either be placed in a local school that may
22 meet the student's needs or in a District 75 school that
23 is better able to provide the specialized educational
24 services the student requires. District 75 is
25 maintained as a separate citywide District for children

1 with severe disabilities.

2 Many of the children's needs are not being
3 met and their parents have been informed about the steps
4 they must take to insure that their child will receive
5 the necessary therapies. Parents are told oftentimes
6 very late in the school year that the school is unable
7 to provide their child with the mandated therapies and
8 that they now have permission from the Department of
9 Education to have these services provided outside of the
10 school setting with a related services authorization
11 letter. They are given a list of approved providers who
12 can possibly help them.

13 The responsibility then falls on the parent
14 to find a provider. That is very often a frustrating
15 and time-consuming process. To make matters worse,
16 there's only one person per region mailing out related
17 services authorization letters to the parents of
18 thousands of children.

19 The timeliness in which the parents receive
20 this authorization depends on whether this individual is
21 able to get to the child's paperwork. As a result, the
22 child may miss services for the first half of the year,
23 simply because of the length of time it takes to
24 complete this onerous process.

25 This is an outrageous procedure that must be

1 made parent friendly. To accomplish this, I propose
2 that there be a mandated accountability for service
3 provision per school. Each school has a related service
4 administrator that should be responsible for reporting
5 in a responsible time frame to the region. The region
6 would then be mandated to post this information on the
7 Department of Education's website.

8 Although agencies are awarded contracts for
9 certain districts, sometimes even these agencies are
10 unaware of which schools are underserved. Parental and
11 agency access to this information will not only hold the
12 region and schools more accountable, but it will also
13 allow the parents to quickly determine whether or not
14 they need to start actively looking for a provider on
15 their own. In addition, if the agencies have direct
16 access to this information, placement of available
17 therapists would be much more efficient.

18 Another issue that concerns me is the
19 Charter's absence of mandated input from the Office of
20 the Borough President in the selection of sites for
21 educational facilities. Section 82, Subsection 9 of the
22 City Charter clearly defines the distinct and important

23 role of the Borough Presidents in land use planning and
24 development. This process is the cornerstone for
25 orderly development of community, borough and City.

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1 However, the City Charter, the State
2 legislation that created the School Construction
3 Authority, are silent with regard to the Office of the
4 Borough President in the school site acquisition
5 process. Clearly, this silence highlights a major flaw
6 in the overall land use process.

7 I would like to address another problem with
8 respect to this issue. There is a lack of full
9 community participation in the process. Section 1731 of
10 the Public Authorities Law details a procedure for
11 community participation in the acquisition of real
12 property for the new construction or building of
13 additions in an educational facility. The Public
14 Authorities Law procedure refers to Community Districts
15 and Community Boards, which require public hearing by
16 the affected school boards within thirty days of the
17 date a site plan is submitted to the City Planning
18 Commission.

19 Local school boards and Community Boards:
20 The legislation provides that a public hearing shall be

21 heard by each affected community's School Board on "any
22 and all aspects of the site plan." The affected
23 Community Board's role is limited to "aspects of the
24 site plan which relate to the general public use of the
25 educational facility and its impact on the surrounding

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1 community."

2 As you all know, we no longer have school
3 Community Boards. Instead we have Community District
4 Education Councils. These councils lack a formal role
5 in the school site selection process and it has resulted
6 in a huge void in the local public hearing process. To
7 make matters worse, in recent years the School
8 Construction Authority seems to have either dismissed
9 the role and concerns of the local Community Boards or
10 sent a site acquisition notice to the affected Community
11 Board after the site selection is a fait accompli.

12 Moreover, if the affected Community Board
13 and/or my office proposes sites for new educational
14 facility, the School Construction Authority has a chance
15 to dismiss the proposal out of hand without detailing
16 its reason for rejection. The standard response is "it
17 costs too much." I realize the School Construction

18 Authority's mandate flows from State legislation.
19 However, there's an obvious problem with respect to land
20 use issues in the school site selection process.

21 In view of the deficiencies in this
22 procedure, I would recommend the Charter be amended to
23 include the Offices of the Borough Presidents and the
24 City's 59 Community Boards in the School Construction
25 Authority's site acquisition process. This can readily

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1 be accomplished by amending Section 197-C, Subsection 5
2 as follows: "Site selection for capital projects,
3 including all Department of Education facilities,
4 whether site selection relates to privately or publicly
5 owned land pursuant to Section 218." This amendment
6 would provide a platform for a local public hearing
7 process and would greatly improve transparency regarding
8 the facilities used in determining the selection or
9 rejection of a proposed school site.

10 Prior Charter Revision Commissions have
11 acknowledged the integral role Borough Presidents and
12 Community Boards have in the land use process and as a
13 result have given both several Charter-mandated
14 missions. Amending the Charter by giving Borough
15 Presidents and the Community Boards a meaningful role in

16 the school site selection process, regardless of whether
17 the proposed site is private land or public land, would
18 simply be a continuation of their land use role as
19 defined in Section 197-C of the Charter.

20 I also recommend the School Construction
21 Authority be required to submit a formal response to all
22 rejected alternative site proposals submitted by the
23 affected Borough President, City Council member and
24 Community Board detailing the engineering cost factors
25 and all other components considered in the decision to

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1 reject.

2 I want to call your attention to Section 204
3 of the Charter, "statement of needs." Subdivision B of
4 this section states as follows: "With respect to the
5 City facilities referred to in Clause 1 of Subdivision A
6 of this Section, the statement of needs shall describe
7 for each proposed new City facility or significant
8 expansion:

- 9 "1. The public purpose to be served thereby;
10 "2. Size and nature of the facility;
11 "3. Proposed location by borough and if
12 practicable, by Community District or group of Community

13 Districts;

14 "4. The specific criteria to be used in
15 locating the new facility or expansion."

16 Many times the statement of needs addresses
17 locations in very general terms and occasionally defines
18 the proposed location of a public facility as the entire
19 borough. For practicable purposes, defining a location
20 as the entire borough is essentially useless as a
21 planning tool.

22 Pursuant to Subdivision F of Section 204,
23 each Borough President and each Community Board has the
24 responsibility to review the statement of needs and
25 submit comments to the Department of City Planning. How

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1 does one submit comments regarding a proposed City
2 facility when the geographic boundary is the entire
3 borough? That is virtually an impossible task and flies
4 in the face of responsible planning. The language of
5 Section 204 must be tightened to mandate that at a
6 minimum the proposed location of a new or expanded
7 facility be within a specific geographic area.

8 My final point relates to Section 2706 of
9 the Charter. "Borough Agency Managers and Borough
10 Service Cabinets." Pursuant to this provision, "The

11 head of each agency delivering services in the borough
12 shall designate one or more senior officials of the
13 agency with a line duty as borough representative of the
14 agency."

15 Section 2706, Sub B of the Charter includes
16 the Borough Agency Managers as members of the Borough
17 Service Cabinet. I have found the Borough Service
18 Cabinet to be an excellent forum to discuss delivery of
19 services, problems and programs. In addition, the
20 Borough Service Cabinet has become an excellent source
21 of information for both my office and the Community
22 Board District Managers. However, there have been many
23 instances where service delivery issues remain
24 unresolved, simply because the affected agencies are not
25 members of the Borough Services Cabinet.

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1 To resolve this dilemma, I would recommend
2 the Commission look into the feasibility of expanding
3 the Borough Service Cabinet to include New York City
4 Transit, New York City Housing Authority and the
5 Department of Education. Given all three entities
6 deliver vital services to the residents of our town. I
7 believe the proposed changes are in the best interests

8 of the City and I urge you to support them. Again, I
9 would like to thank you for giving me the opportunity to
10 comment on these very important issues.

11 Thank you.

12 CHAIRPERSON FUCHS: Thank you very much. Do
13 we have any questions from our Commission?

14 Commissioner Abrams.

15 COMM. ABRAMS: Yes, I don't know if you have
16 the substantive response to this question. I think I
17 see Bob Castelletta in this room, and he has served so
18 many Borough Presidents over the decades that he might
19 refresh my recollection on this.

20 Did the Borough President at one time have a
21 seat on the Site Selection Board as it related to school
22 facilities?

23 MR. CASTELLETA: Mr. Attorney General, yes.
24 You're absolutely correct. At one point in time the
25 Board of Estimate had the site selection, there was a

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1 Charter revision and the Charter revision created what
2 was called the Site Selection Board and the Borough
3 President of the local borough was a member of that
4 board and voted on school sites and other sites related
5 to that specific borough.

6 COMM. ABRAMS: My recollection was one of
7 the roles and functions of the Borough President was to
8 sit on the Site Selection Board. So it was withdrawn by
9 a Charter Revision Commission?

10 MR. CASTELLETA: Right, there was a Charter
11 Revision Commission that abolished the Site Selection
12 Board and created I believe Section 197(c), Land Use,
13 the entire ULURP process, and in doing that, the Borough
14 Presidents were sort of cut out of the process.

15 COMM. CROWELL: In 1989. That was the '89
16 revision.

17 MR. CASTELLETA: Yes, I guess that was the
18 end of the Board of Estimate.

19 COMM. ABRAMS: What deleterious negative
20 impact in your or the Borough President's Office view
21 has resulted from that Charter change?

22 MR. CASTELLETA: There is no real
23 opportunity for the community to speak out on the
24 selection of a site. As the Borough President indicated
25 in his testimony, there was one opportunity when we had

1 Community School Boards. Community School Boards under
2 the legislation were permitted to hold public hearings

3 on proposed sites. With the elimination of Community
4 School Boards, there is really no vehicle and the School
5 Construction Authority in effect just ramrods sites down
6 the community's neck, throat, without having an
7 opportunity.

8 So if the Charter Revision Commission sought
9 to improve that by giving the Borough Presidents an
10 opportunity to hold hearings and vote, similar to what
11 the Borough President does on other land use items, that
12 would, again, afford the opportunity for the community
13 to speak out on sites. Also, again, the Borough
14 President's testimony refers to including Community
15 Planning Boards or Community Boards as part of the ULURP
16 process, as they are now.

17 So it would give a community level and a
18 borough level the opportunity for public hearings on
19 school sites, which is currently not available to any of
20 the local community.

21 COMM. ABRAMS: Have there been some sites
22 selected in recent years that the Borough President's
23 Office felt have been inappropriate that has caused you
24 to come forward with this proposal?

25 MR. CASTELLETA: I don't think I'm in the

1 position to respond to that. I can tell you one thing,
2 though. In Community Board 9 several years ago, there
3 was a school site proposed by the School Construction
4 Authority. The District Manager of the Community Board
5 found out about the site after it was a fait accompli.
6 In fact, they were already in the ground when the
7 Community Board was notified of the proposed site
8 acquisition and selection, so there's a typical example
9 of where the community was totally left out of the
10 process, they were not aware of what was going on and
11 the District Manager saw construction going on, he
12 realized we had a school under construction.

13 Another time, the School Construction
14 Authority notified the Community Board about a day
15 before there was a formal announcement of the site
16 selection. So again, there really is no input from the
17 community, from the Borough President or from the
18 Community Boards at this stage of the game with respect
19 to school sites.

20 COMM. ABRAMS: Well, I want my Charter
21 Commission fellow members to understand and know --
22 first of all, this is all impromptu. Gentleman gets up,
23 responds to my question, is totally responsive. Bob
24 Castelletta is reflective of thousands of dedicated
25 people who have served Borough President Lyons, Borough

1 President Badillo, Borough President Simon, Borough
2 President Ferrer, and now is serving Borough President
3 Carriòn. Did I leave anyone out?

4 MR. CASTELLETA: Borough President Robert
5 Abrams.

6 COMM. ABRAMS: Oh, I forgot about that. And
7 Borough President Periconi. What is that, about seven
8 Borough Presidents?

9 MR. CASTELLETA: Right.

10 COMM. ABRAMS: I think his response to these
11 kinds of questions, which I didn't talk to him about
12 before when I said hello, is reflective of the kind of
13 knowledge that he has and service he has rendered and
14 the retention of material facts that are important to
15 the public good.

16 MR. CASTELLETA: Thank you very much.

17 COMM. ABRAMS: So I thank you for responding
18 to the questions and for your decades of phenomenal
19 service to the public.

20 MR. CASTELLETA: Mr. Attorney General, thank
21 you.

22 CHAIRPERSON FUCHS: Are there any other
23 questions from the Commission?

24 Well, then, thank you very much for that
25 very informative testimony.

1 I'd now like to call upon Mr. Charles Moore
2 to testify before the Commission.

3 MR. MOORE: Ms. Chairman, Mr. Secretary and
4 former Bronx Borough President Mr. Abrams, members of
5 the Commission, ladies and gentlemen.

6 First, I'd like to congratulate the
7 Commission for a job well done. In the last election we
8 defeated the non-partisan elections and that was
9 probably one of the greatest defenses of democracy in
10 our modern time and I'd like to associate that I had a
11 part of it, but I'd like to thank you on behalf of the
12 voters that I know.

13 My name is Charles Robert Moore. I'm a
14 candidate for United States Congress. My report, based
15 on the invitation that I have, is going to focus on the
16 Mayor's topics of judicial reform and accountability.

17 I'm going to apply judicial reform to
18 transportation and criminal rent.

19 The introduction, I recommend that the
20 Commission review the Charter and recommend to the City
21 Council that they amend the Charter to recover the New
22 York City transportation system and return the MTA under
23 the authority of the Mayor and the City Council.

24 I recommend that the New York City Council
25 amend the Charter to eliminate criminal rents and to

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1 eliminate landlord's criminal takeover of public
2 housing.

3 It seems quite clear and the voters agree,
4 that the Port Authority of the City of New York
5 basically dictates transportation policy and fare
6 increases, and that it is totally unaccountable to any
7 City Agency. The MTA constructs prisons and police
8 headquarters on transportation facilities, and they are
9 unaccountable to the Mayor, the City Council or the
10 voters.

11 The newspapers page after page report that
12 the Port Authority do not account for their excessive
13 executive salaries, expenses or any other questionable
14 activities, they don't report to any agency, they don't
15 report to the City Council.

16 I did some research on the Charter, and I
17 have an appendix of law, but the specific chapter I'm
18 interested in, I'm talking about now, is the Department
19 of Transportation Chapter 71, Sections 2900 to 2906. It
20 goes on for six pages in the Charter and it talks about
21 traffic and highways. There isn't one mention of trains

22 or buses. It seems quite obvious that if you research
23 the Charter you're going to find that somehow or other
24 the Port Authority is coming in, stolen the
25 transportation system out of the City of New York and

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1 taken it out of the Charter and they basically are
2 telling us the City Council does not have authority over
3 them or anybody else doesn't have authority over them
4 and if they want to make decisions, they'll just make
5 decisions.

6 Let me continue.

7 MR. GELLER: 30 seconds.

8 MR. MOORE: Criminal rents. Landlords
9 increase the rents every two years without authority to
10 do so. How is this possible? The landlords tell us the
11 rent increases are based on labor expenses and
12 superintendent's salaries. They don't pay
13 superintendent's salaries. They tell the superintendent
14 if you want money or income, you have to get a second
15 job. Yet they would have us believe these are the
16 justifications and the reasons why they are justified in
17 increasing the rent. They do not submit legal paperwork
18 to any agency in the City and they continue to increase

19 the rent every two years. How is this possible? Who is
20 accountable?

21 Judicial reform and accountability.

22 A five-judge panel in Albany in the New York
23 State Court of Appeals reversed a lower court decision,
24 the State Supreme Court reversed a lower court decision
25 and supported the Port Authority and the fare increases.

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1 This is a five-judge tribunal. The claim is there was
2 no five-judge tribunal that legally made this decision
3 that this was a Port Authority and news report only;
4 that those judges were not legally appointed by the
5 Mayor and I believe this is one of the areas we should
6 be able to hold a hearing, so that the law can be
7 represented so that the motto of New York is Liberty and
8 Justice; that Justice can be represented in New York
9 State.

10 Concerning housing and judicial reform: In
11 New York City and in New York State, the Department of
12 Housing Court was taken out of the Civil Court system
13 and crammed into the basement of the Civil Courthouse at
14 161st Street and Grand Concourse in the Bronx. Then it
15 was removed from the Civil Court altogether and moved
16 several blocks away. There was no possibility when it

17 was in the basement, there was no possibility for a
18 public trial. There was no possibility for a public
19 trial by jury. A right of a public trial by jury is
20 guaranteed under the Public Law, the City law and the
21 State law, yet they basically just --

22 The point -- the housing was completely
23 removed out of the Justice, and who possibly could be
24 responsible for this kind of decision? Basically, what
25 we have here are the landlords controlling the court

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1 system of the City and State of New York by controlling
2 the Housing Court, making it impossible for a tenant to
3 receive justice in Bronx County or in New York City.

4 So now we have the landlords able to control
5 public housing and control the courts. Who is
6 responsible for this decision?

7 So I contend that the Charter has to be
8 amended to reflect these atrocities.

9 The New York City Department of
10 Transportation are telling us that they're going to
11 increase the fares again. This is a criminal offense
12 against the people of the City of New York. The Charter
13 has to do something, we have to step in and say let's

14 bring action against the Port Authority and against
15 these landlords. Let's get a public trial by jury.
16 Let's have some respect for a Grand Jury indictment to
17 bring these characters to justice.

18 Okay. Thank you and -- thank you.

19 CHAIRPERSON FUCHS: Thank you, Mr. Moore.

20 Do we have any questions from the Commission for
21 Mr. Moore?

22 COMM. ARCHER: I guess just clarification.
23 The Port Authority differs from the Metropolitan
24 Transportation Authority, because you started out with
25 the MTA, but then it went to the Port Authority. I know

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1 those are two different agencies handling two different
2 missions.

3 MR. MOORE: Yes, I think that that is exact,
4 that the Port Authority is basically taking the MTA out
5 of the City of New York and taking it under its own
6 authority and basically considers itself separate from
7 the Authority under the City Council and under the
8 Mayor. I agree.

9 CHAIRPERSON FUCHS: Thank you. Any other
10 questions?

11 COMM. RAAB: Just as a point of information,

12 maybe that we should have counsel respond to whether
13 this is even possible under the Charter to make this
14 type of move of a public authority which is mandated by
15 the State, because it's made, as interesting as these
16 issues are, it may not be the ability of this Commission
17 to actually do the things suggested.

18 CHAIRPERSON FUCHS: It's a very good point
19 Commissioner Raab makes. A lot of the issues that
20 you've brought up today are really not under the
21 jurisdiction of the Charter, but we will review all of
22 your suggestions and we will consult with counsel to
23 determine whether these are under the umbrella of
24 Charter revision.

25 Many of them are State law, and so State law

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1 supersedes any kind of Local Law, so the Charter
2 Revision Commission doesn't have legal authority in some
3 of these areas, but what we will do is consider
4 everything that you've said and determine at least
5 whether or not we have jurisdiction in these matters.

6 MR. MOORE: Right. Thank you.

7 I'd like to know, then, who is responsible,
8 because the Port Authority doesn't respond to the State,

9 either, that the Port Authority controls the
10 transportation system of the City of New York and that
11 should come under the City Council, so when they pretend
12 to increase the fares and then they're building prisons
13 and police headquarters on their own transportation
14 facilities, but this is not included in their
15 accountability. So everyone that I know, as far as the
16 voters are concerned, are convinced that it's just a
17 criminal offense without any justification.

18 For example, I don't think the Comptroller
19 of the City of New York or Comptroller Hevesi of the
20 State of New York could endorse their accountability,
21 their budget reports. Their budget reports are
22 knowingly false. They're dictating to elected officials
23 telling us that their controllers are responsible and
24 they're the ones that make the decisions over the future
25 of the City of New York. That's totally taken out of

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1 the context, the authority of elected officials who are
2 responsible to the voters of the City of New York and
3 this seems to be a major conflict here.

4 What's going to happen to the Mayor or the
5 City Council if this continues. They'll have no
6 authority over schools, no authority over

7 transportation, no authority over housing, no authority
8 over retail business, no authority over welfare, no
9 authority over hospitals. Where does it stop?

10 CHAIRPERSON FUCHS: You're actually pointing
11 out a very, very important issue that goes back to the
12 construct of the U.S. Constitution and the issue of
13 Federalism and State control over local governments, and
14 the whole issue of Home Rule, and it's a very, very
15 important point that you're making, and it's part of a
16 larger discourse and I'm glad you're bringing it up in
17 our Commission today, but I think Commissioner Raab has
18 pointed to something important, which is our legal
19 jurisdiction is limited by what a City Charter Revision
20 Commission can do.

21 MR. MOORE: Well, please advise the City
22 Council that the voters want answers and they should
23 invest more authority in you, because I think this is a
24 beautiful Commission that represents the authority of
25 the voters and represents the spirit of the City of New

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1 York and I think they should vest more authority in you.
2 I would recommend, tell the City Council that the voters
3 want answers.

4 CHAIRPERSON FUCHS: Thank you very much and
5 thank you for your testimony this evening.

6 MR. MOORE: Thank you.

7 CHAIRPERSON FUCHS: I'd like to call upon
8 Bert Irons to testify, please?

9 MR. IRONS: Good evening, everyone. If you
10 could subtract from my time --

11 CHAIRPERSON FUCHS: We will start your clock
12 all over again.

13 MR. IRONS: Thank you. Don't start it yet,
14 because I'd like to say something to the Borough
15 President. I used to commiserate with him, I used to
16 feel sorry for him when he was the Borough President.
17 Now, seeing his demeanor, seeing his ambience, seeing
18 his appearance, I envy him. He looks like he's not sure
19 who I am.

20 COMM. ABRAMS: Are you Hubert Irons?

21 MR. IRONS: That's right.

22 COMM. ABRAMS: Bert. I remember Hubert
23 Irons.

24 MR. IRONS: Robert Abrams or Bob Abrams?

25 CHAIRPERSON FUCHS: Looks like our

1 Commissioner Abrams can't hide in the Bronx.

2 COMM. ABRAMS: I knew him when he was very
3 young.

4 COMM. RAAB: He knew you then, too.

5 MR. IRONS: I have four copies of the
6 presentation. I don't know if you can give out.

7 CHAIRPERSON FUCHS: I'd like to take a copy
8 and please give one to our executive director, Terri
9 Matthews. Thank you.

10 MR. IRONS: I'd like to bring attention to
11 Section 404, Environmental Control Board, that reads
12 Item 2, Subdivision 2, Item 2: Service of a notice of
13 violation of any provision of the Charter or
14 Administrative Code, the enforcement of which is the
15 responsibility of the Commissioner of Sanitation, the
16 Commissioner of Buildings or the Commissioner of the
17 Fire Department and over which the Environmental Control
18 Board has jurisdiction, may be made by affixing such
19 notice in a conspicuous place to the premises where the
20 violation occurred."

21 I'd like to for the Commission to consider
22 the word "concurrency," particularly the counsel. What
23 we have had here, the church has taken this project --
24 what we have had here is a denial of due process in the
25 service of NOV's in the Bronx. The church is putting --

1 we've done surveys and not scientific surveys, but we
2 worked on this for five years and we think it goes all
3 over in minority areas particularly.

4 What happens is that the enforcement agents,
5 particularly the supervisors that work for the
6 Department of Sanitation, also including the sanitation
7 enforcement agents, they would go and do drive-bys, not
8 the drive-bys that you read about in the newspaper, the
9 drive-by service of NOV's. Never get out of their
10 vehicles, and do a collection of them in a block or an
11 area, never get out as required by law, go in a
12 building, ring the bell, knock on the door and then if
13 not there, the second level, affix a notice.

14 But of course the first two steps, which is
15 try to reach someone, a responsible party at the
16 building, and then if you're not able to reach anyone
17 affix something. They do neither one. And we've been
18 battling with the Department of Sanitation on this issue
19 for years after we discovered this.

20 Now, when I was younger, you missed what I
21 really looked like -- when I was younger, I owned a
22 small building and I used to wonder why when I go to
23 contest a violation, which we do have the right, why I
24 never would get a pink slip. I would always have to
25 wait ten days to get it in the mail. Why is that? But

1 I see people, other people from other areas in the Bronx
2 they had these pink slips. That's when I found out, oh,
3 there really are pink slips. So this abomination has
4 been going on for generations. Years and years and
5 years, and we're asking your help to deal with this.

6 Let me just break it down a little bit, with
7 the submission that we have tonight.

8 The Department of Sanitation enforcement
9 personnel have routinely violated the Notice of
10 Violation requirements as written in Chapter 57, Section
11 1404. They have unlawfully failed to make any attempt
12 at personal service. They just ain't going in these
13 neighborhoods, so they just never got out of the cars
14 and it has become a practice that is being routinized
15 and accepted and supported by all levels of the
16 Department of Sanitation.

17 I have to be fair, until recently. We went
18 head to head with the head of the, Anthony Etergineoso,
19 who was the head of the Department of Sanitation Bureau
20 of Cleaning and Collections, who supervises citywide.
21 He sent people to our church, the head of the Bronx
22 office, the Department of Sanitation, Marino and a
23 couple of others, and they said they were going to work
24 hard to eradicate this problem. They acknowledged it.

1 citywide problem that needs addressing. We have
2 continued to be denied due process. When you go to ECB,
3 they work in tandem with DOS and we don't mean for you
4 to think, oh, they don't want to get -- we're not
5 opposed to violations that are legitimately given. But
6 this process has been going on so long that it went
7 beyond due process into violations for clean sidewalks,
8 and many, these homeowners are widows who had their
9 husbands died and they're struggling to continue on and
10 they get these tickets.

11 I'll give you an example of what has just
12 happened. We got a ticket in November -- in September,
13 one in October, one in November and one in December from
14 the same officer who never bothered to look in the
15 building to see that, yes, there was recycling
16 information. Same ticket for recycling. He came back
17 in December and rang the bell. You're supposed to ring
18 the bell. My office is in my building. He rang the
19 bell and he said, "Sanitation police."

20 I was shocked, I couldn't believe it. I
21 came down, said, "Yes?" I said, "You're the one that
22 gave the ticket."

23 He said, "Yes, I apologize, I was wrong."
24 He never got out of his car, never exited his vehicle.
25 This is a pattern that went on and on, and he said he

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1 was doing it now because Sanitation decided to change
2 their rules, and they're more strict on this.

3 MR. GELLER: 30 seconds.

4 MR. IRONS: We don't know how permanent this
5 is. The law should make it in the Charter to do this.
6 DOS is aware of this because we brought it to their
7 attention and the problem with -- this is very
8 important, with Sanitation violation is that they're
9 ephemeral, they may not last long. If you don't get
10 notified immediately at the same time of the alleged
11 violation, you can't bring witnesses a week later or two
12 weeks later when you get a notice in the mail, you're
13 not able to defend yourself against fraudulent service
14 of citations, and fraudulent citations have been routine
15 in our areas. And we believe it's citywide.

16 Now, when we went to the Environmental
17 Control Board, we went to the head of the Environmental
18 Control Board down on John Street, discussed this issue,
19 we went to the Inspector General's Office of Sanitation,

20 and it's like circling the wagons. Six of the people
21 who serve on the ECB are people who are petitioners in
22 violations. So when we complain about ALJ's who don't
23 recognize the civil rights in terms of due process, they
24 are very resistant in accepting it. So if a person goes
25 and says, "They didn't serve us, we didn't get a pink

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1 slip," they say go to the Department of Sanitation, go
2 to the petitioner, which is improper.

3 So we're asking that the Charter include,
4 that the Commission include in the Charter that the
5 affixation must be concurrent at the time of the
6 violation. Very simple word, that's one of the easiest
7 things you can do.

8 The next thing, empower a separate and
9 independent panel to be responsible for adjudication
10 policies, appeals and complaints, because we think the
11 conflict of interest is too great in terms of
12 complaining to them, to the Board.

13 So that is the essence of our complaint from
14 the Evangelical Church in the Bronx.

15 CHAIRPERSON FUCHS: Thank you so much for
16 that very informative testimony. Do we have any
17 questions for Mr. Irons.

18 Commissioner Abrams?

19 COMM. ABRAMS: Hubert, we'll look into this.
20 I've been staring at you. You threw me off, you have a
21 moustache now and you're wearing glasses. When I knew
22 you as Hubert Irons, you did not have those two things.

23 MR. IRONS: Must be a great makeover.

24 COMM. ABRAMS: It's good to see you again.

25 CHAIRPERSON FUCHS: Commissioner McCormack.

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1 COMM. McCORMACK: Thank you for your
2 testimony. I have a question.

3 MR. IRONS: Yes, ma'am.

4 COMM. McCORMACK: Would you estimate what
5 percentage of these notices you think are fraudulent?

6 MR. IRONS: We filed a FOIL request with the
7 Department of Sanitation and ECB and they have been very
8 resistant. We just finally had to hire an attorney to
9 try to get the information on what you're talking about.
10 What we would do, we would go up to the office, the
11 Bronx Borough Office and just interview people. How can
12 I say this? I got a church member here, so I have to be
13 careful.

14 I would rarely see a white person there.

15 The place was crowded with minority people with these
16 tickets. We asked them -- "I got a ticket for this." I
17 would go to interview them. "Did you get pink slips?"
18 Half of them would say "No."

19 And the pink slip, not getting a pink slip
20 is the first egregious violation of due process.

21 COMM. McCORMACK: In those cases where
22 someone did not get a pink slip, what percentage of
23 those cases was it not deserved? I mean, there are
24 really two parts to this, as I understand it.

25 MR. IRONS: Now, what you just said puts

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1 your finger on it. I don't think the "not deserved" is
2 the issue. What happens is that the percentage of those
3 -- in fact, there may be some who actually deserve the
4 ticket, legitimate, for merit.

5 COMM. McCORMACK: I understand.

6 MR. IRONS: Underlying merit to that. But
7 even if it's underlying merit, they're supposed to have
8 due process. Whether it's deserved or not. Most of us,
9 in fact, our District 3, we found that virtually all of
10 the what you call the supervisors, violated the law,
11 routinely did that, rarely get out in the street,
12 rarely.

13 Sometimes SEA's, Sanitation Enforcement
14 Agents would do it.

15 I'll give you an example. We got a ticket,
16 the guy used to come by, not we, I mean me, people in
17 the area, we talked to the people, developed a little
18 roster of people concerned about this. He would come
19 by, sit in his van, an enforcement agent, a supervisor,
20 and we would watch him. Oh, we would wait for the ten
21 days and we would see if we got a ticket in the mail.
22 He gave a ticket one time when they had dug up the
23 street, citing us for a dirty gutter. We had
24 information, but he didn't know that, he didn't realize
25 that.

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1 We went to court, got a Water Department
2 affirmation that yes, there was no gutter there. But it
3 gets so routine. Very few people in our neighborhood
4 complain and they just pay, so it's like paying a black
5 tax, a minority tax on a regular basis, because they
6 say, okay, I'd just rather pay it. Very few people have
7 lawyers to go in there and defend themselves.

8 So this has been an accepted denigration of
9 the rights of our community, plus a tax, unlawful tax

10 from those who don't deserve it.

11 They should work. The ones who even though
12 they deserve it should work. In other words, we have to
13 follow rules, they should follow the rules and work for
14 the good tickets and the bad ones.

15 COMM. McCORMACK: It's the "concurrent"
16 that--

17 MR. IRONS: That's the word.

18 COMM. ABRAMS: What's the fine, the amount
19 of fine?

20 MR. IRONS: They doubled the fine from fifty
21 to \$100 last June, for fines, depending on the offense.

22 CHAIRPERSON FUCHS: Thank you. Are there
23 any other questions? Thank you very much for your
24 testimony.

25 Is there anybody else who would like to

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1 testify before the Charter Revision Commission this
2 evening? If not, is there any new business that any of
3 the Commission members would like to bring before the
4 Commission this evening?

5 If not, I'd like to call for a motion to
6 call this meeting to a close.

7 COMM. ABRAMS: So moved.

8 CHAIRPERSON FUCHS: Anybody second?

9 COMM. ARCHER: Second.

10 CHAIRPERSON FUCHS: Thank you. It's my
11 pleasure to thank the Borough of the Bronx for hosting
12 us today and calling our Charter Commission revision
13 hearing to a close.

14 (Time noted: 7:30 p.m.)

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

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I, LINDA FISHER,, a Registered Professional

5 Shorthand Reporter and a Notary Public, do hereby
6 certify that the foregoing is a true and accurate
7 transcription of my stenographic notes.

8 I further certify that I am not employed by nor
9 related to any party to this action.

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LINDA FISHER,
Shorthand Reporter

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