

# SECTION 5

Transcript of the  
October 3, 2022  
Landmark Commission  
Hearing  
4512-4518 Sycamore Street  
CA212-354(RD)

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IN RE: 10-3-22 CASE: CS212-574(RD) 4512-4518  
SYCAMORE STREET  
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AUDIO TRANSCRIPTION

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1 Proceedings

2 EVELYN MONTGOMERY: All right.

3 Dr. Dunn, if you'll go ahead and  
4 read it into the record.

5 DR. DUNN: Okay. I'm currently  
6 addressing Discussion Item 3, also known  
7 as D3. The subject property is located  
8 at 4512 through 4518 Sycamore Street in  
9 Peak Suburban Edition Neighborhood  
10 Historic District. The case number is  
11 CA-212-574-RD.

12 The requests are as follows: A  
13 certificate of appropriateness to paint  
14 exterior, body blue, trim white; was  
15 done without a certificate of  
16 appropriateness. Request number 2, a  
17 certificate of appropriateness to  
18 replace chain link fence around rear and  
19 side yards with an 8-foot high pinewood  
20 fence; work done without a certificate  
21 of appropriateness. Request number 3, a  
22 certificate of appropriateness to  
23 install grass in the front and rear of  
24 property. Request number 4, a  
25 certificate of appropriateness to



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2 I think most of the materials that  
3 we put in with Dr. Dunn have been given  
4 to the Board here. If you have any  
5 questions regarding any of the requests,  
6 I'll be more than happy to answer any  
7 questions.

8 EVELYN MONTGOMERY: So you don't  
9 have a presentation? You're here for  
10 questions?

11 MARLIN LUNADI: Yes.

12 EVELYN MONTGOMERY: Okay. Is that  
13 the same for other speaker?

14 MARLIN LUNADI: No, Thomas is here  
15 to have a presentation for the windows.

16 EVELYN MONTGOMERY: Got it. Well,  
17 if he has a presentation that you'd like  
18 to do, let's go ahead and we'll do that  
19 before we begin asking questions.

20 MARLIN LUNADI: Okay.

21 EVELYN MONTGOMERY: I just need  
22 you to state your name, address and  
23 confirmation you intend to tell the  
24 truth today.

25 THOMAS DIVERS: Yes, ma'am. My

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2 name is Tom Divers, 4025 Oak Grove  
3 Court, Flower Mound, Texas. I'm a  
4 representative for Renewal by Anderson,  
5 and I do swear to tell the truth.

6 Pretty much, I just brought a  
7 window and I'll answer any questions you  
8 guys have pertaining to the window  
9 installation at the residence. I  
10 believe that requirements are wood  
11 windows and so wood composite windows  
12 are designed, same thing as wood,  
13 indiscernible with a wood window. And I  
14 did supply photos to Dr. Dunn, which  
15 show the window installed. So I'm  
16 really here just to answer any questions  
17 and if you guys like to see a window, I  
18 brought a demo window to show.

19 EVELYN MONTGOMERY: Thank you. Do  
20 we have any questions in person?

21 MARLIN LUNADI:

22 UNKNOWN SPEAKER: Pardon me?

23 EVELYN MONTGOMERY: Do we have any  
24 questions from any of our commissioners  
25 in person?

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2 UNKNOWN SPEAKER: I have a  
3 question of the applicant -- of the  
4 owner.

5 Sir, this building has a bit of a  
6 history. The brick was painted, and  
7 this Landmark Commission denied the  
8 application. And you're a relatively  
9 new owner?

10 THOMAS DIVERS: Yes.

11 UNKNOWN SPEAKER: Have you been  
12 informed that the brick was painted  
13 without an application, that it is  
14 supposed to be stripped back to natural  
15 brick?

16 MARLIN LUNADI: We were informed  
17 when Dr. Dunn told us. When we first  
18 bought the property, we didn't know that  
19 it had been painted. And we didn't know  
20 it was in the historic district to begin  
21 with. So all those -- the painting that  
22 was on there and on the brick, we were  
23 unaware of.

24 UNKNOWN SPEAKER: Okay. Thank  
25 you.

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2 COMMISSIONER ANDERSON: I also  
3 have a question. I asked in the  
4 briefing, is there a -- thank you --  
5 question, the briefing, did the code  
6 compliance staff -- is there a case that  
7 was activated on this, and, if so, why  
8 was the brick not removed?

9 EVELYN MONTGOMERY: Yes. Okay.  
10 To address your question, there is a  
11 code case existing. And the issue is  
12 that -- in other words, the current  
13 owner is being given the opportunity to  
14 address the former code violations  
15 through the certificate of  
16 appropriateness process. So that's a  
17 part of why he is here and why we're  
18 going through this.

19 So it was not ignored. Okay.

20 COMMISSIONER ANDERSON: Right.

21 EVELYN MONTGOMERY: And he has  
22 been informed that there was an issue  
23 with the brick being painted, but we  
24 have decided to give the owner an  
25 opportunity to address how to handle



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2 this through the certificate of  
3 appropriate -- this process, which is  
4 what we're involved in now.

5 UNKNOWN SPEAKER: Madam Chair?

6 COMMISSIONER ANDERSON: Okay. So  
7 this is related to the other case then?

8 EVELYN MONTGOMERY: Correct. And  
9 if you read the staff report, it does  
10 list the history, including the other  
11 case.

12 COMMISSIONER ANDERSON: Then what  
13 about the steel doors that were also  
14 denied at the Landmark Commission?  
15 That's not here today.

16 EVELYN MONTGOMERY: That's not a  
17 part of this request, no.

18 COMMISSIONER ANDERSON: Why is  
19 that not here? That was part of the  
20 whole situation.

21 EVELYN MONTGOMERY: That I am not  
22 sure of -- on the steel door issue.

23 Does it have steel doors?

24 MARLIN LUNADI: What doors are you  
25 referring to?

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2 COMMISSIONER ANDERSON: 12/7/2020:  
3 Steel doors, painted brick and  
4 landscaping were denied by the Landmark  
5 Commission. But we're not talking about  
6 the rest of it.

7 EVELYN MONTGOMERY: I think I'll  
8 defer to the city attorney, but if it's  
9 not posted about the doors and it's not  
10 in the application, that's something  
11 that we'd have to handle at a later  
12 time.

13 COMMISSIONER ANDERSON: Well, my  
14 concern is that we're not handling these  
15 things ever.

16 EVELYN MONTGOMERY: I understand.

17 COMMISSIONER ANDERSON: But how do  
18 we get -- okay. Another time.

19 MR. MILLER: Madam Chair?

20 EVELYN MONTGOMERY: Yes,  
21 Mr. Miller?

22 MR. MILLER: I've had a brief  
23 moment to review the question raised in  
24 the briefing session this morning, and  
25 that was in relation to CA 201095 MP

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2 heard by the Landmark Commission on  
3 December 7, 2020.

4 In the description, the project  
5 included painting the lower half of the  
6 front and front side elevations a blue  
7 tone that contrasted with the brown  
8 painted-wood siding. In the analysis,  
9 it was determined that the multicolored  
10 brick appears more modern and is  
11 unlikely that the brick itself was  
12 historic. In this instance, an  
13 important consideration is that the  
14 proposed work to non-historic materials  
15 is more of a visual impact on the  
16 character and appearance of the  
17 district.

18 The recommendation was to deny  
19 without prejudice. There was no  
20 mention, nor reason to remove paint from  
21 non-historic brick. But if a  
22 non-contributor is painted, then the  
23 color needs to be compatible. I just  
24 wanted to put that out from --

25 COMMISSIONER ANDERSON: What was

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2 the Landmark Commission's action on that  
3 item?

4 MR. MILLER: The Landmark  
5 Commission's action was to deny without  
6 prejudice. In the minutes it says that  
7 the request for a certificate of  
8 appropriateness to continue painting the  
9 brick that has been initiated be denied  
10 without prejudice because painted brick  
11 would have an adverse effect on the  
12 historic overlay district and does not  
13 meet the standard in city code section  
14 518451.

15 COMMISSIONER ANDERSON: Thank you.

16 UNKNOWN SPEAKER: Madam Chair, if  
17 I may, I just want to remind this  
18 commission that this commission is  
19 quasi-judicial, so therefore, it should  
20 be -- everything that's presented at the  
21 public hearing and staff report, you  
22 should draw your conclusions from the  
23 evidence presented today at this  
24 hearing. We shouldn't consider past  
25 decisions from this commission because

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that could be (inaudible), and the applicant really has the burden of proof to prove up his case in a favorable manner.

In this instance, because this is the non-contributing structure, we have to follow this, the non-contributing standard, and whether or not the proposed work presented today is compatible with the historic district. So we should just be looking at the request today. And although there may have been a request to deny a steel door in the past, because it's not in this agenda today, we cannot speak about it. That would be a violation of the Texas Open Meetings Act.

EVELYN MONTGOMERY: Do I have any questions from any other commissioners in person?

Do we have any questions from any commissioners online? We can't see everyone, so if you have something to say, please just give us your name and

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2 begin.

3 COMMISSIONER HOSA: I have a  
4 comment. This is Commissioner Hannah  
5 Hosa (phonetic)

6 EVELYN MONTGOMERY: Yes. Thank  
7 you, Commissioner Hannah Hosa.

8 COMMISSIONER HOSA: Right. I  
9 think it was Mr. Anderson that was  
10 talking about the painting of the brick  
11 that needs to be stripped and go back to  
12 the original brick. But in my reading  
13 of the staff recommendations, I read  
14 that it's either that or painting it --  
15 the bottom part of the brick an earth  
16 tone color. Am I correct in  
17 understanding?

18 COMMISSIONER SHERMAN: Yes,  
19 Commissioner. You are correct. Those  
20 were my suggestions.

21 COMMISSIONER HOSA: Thank you.

22 EVELYN MONTGOMERY: Okay. Any  
23 other commissioners online?

24 All right. Hearing none, I'll --  
25 You do have one? Okay.

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2 Commissioner Swan.

3 COMMISSIONER SWAN: I guess this  
4 is a question for staff. The condition  
5 that the interior -- innermost part of  
6 the exterior frames be painted a  
7 complementary color, I was just  
8 wondering where that condition came  
9 from. What it's responding to within  
10 the ordinance or within the  
11 neighborhood.

12 EVELYN MONTGOMERY: Okay. It's  
13 responding to visual compatibility.  
14 With respect to the Secretary of the  
15 Interior's guidelines on the treatment  
16 of properties, it does say that you  
17 should, if at all possible, preserve  
18 visual relationships.

19 And within the district there  
20 is -- and in the ordinance, there is  
21 guidelines on paint colors and  
22 basically, it's your dominant color,  
23 your trim color, your accent color. And  
24 your accent color should be on your  
25 innermost frames of your windows. So

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2 that's where that was coming from.

3 COMMISSIONER SWAN: Okay. All  
4 right, thank you.

5 EVELYN MONTGOMERY: All right.  
6 With that, do I have anyone --

7 COMMISSIONER ANDERSON: I have a  
8 second question.

9 EVELYN MONTGOMERY: Okay, you got  
10 it, Commissioner Anderson.

11 COMMISSIONER ANDERSON: Second  
12 question is the wood composite windows.  
13 This historic district requires wood  
14 windows. We do not allow things such as  
15 Hardie Board because it's an imitation  
16 material. So I'd like to get more  
17 information on what wood composite  
18 windows are and how they are to be used  
19 in this historic district.

20 EVELYN MONTGOMERY: Can I refer to  
21 Mr. Divers?

22 THOMAS DIVERS: The wood composite  
23 windows designed by Anderson is designed  
24 to replicate a wood window using wood  
25 and thermal polymers in a composite



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2 blend. What that does is just prevents  
3 the wood window from rotting, so that  
4 way you don't have a rotten window in  
5 two years. The window is going to last  
6 an extended period of time. It's got a  
7 20-year warranty that prevents it --  
8 that says it won't rot. Is there  
9 something I'm not hitting or some  
10 specific information looking for?

11 COMMISSIONER ANDERSON: Well, the  
12 concern I have is in historic districts,  
13 we're very concerned about materials.  
14 And I know we don't use Hardie Board or  
15 cement fibers board because it's not  
16 real wood, and I see this as sort of  
17 akin to that. And I have a concern of  
18 bringing that forth on this building,  
19 even though it may be non-contributing,  
20 because it will then be something that  
21 will be considered in the rest of the  
22 district. And I don't think it's  
23 appropriate to not have real wood  
24 windows in historic districts.

25 THOMAS DIVERS: The windows are

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2 indiscernible from a wood window, and I  
3 supplied photos of two windows. One was  
4 installed the next day. And those are  
5 the windows that are showing in this  
6 photo right there.

7 EVELYN MONTGOMERY: They're just  
8 not coming up.

9 THOMAS DIVERS: Yeah, I'm sorry.  
10 But there's no difference. When you  
11 look at the window, you can't tell if  
12 the -- a wood composite windows finish  
13 is pretty much looks like smoothly --  
14 fine wood that's painted. There's no  
15 difference at all. Both are based on  
16 wood. It's just one rots and one  
17 doesn't. So if you don't go back and  
18 paint and stain your windows on a  
19 regular basis every year, you're going  
20 to have a lot of rot in your historic  
21 district.

22 EVELYN MONTGOMERY: Commissioner  
23 Cummings.

24 COMMISSIONER CUMMINGS: I have a  
25 question with the windows. I don't see

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2 a selection made on the sill conditions.  
3 I don't see, also, any dimensions on the  
4 details, such as the sashes. This being  
5 a historic and a -- period, whether it's  
6 non-contributor or not, it's still  
7 period to the building itself. I'm  
8 looking for dimensions, and I'm looking  
9 for the thickness that we're going to be  
10 needing to be seeing on (inaudible) rows  
11 and some of the dimensions on the sash.  
12 Where are those dimensions located on  
13 what's been submitted?

14 THOMAS DIVERS: The dimensions for  
15 the window we did were, like-for-like,  
16 are the existing windows that they had  
17 in there.

18 COMMISSIONER CUMMINGS:  
19 Like-for-like?

20 THOMAS DIVERS: Yes, sir.

21 COMMISSIONER CUMMINGS: Well, to  
22 ascertain what like-for-like really is,  
23 we need to see what the dimensions are  
24 so we can actually compare those  
25 dimensions to somebody else. Because I

1                   Proceedings  
2           don't see on the detail that's provided  
3           that -- it looks like the meeting sash  
4           is the same dimension as the side rail  
5           sashes and the top rail sashes. I don't  
6           see a difference between your meeting  
7           rail sash. That's a very prominent  
8           feature on historical windows, interior  
9           windows, and I don't see that.

10                   THOMAS DIVERS: You're talking  
11           about the middle sash, the one where the  
12           two windows meet, the up sash and the  
13           bottom sash --

14                   COMMISIONER CUMMINGS: No, I'm  
15           talking about the bottom sash. There's  
16           also indications of differences on the  
17           thickness of the meeting sash, but let's  
18           just talk about the bottom sash. What's  
19           your dimension on your bottom sash? And  
20           I also don't see a sill detail that was  
21           called out, and you had three choices on  
22           the windowsills.

23                   THOMAS DIVERS: So the windowsills  
24           are actually going to be the same as a  
25           wood window. They're going to be sloped

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2 sills. Instead of having a trough, like  
3 a plastic window where the water  
4 collects. The exterior troughs -- the  
5 exterior sill --

6 COMMISSIONER CUMMINGS: What is  
7 your dimension of the bottom sash?

8 THOMAS DIVERS: What do you mean?  
9 The size of the bottom sash? I have to  
10 pull up this file real quick.

11 COMMISSIONER CUMMINGS: Correct.  
12 It doesn't seem like there's a  
13 difference between the bottom sash  
14 dimension and the side dimension.

15 THOMAS DIVERS: Here and here?

16 COMMISSIONER CUMMINGS: Yes.

17 THOMAS DIVERS: I'm so confused.  
18 You're talking about the dimensions of  
19 this width and the width here.

20 COMMISSIONER CUMMINGS: What's the  
21 difference between those two?

22 THOMAS DIVERS: It's pretty  
23 indiscernible, but I have a measuring  
24 tape.

25 COMMISSIONER CUMMINGS: Wood

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2 windows are usually not -- wood windows,  
3 the bottom sash is a different  
4 dimension.

5 THOMAS DIVERS: They're thicker.  
6 The bottom sash is going to be thicker  
7 because the bottom one is two inches.  
8 The side sash is going to be an inch and  
9 quarter. I don't know if you can see  
10 that where you are.

11 EVELYN MONTGOMERY: Yes.  
12 Do you have any additional  
13 questions, Commissioner Cummings?

14 COMMISSIONER CUMMINGS: No.

15 EVELYN MONTGOMERY: Thank you.

16 Commissioner Rothenberger, do you  
17 have a question for staff? No?

18 COMMISSIONER ROTHENBERGER:  
19 (Inaudible).

20 EVELYN MONTGOMERY: Okay. All  
21 right.

22 Any more questions online?

23 Doesn't appear so.

24 Any questions in person?

25 So with that, do I have someone

1 Proceedings

2 that is ready to make a motion?

3 COMMISSIONER ANDERSON: I'll make  
4 a motion.

5 EVELYN MONTGOMERY: Okay.  
6 Mr. Anderson.

7 COMMISSIONER ANDERSON: In case  
8 4512-4518 Sycamore Street in the Peak  
9 Suburban Edition Historic District case  
10 number CA-212-574-RD, I want to follow  
11 the staff recommendation with two  
12 changes. On Item Number 1, I'd like to  
13 add the paint on the brick is to be  
14 stripped. And Number 5 would like to  
15 change to Denial without -- Denial.  
16 Straight denial. Wood composition  
17 windows are not wood, and these windows  
18 will have an adverse effect on the  
19 historic district. Work is not  
20 consistent with 51A-4.501 G6, Romanette  
21 1, for non-contributing structures.

22 EVELYN MONTGOMERY: Is there a  
23 second?

24 COMMISSIONER CUMMINGS: Second.

25 EVELYN MONTGOMERY: Yes.

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2 Yes, Mr. Anderson?

3 COMMISSIONER ANDERSON: I'd like  
4 to add that the proposed work is not  
5 compatible with Historic District.

6 EVELYN MONTGOMERY: Under?

7 UNKNOWN SPEAKER: Under Romanette  
8 2. Not Romanette 1.

9 COMMISSIONER ANDERSON: Romanette  
10 2.

11 EVELYN MONTGOMERY: We have a  
12 second by Commissioner Cummings. Does  
13 anyone want to speak on this matter.

14 COMMISSIONER HOSA: Yes,  
15 Commissioner, I'd like to make a  
16 comment.

17 EVELYN MONTGOMERY: Yes. Yes.  
18 Thank you, Commissioner Hosa.

19 COMMISSIONER HOSA: Thank you.

20 I am not in agreement with  
21 stripping the blue paint. From my  
22 reading of the staff report, these  
23 owners took on this building. It had  
24 yellow paint prior, and so they changed  
25 it to blue. I'm afraid that if they



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strip it -- I would prefer that they just repainted to an earth tone color, as the staff recommended, rather than strip it, which might damage the brick.

Thank you.

For that reasoning, I'm not going to support that motion.

EVELYN MONTGOMERY: Any other commissioners online? No.

Any other commissioners in person? Commissioner Rothenberger?

COMMISSIONER ROTHENBERGER: Yes.

Thank you.

I did just want to read specifically regarding the windows. I would not support this motion. I do believe the wood-look windows are appropriate for a non-contributing structure.

I do want to read 3.10 of this ordinance, Where replacement of an original door window is necessary due to damage or structure deterioration, replacement doors and windows must

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2           express a mullion size, like  
3           configuration, and material to match  
4           original doors and windows.

5                   We don't determine what the  
6           original material would have been, and  
7           I'm sure we would rather a wood-look  
8           material as opposed to the continuation  
9           of these aluminum windows. And so,  
10          therefore, I would not support this  
11          motion as stated.

12                   EVELYN MONTGOMERY: All right.  
13          With that, Commissioner Sherman?

14                   COMMISSIONER SHERMAN: Yes, I will  
15          support the motion. And I disagree that  
16          these windows are not discernible from  
17          wood. I could tell from this distance  
18          that they are definitely not wood and  
19          they have a distinct different  
20          appearance from wood. And I think when  
21          it comes to whether or not a building is  
22          contributing or not, I think that the  
23          strategies that are employed as it gets  
24          to move forward should make it less  
25          non-contributing. And the use of these

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2 windows would, I think, simply  
3 exacerbate its non-contributing nature.

4 Thank you.

5 EVELYN MONTGOMERY: Thank you,  
6 Commissioner Sherman.

7 Commissioner Swan?

8 COMMISSIONER SWAN: Yeah. I have  
9 a question. Does this motion address --  
10 or is it pertaining to condition on Item  
11 Number 2 the finished side of the fence  
12 face out on the other side of that  
13 property.

14 COMMISSIONER ANDERSON: It follows  
15 the staff recommendation, except for  
16 those two changes.

17 COMMISSIONER SWAN: Okay. I was  
18 asking because the task force  
19 (inaudible).

20 EVELYN MONTGOMERY: Mr. Swan, can  
21 you please turn on your microphone?

22 COMMISSIONER SWAN: Yes.

23 EVELYN MONTGOMERY: Thank you.

24 COMMISSIONER SWAN: Certainly.  
25 I'm sorry. Thank you.

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2 I was asking the question well,  
3 for two reasons. First of all, the  
4 staff recommendation seems to be okay  
5 with the fence, it says, "as submitted."  
6 I presume that means as built. But it  
7 also seems that it's not unreasonable  
8 since this is in the interior of the  
9 block and not a corner side yard  
10 condition to go with task force, which  
11 seems to be okay with the fence as is,  
12 and not required that they be turned to  
13 face out.

14 EVELYN MONTGOMERY: Are you  
15 intending to make an amendment?

16 COMMISSIONER SWAN: Yes. I'm  
17 asking if the maker the motion would  
18 entertain an amendment. I'm asking if  
19 the maker of the motion would entertain  
20 an amendment to permit Item 2 to be an  
21 approval without condition.

22 COMMISSIONER ANDERSON: That's  
23 fine.

24 COMMISSIONER SWAN: Okay.

25 EVELYN MONTGOMERY: Is that okay

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2 with Commissioner Cummings?  
3 COMMISSIONER CUMMINGS: Yes.  
4 EVELYN MONTGOMERY: Thank you.  
5 All right. If there's no one else  
6 that has anything. Let's go ahead and  
7 take a vote.  
8 All those in favor go ahead and  
9 raise your hand so that she can get a  
10 count.  
11 Okay. It looks like -- did you  
12 count nine? Where's Elaine?  
13 Can we do a record vote?  
14 District 1?  
15 DISTRICT 1: Aye.  
16 EVELYN MONTGOMERY: District --  
17 she is recused.  
18 District 4?  
19 DISTRICT 4: Aye.  
20 EVELYN MONTGOMERY: District 5?  
21 DISTRICT 5: No.  
22 EVELYN MONTGOMERY: District 6?  
23 DISTRICT 6: Nay.  
24 EVELYN MONTGOMERY: District 7?  
25 DISTRICT 7: Aye.

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2                   EVELYN MONTGOMERY:   District 8?  
3                   DISTRICT 8:   Nay.  
4                   EVELYN MONTGOMERY:   District 9?  
5                   DISTRICT 9:   Aye.  
6                   EVELYN MONTGOMERY:   District 10?  
7                   DISTRICT 10:   Aye.  
8                   EVELYN MONTGOMERY:   District 12?  
9                   DISTRICT 12:   Nay.  
10                  EVELYN MONTGOMERY:   District 13?  
11                  DISTRICT 13:   Aye.  
12                  EVELYN MONTGOMERY:   District 14?  
13                  DISTRICT 14:   Aye.  
14                  EVELYN MONTGOMERY:   District 15?  
15                  DISTRICT 15:   Aye.  
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C E R T I F I C A T E

STATE OF NEW YORK )

: SS

COUNTY OF NEW YORK)

I, Marissa Mignano, a Notary Public within and for the State of New York, do hereby certify the within is a true and accurate transcription of the audiotapes recorded.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 12TH day of DECEMBER 2022.

-----*Marissa Mignano*-----  
MARISSA MIGNANO