



**Testimony to the Committee on the Whole
PR23-0163 Historic Preservation Review Board Linda Greene Confirmation Resolution
PR23-0164 Historic Preservation Review Board Outerbridge Horsey Confirmation Resolution
PR23-0165 – Historic Preservation Review Board Chris Landis Confirmation Resolution
Thursday, May 2, 2019**

Rebecca Miller on Behalf of the DC Preservation League

Good morning, Chairman Mendelson and members of the Committee of the Whole. My name is Rebecca Miller, Executive Director of the DC Preservation League (DCPL), Washington's citywide nonprofit that for the past 48 years has been dedicated to advocating for the preservation and protection of the historic and built environment of our nation's capital. I am pleased to be here today and thank you for the opportunity to provide testimony on the three nominees for reappointment to the Historic Preservation Review Board (HPRB).

DC's historic preservation law is one of the strongest and most successful ordinances of its kind in the country. The HPRB members' mandate is to implement and maintain the law on behalf of the Mayor through the designation of historic landmarks and districts and the review of development projects affecting historic properties. DCPL testifies before HPRB on a regular basis by providing reviews of major development projects or making presentations on landmark nominations. We don't expect our nominations will always be successful, or our professional advice incorporated into the review of projects. However, we – as well as other applicants and members of the public – expect the HPRB to be a high functioning body that understands and appropriately applies the regulations enacted to implement the Historic Landmark and Historic District Protection Act of 1978.

Two sets of regulations govern the make-up of the HPRB: one at the federal level mandating certain professional qualifications be represented to allow participation in the National Register programs and qualify for federal grant money, and the other at the city level requiring representation of the composition of the adult population of the District of Columbia with regard to race, sex, geographic distribution and other demographic characteristics, to be met with members who only need have a "demonstrated interest in historic preservation."

As we noted at the 2018 HPRB Nomination hearing, at present there are no members of the Board from Wards 1, 5 and 7. There are, however, three board members from Ward 4, an area of the city that is home to two residential historic districts with fewer than 200 contributing buildings. Ward 1 has more than 3500 contributing buildings in historic districts, Kingman Park in Ward 7 (517 contributing buildings), and Bloomingdale (1697 contributing buildings) in Ward 5...yet none of these Wards are represented on the Board. Geographic diversity is important for communities to feel that their views are taken into account when decisions are being made about their properties or neighborhoods.

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DCPL has expressed its concern to both your office and the Historic Preservation Office (HPO) regarding statements by two of today's nominees - Mr. Landis and Ms. Greene. These members have during their past two-and-a-half-year tenures substituted personal criteria for those specified in the law and regulations when making designation decisions and reviewing projects. These types of statements could potentially invite legal challenges in the future. In addition, Mr. Landis on a number of occasions has expressed the opinion that the act of landmark designation is a government "taking." The 1978 Supreme Court decision Penn Transportation Company vs. New York City set the precedent that landmark regulations do not interfere with present use or prevent an owner from realizing a reasonable rate of return on an investment. This is settled case law, and offers no exception for developers, homeowners, nonprofits, etc. In addition, owner objection does not prevent designation under the DC Preservation Act regulations.

Attached to this testimony is a matrix that includes some statements made by both Ms. Greene and Mr. Landis showing where they have inserted personal opinions that are contrary to the standards for decisions to be made under the Historic Preservation Act Regulations.

Finally, we would like to discuss the Mayor's Office of Talent and Appointments (MOTA.) At the March Membership Meeting of the Committee of 100, Director Steve Walker presented the process and procedures for appointments. DCPL pressed Mr. Walker on MOTA's engagement with HPO, and he asserted that he had met with Steve Callcott, Deputy State Historic Preservation Officer regarding the reappointments before you today. Mr. Callcott met with Mr. Walker's office when these individuals were initially nominated in 2016, but no follow up by MOTA took place with regards to performance during this 2019 re-nomination process.

While DCPL supports the reappointment of Mr. Horsey, the organization cannot support the reappointments of Ms. Greene or Mr. Landis. Their demonstrated lack of performance, and the lack of procedural follow-up by MOTA disqualifies these nominees for service on the HPRB. DCPL implores the DC Council to deny approval for the reappointments of Ms. Greene and Mr. Landis. The Mayor should be encouraged to nominate to the HPRB individuals who have a demonstrated interest in Historic Preservation; are from underrepresented Wards with large numbers of protected buildings; and who will follow the mandate of the HPRB as set forth in the Historic Preservation Act.

Historic preservation has a tremendous positive economic and social impact on our city. Residents and others who invest in the city deserve to have a well-functioning, fair board that is well versed in its responsibilities under the Historic Preservation Act.

Thank you for the opportunity to present our concerns and I am happy to answer any questions you or the other members of the committee may have.

Recent Statements of Historic Preservation Review Board Members Landis and Greene

Capitol Historic District Concept for Non-Contributing Building – January 24, 2019

<p>Landis (6:21:25) – “For a façade built in the 1960s and a non-contributing building. I would say that it’s open season as far as I’m concerned.”</p>	<p>While non-contributing buildings in historic districts are able to be demolished, and have more flexible design options, alterations or new construction must be compatible with the character of the historic district.</p>
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Washington Animal Rescue League Designation Hearing – December 20, 2018

<p>Landis (2:12:12) – “I wonder about organization’s buying buildings, and not knowing that they could be designated historic down the road because somebody owned them before. It’s a great taking in a way. Maybe at the end of the day we’re only preserving the façade if we designate this historic because it sounds like everything else could be removed.”</p> <p>Greene agreed with Mr. Landis’ assertions and voted in opposition to the nomination.</p>	<p>Precedent set in the Penn Central case asserts that preservation laws do not interfere with an owners’ present use or prevent it from realizing a reasonable rate of return on its investment.</p>
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St. Paul’s Methodist Episcopal Church South Designation Hearing– May 24, 2018

<p>Landis (7:58:10) – “I concur with Linda and the comment about sort of being forced. I realize this is a great taking from the owner, and I wish that we could get out in front of raze permits and construction. It’s somewhat disingenuous to allow home owners to buy properties, and then change the rules on them. We all deal with rules in this city and they are complex enough as they are.”</p>	<p>The law allows for applications for landmark designation to be filed on a building or site. This was done prior to the issuance of a raze permit that could not have been issued due to the property still being occupied.</p>
<p>Greene (7:51) – “I don’t see any real social impact it had on anything that changed America or this city.” “I don’t see the compelling story here to designate this and I also find it very, very interesting that the African American community that is here...they’re not for it. It’s the Caucasian and other community trying to save it. If it was that important, I just can’t imagine that the Africans Americans aren’t fighting to save the church if it meant that much.”</p>	<p>There is no criteria in the preservation act that requires individuals of any respective race, gender, creed etc. be present to designate a property.</p>

Ebenezer Methodist Church Concept Hearing – Feb 2018

<p>Greene - expressed concern for the challenges facing African-American churches and stated from the dais that she was "incensed and appalled" at neighbors' opposition to the proposal, urged neighbors to join Ebenezer Church and support the church.</p>	<p>This statement from a District government official violates the Anti-Establishment Clause of the First Amendment, as applied to the District by the Fourteenth Amendment.</p>
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