



CITY OF BUFFALO

BYRON W. BROWN
MAYOR



August 19, 2015

Hearing Officer
Ex 1.

VIA HAND DELIVERY

Commissioner Joseph A. Mascia
Buffalo Municipal Housing Authority
47 Marine Drive, Apartment 4E
Buffalo, NY 14202

Re.: NOTICE OF SUSPENSION, NOTICE OF CHARGES, NOTICE OF APPOINTMENT OF HEARING OFFICER

Dear Commissioner Mascia:

Please take notice that, effective immediately, you are suspended from your position as Commissioner of the Buffalo Municipal Housing Authority (hereinafter "BMHA") pursuant to the powers vested in the undersigned by New York State Public Housing Law Section 34. In accordance with said statute, this suspension shall be in effect until a final determination has been rendered regarding the charges enumerated below.

PROCEDURAL HISTORY

On or about July 22, 2015, a recording surfaced of Commissioner Joseph A. Mascia making racial slurs and other derogatory racially based comments about numerous individuals, including: the undersigned; New York State Assemblywoman Crystal Peoples-Stokes; Buffalo Common Council President Darius G. Pridgen; BMHA Executive Director Dawn Sanders-Garrett; and BMHA resident Leonard Williams. The recording also goes on to make disparaging statements about African-Americans in general.

Upon further investigation, it was determined that the recording was made on or about March 9, 2015. After the recording was made public to various news outlets and to the BMHA, Commissioner Mascia confirmed that it was his voice on the recording, and that he did make the remarks heard in the recording.

On July 23, 2015, after listening to the recording in Executive Session and further deliberating on the matter, the BMHA Board of Commissioners passed a Resolution seeking Mr. Mascia's resignation. Absent such resignation, the matter was referred to the BMHA Ethics Review Board. A copy of the Resolution is attached as Exhibit A.

On July 28, 2015, BMHA Commissioner Donna M. Brown executed a BMHA Code of Ethics Complaint Form, referencing the recording as the basis for numerous violations of the BMHA Personnel Policy and Code of Conduct. A copy of Commissioner Brown's Complaint is attached as Exhibit B. A copy of the BMHA Personnel Policy and Code of Conduct is attached as Exhibit C.

On July 29, 2015, the BMHA Ethics Review Board convened with all of its members present. The Board determined that Commissioner Mascia's conduct and comments violated six of the eight categories of prohibited conduct enumerated within the "abuse of position" section of the BMHA Personnel Policy. Specifically, the Board found that Mr. Mascia's conduct and comments proved that:

1. Commissioner Mascia was using his position or title for private gain;
2. Commissioner Mascia has given preferential treatment to certain groups;
3. Commissioner Mascia has impeded the Authority's effectiveness, efficiency or economy;
4. Commissioner Mascia is unable to be impartial or maintain independence of judgment;
5. Commissioner Mascia has undermined the public's confidence in the integrity of the authority; and
6. Commissioner Mascia has discriminated against employees, applicants for employment and/or tenants of public housing on the basis of race, color, religion, national origin, sex, age or handicap.

The Ethics Review Board further determined that Commissioner Mascia's comments have caused, and will continue to cause, an unnecessary distraction to the work of the BMHA Board in executing its mission of providing decent, safe and affordable housing to individuals and families constituting a broad cross-section of the City's diverse population. A copy of the minutes from the BMHA Ethics Review Board's July 29, 2015 meeting is attached as Exhibit D.

On August 4, 2015, the undersigned received correspondence from the BMHA Ethics Review Board seeking the suspension and removal of Commissioner Mascia pursuant to New York State Public Housing Law Section 34. A copy of said correspondence is attached as Exhibit E. After due deliberation having been had thereon, and after listening to the recording, which is attached hereto as Exhibit F, in its entirety, the following charges are being preferred against Commissioner Joseph A. Mascia.

**IN THE MATTER OF DISCIPLINARY CHARGES AGAINST
A MEMBER OF THE BUFFALO MUNICIPAL HOUSING AUTHORITY**

NOTICE AND SPECIFICATION OF CHARGES

Buffalo Municipal Housing Commissioner Joseph A. Mascia is hereby Charged as follows:

CHARGE #1: COMMISSIONER MASCIA HAS ENGAGED IN MISCONDUCT IN OFFICE AND ABUSED HIS POSITION AS COMMISSIONER, IN VIOLATION OF THE BMHA PERSONNEL POLICY AND CODE OF ETHICS.

SPECIFICATION #1: On or about March 9, 2015, Commissioner Joseph A. Mascia made multiple statements about “taking down” certain individuals, including Chairman of the BMHA Michael Seaman; BMHA Executive Director Dawn Sanders-Garrett; and the undersigned.

Such comments demonstrate that Commissioner Joseph A. Mascia has abused his position and used his position for private gain, including to settle personal grudges against specific individuals.

SPECIFICATION #2: On or about March 9, 2015, Commissioner Joseph A. Mascia used racial slurs to describe numerous individuals, including: the undersigned; New York State Assemblywoman Crystal Peoples-Stokes; Council President Darius G. Pridgen; BMHA Executive Director Dawn Sanders-Garrett; and BMHA resident Leonard Williams, as well as, African-Americans in general. The specific slurs used are contained on the audio-recording attached hereto and made a part hereof as Exhibit F.

Commissioner Mascia has not refuted the recording as untrue or inaccurate and, to the contrary, has admitted that he did make the remarks heard on the recording.

By making such comments Commissioner Mascia has clearly demonstrated that he holds preconceived notions and racial prejudices towards African-Americans and has abused his position by giving preferential treatment to certain groups.

SPECIFICATION #3: On or about March 9, 2015, Commissioner Joseph A. Mascia used racial slurs to describe numerous individuals, including: the undersigned; New York State Assemblywoman Crystal Peoples-Stokes; Council President Darius G. Pridgen; BMHA Executive Director Dawn Sanders-Garrett; and BMHA resident Leonard Williams, as well as, African-Americans in general. The specific slurs used are contained on the audio-recording attached hereto and made a part hereof as Exhibit F.

Commissioner Mascia has not refuted the recording as untrue or inaccurate and, to the contrary, has admitted that he did make the remarks heard on the recording.

By making such comments Commissioner Mascia has impeded the effectiveness, efficiency and economy of the BMHA by giving the distinct appearance that Commissioner Mascia has a racial bias that effects his decision-making ability and reflects racist tendencies and attitudes.

Moreover, as evidenced by the procedural history set forth above, Commissioner Mascia's remarks have directly impeded the efficiency and effectiveness of the BMHA over the past several weeks, as the BMHA Executive Board has been forced to spend time addressing the recording – time that would have otherwise been spent addressing issues pertinent to the mission of the BMHA.

SPECIFICATION #4: On or about March 9, 2015, Commissioner Joseph A. Mascia used racial slurs to describe numerous individuals, including: the undersigned; New York State Assemblywoman Crystal Peoples-Stokes; Council President Darius G. Pridgen; BMHA Executive Director Dawn Sanders-Garrett; and BMHA resident Leonard Williams, as well as, African-Americans in general. The specific slurs used are contained on the audio-recording attached hereto and made a part hereof as Exhibit F.

Commissioner Mascia has not refuted the recording as untrue or inaccurate and, to the contrary, has admitted that he did make the remarks heard on the recording.

Such comments clearly indicate that Commissioner Mascia holds prejudices and racist views that influence his abilities to conduct his duties and responsibilities as a Commissioner of the BMHA in a fair and impartial manner.

SPECIFICATION #5: On or about March 9, 2015, Commissioner Joseph A. Mascia used racial slurs to describe numerous individuals, including: the undersigned; New York State Assemblywoman Crystal Peoples-Stokes; Council President Darius G. Pridgen; BMHA Executive Director Dawn Sanders-Garrett; and BMHA resident Leonard Williams, as well as, African-Americans in general. The specific slurs used are contained on the audio-recording attached hereto and made a part hereof as Exhibit F.

Commissioner Mascia has not refuted the recording as untrue or inaccurate and, to the contrary, has admitted that he did make the remarks heard on the recording.

By making such comments, Commissioner Mascia clearly demonstrated that he is not able to remain impartial or to maintain independence of judgment. The remarks specifically indicate that Commissioner Mascia makes

determinations and judgments of people on the basis of race and preconceived stereotypes, impairing his impartiality and independence of judgment

SPECIFICATION #6: On or about March 9, 2015, Commissioner Joseph A. Mascia used racial slurs to describe numerous individuals, including: the undersigned; New York State Assemblywoman Crystal Peoples-Stokes; Council President Darius G. Pridgen; BMHA Executive Director Dawn Sanders-Garrett; and BMHA resident Leonard Williams, as well as, African-Americans in general. The specific slurs used are contained on the audio-recording attached hereto and made a part hereof as Exhibit F.

Commissioner Mascia has not refuted the recording as untrue or inaccurate and, to the contrary, has admitted that he did make the remarks heard on the recording.

By making such derogatory and discriminatory comments, Commissioner Mascia has plainly undermined the public's confidence in the integrity of the Authority.

SPECIFICATION #7: On or about March 9, 2015, Commissioner Joseph A. Mascia used racial slurs to describe numerous individuals, including: the undersigned; New York State Assemblywoman Crystal Peoples-Stokes; Council President Darius G. Pridgen; BMHA Executive Director Dawn Sanders-Garrett; and BMHA resident Leonard Williams, as well as, African-Americans in general. The specific slurs used are contained on the audio-recording attached hereto and made a part hereof as Exhibit F.

Commissioner Mascia has not refuted the recording as untrue or inaccurate and, to the contrary, has admitted that he did make the remarks heard on the recording.

Commissioner Mascia's remarks constitute direct evidence that he discriminates on the basis of race with respect to decisions he makes as a Commissioner of the Buffalo Municipal Housing Authority.

SPECIFICATION #8: On or about March 9, 2015, Commissioner Joseph A. Mascia used racial slurs to describe numerous individuals, including: the undersigned; New York State Assemblywoman Crystal Peoples-Stokes; Council President Darius G. Pridgen; BMHA Executive Director Dawn Sanders-Garrett; and BMHA resident Leonard Williams, as well as, African-Americans in general. The specific slurs used are contained on the audio-recording attached hereto and made a part hereof as Exhibit F.

Commissioner Mascia has not refuted the recording as untrue or inaccurate and, to the contrary, has admitted that he did make the remarks heard on the recording.

Commissioner Mascia's remarks fundamentally distract the Buffalo Municipal Housing Authority from carrying out its mission, by distracting it from its purpose of providing safe, desirable and adequate housing to the citizens of Buffalo regardless of that citizenry's race, color or national origin.

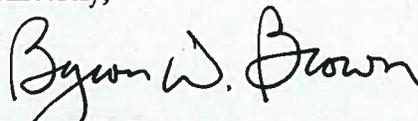
APPOINTMENT OF HEARING OFFICER

Pursuant to New York State Public Housing Law Section 34, I am designating Anne E. Evanko, Esq. to serve as Hearing Officer and Fact Finder in this matter. Ms. Evanko will schedule the public hearing required under State Law and conclude the proceedings by making a recommendation to the undersigned regarding your potential termination from the position of BMHA Commissioner.

Upon receipt of Hearing Officer Evanko's Findings and Recommendation, the undersigned will undertake a full review of the record and will issue a final determination in this matter and forward a complete copy of the record of the proceeding, including the charges preferred against you and the final determination, to James S. Rubin, Commissioner of New York State Homes and Community Renewal.

In the meantime, pursuant to the above-referenced State Statute, you are suspended from your position as Commissioner on the Buffalo Municipal Housing Authority pending final resolution of the Charges preferred against you.

Sincerely,



Byron W. Brown
Mayor

cc: Anne E. Evanko, Esq.
BMHA Board of Commissioners

Exhibit A

BUFFALO MUNICIPAL HOUSING AUTHORITY
BOARD RESOLUTION MEMORANDUM

FROM: David Rodriguez, General Counsel

TO: Board of Commissioners

DATE: July 23, 2015

SUBJECT: **RESOLUTION NO. 15.07.23.7**

THE BOARD OF COMMISSIONERS DEMANDS THE RESIGNATION OF COMMISSIONER JOSEPH MASCIA EFFECTIVE IMMEDIATELY AND IN THE ABSENCE OF HIS RESIGNATION REFERS THE MATTER TO THE BMHA ETHICS REVIEW BOARD IN ACCORDANCE WITH BMHA PERSONNEL POLICY FOR FURTHER REVIEW, DELIBERATION AND ALL NECESSARY STEPS, INCLUDING REFERRALS TO OUTSIDE AGENCIES.

DESCRIPTION OF ACTION TAKEN

To demand the resignation of Commissioner Joseph Mascia effective immediately and in the absence of his resignation refer the matter to the BMHA Ethics Review Board in accordance with BMHA Personnel Policy for further review, deliberation and all necessary steps, including referrals to outside agencies.

BACKGROUND/HISTORY

Recently, Commissioner Joseph Mascia made statements that were recorded and have come to the attention of the BMHA Board of Commissioners. Mr. Mascia has not disputed making the recorded statements. He has also admitted making the statements. The BMHA's mission is to provide decent, safe and affordable housing to the City of Buffalo's diverse population. The recorded statements will cause an unnecessary distraction to the work of this Board in executing its mission.

Prepared for the
BMHA Board of Commissioners
July 23, 2015

TO DEMAND THE RESIGNATION OF COMMISSIONER JOSEPH MASCIA EFFECTIVE IMMEDIATELY AND IN THE ABSENCE OF HIS RESIGNATION REFER THE MATTER TO THE BMHA ETHICS REVIEWBOARD IN ACCORDANCE WITH BMHA PERSONNEL POLICY FOR FURTHER REVIEW, DELIBERATION AND ALL NECESSARY STEPS, INCLUDING REFERRALS TO OUTSIDE AGENCIES.

RESOLUTION NO. 15.07.23.7

WHEREAS, Recently, Commissioner Joseph Mascia made statements that were recorded and have come to the attention of the BMHA Board of Commissioners; and

WHEREAS, Mr. Mascia has not disputed making the recorded statements; and

WHEREAS, He has also admitted making the statements; and

WHEREAS, The BMHA's mission is to provide decent, safe and affordable housing to the City of Buffalo's diverse population; and

WHEREAS, The recorded statements will cause an unnecessary distraction to the work of this Board in executing its mission; and

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE BUFFALO MUNICIPAL HOUSING AUTHORITY:

The Board of Commissioners demand the resignation of Commissioner Joseph Mascia effective immediately; and

BE IT FURTHER RESOLVED:

In the absence of his resignation refer the matter to the BMHA Ethics Review Board in accordance with BMHA Personnel Policy for further review, deliberation and all necessary steps, including referrals to outside agencies.

To David Rodriguez DATE: July 28, 2015

The following action was taken at the Authority Meeting of July 23, 2015

Approved Disapproved Tabled Receive & File Ratified Other

Remarks: cc: Board of Commissioners
Theresa Spagna
Cheryl MacMillan

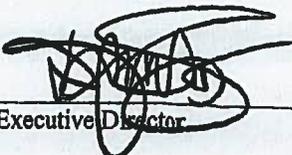

Executive Director

Exhibit B



BMHA Code of Ethics Complaint

Date : July 28, 2015

Name : Donna Brown, BMHA Commissioner

Address : 300 Perry Street,

Telephone Number : 716-855-6711

City Buffalo State NY Zip 14204

Subject of complaint: Commissioner Joseph Mascia

Allegations:

On or about March 9, 2015, the subject commissioner made racially based comments about Mayor Byron W. Brown, NY Assembly member Crystal Peoples-Stokes, Buffalo Common Council President Darius Pridgen, BMHA Executive Director, Dawn E. Sanders-Garrett and BMHA resident Leonard Williams. Additionally, he made disparaging remarks against BMHA Board Chairman, Michael Seaman. The comments were recorded and we listened to the recording at our July 23, 2015 Board meeting during executive session.

(Add additional pages if necessary)

Are you aware of any witnesses: Yes No

Witness name: audio recording and media reports Contact number: n/a

Witness name: _____ Contact number _____

This complaint will be submitted to the BMHA Ethics Review Board for processing pursuant to the BMHA Code of Ethics Policy.

SIGNED BY

Donna M Brown
Donna Brown, BMHA Commissioner

DATE 7/28/2015

*All completed forms should be submitted to General Counsel, BMHA, 300 Perry Street, Buffalo NY 14204 Attn: Legal. Dept. and marked "Confidential"

Exhibit C

BMHA PERSONNEL POLICY

Chapter VII - General Policies
Section 1 - Code of Ethics

(Page 1 Of 7)

BUFFALO MUNICIPAL HOUSING AUTHORITY

POLICY

It is the policy of the BMHA in compliance with HUD regulations, to enforce a Code of Ethics enacted by the Board of Commissioners that shall apply to all employees of the BMHA and to all members of the Board of Commissioners. The purpose of this Code of Ethics shall be to ensure the highest standards of behavior in the conduct of the BMHA Commissioners and employees, who, as members of the public corporation, hold positions of public trust. This Code of Ethics is an effort to provide BMHA employees with guidelines to help them to evaluate potential ethical problems before they have developed, to avoid potential conflict of interest situations; and to recognize and change behaviors not compatible with an employee's position of public trust.

The goals of the BMHA Code of Ethics shall be:

1. To ensure and maintain public confidence in the integrity of the employees and operations of the BMHA;
2. To ensure the accountability of the BMHA to the people it serves;
3. To provide a system for the fair and effective enforcement of this Code of Ethics, through disciplinary actions as provided by Law and Contract against BMHA employees who violate the Standards of Conduct, as set forth herein, and a mechanism for sanctions against BMHA Commissioners and non-represented employees who violate the standards of conduct as set forth herein.

DEFINITIONS

1. **Conflict of Interest:** A situation where a benefit or advantage of an economic or tangible nature that might inure to a BMHA employee, creates a potential bias or loss of independence of judgment in the performance of that employee's duties.
2. **Contract:** Any obligation or commitment arising from an exchange of promises or consideration of any kind.

BMHA PERSONNEL POLICY

Chapter VII - General Policies
Section 1 - Code of Ethics

(Page 2 Of 7)

3. **Employee:** Any person appointed or hired whether full or part time, seasonal, temporary, paid or unpaid on a fixed or unfixed term, provisional or permanent status.
4. **Public Information:** Any information obtainable pursuant to the New York Public Officers Law, Article 6 (Freedom of Information Law).

CODE OF CONDUCT

This Code of Conduct shall apply to the BMHA Board of Commissioners and to every BMHA employee. In addition, copies of the Code shall be distributed to all contractors and, at the BMHA's discretion, to vendors and others doing business with the BMHA. While the BMHA realizes that it has no authority to control the internal policies of the entities that it deals with, the BMHA requests that all contractors, vendors, and others doing business with the BMHA, honor our Standards of Conduct.

ABUSE OF POSITION

Every BMHA Commissioner/employee shall refrain from any action, even if not specifically prohibited by this Code, which results in:

1. Using his or her position or title for private gain;
2. Giving preferential treatment;
3. Impeding the Authority's effectiveness, efficiency or economy;
4. Influencing a Commissioner's or employee's conduct of his or her duties and responsibilities;
5. Impairing the Commissioner's/employee's ability to be impartial or to maintain independence of judgment;
6. Undermining the public's confidence in the integrity of the Authority;
7. Using Authority-owned vehicles, equipment, materials, or property for unauthorized illegal purposes.
8. Discriminating against any other employee, applicant for employment, or any tenant of public housing on the basis of race, color, religion, national origin, sex, age, or handicap;

BMHA PERSONNEL POLICY

Chapter VII - General Policies
Section 1 - Code of Ethics

(Page 3 Of 7)

GIFTS AND FAVORS

A BMHA Commissioner/employee shall not solicit or accept, directly or indirectly any gift, gratuity, favor, loan, or any other thing of value, from any person or entity, or group of persons or entities who or which:

1. Have, or may seek, any contractual or other business or financial relationship with the BMHA;
2. Conduct operations or activities regulated by the BMHA;
3. Have interests, or whose members or clients have interests, that may be substantially affected by the actions of the BMHA;
EXCEPT, when circumstances clearly show that family or personal relationships were the basis of a gift, or favor or where food, refreshment, or favors were of a nominal value (less than \$50) accepted on infrequent occasions during the normal course of business.

OUTSIDE ACTIVITIES OR EMPLOYMENT

A BMHA Commissioner/employee shall not engage in outside employment, or other outside activities, or incur any obligations that are not compatible with the full and proper discharge of the Commissioner/employee's official duties and responsibilities. Incompatible activities include, but are not limited to:

1. Outside activities that impair the Commissioner's/employee's independence of judgment or ability or capacity to perform official duties;
2. Outside activities that are represented by the employee to be official acts of the BMHA;
3. Outside activities that establish relationships or property interest that result in a conflict between the employee's private interests and his or her BMHA duties and responsibilities;
4. Accepting employment, with or without compensation, with any person or business entity doing business with the BMHA;
5. Accepting salary, payment, or anything of monetary value from a private source in exchange for BMHA services.

BMHA PERSONNEL POLICY

Chapter VII - General Policies
Section 1 - Code of Ethics

(Page 4 Of 7)

FINANCIAL INTERESTS

A BMHA Commissioner/employee shall have no direct or indirect financial interest that conflicts with his or her official duties and responsibilities. In addition, no Commissioner/employee shall discuss, make decisions about, or take part in, formally or informally, any matter before the BMHA in which he or she or his/her spouse has an interest, except where such interest is minimal and specifically have disclosed interest, or upon the occasion of said interest in the disclosure statement as provided in the disclosure statement section of this Code of Ethics. The question of minimal interest, when in doubt, is to be resolved in a binding decision by the Ethics Review Board.

OTHER MATTERS

Except where mandated by law, BMHA Commissioners/employees shall not disclose without proper authorization non-public information or records concerning any aspects of BMHA operations, nor shall any Commissioner/employee use such information to the advantage or benefit of himself or any other person. This extends to records maintained on tenants of the BMHA, except for whom a properly executed release of information form has been obtained and kept in the tenant's file.

DISCLOSURE STATEMENTS AND ETHICS REVIEW BOARD**ANNUAL**

All Commissioners, exempt, and managerial/confidential employees shall file, within 30 days of their appointment and on October 1st of each year, a statement of disclosure of financial interests which shall include the following:

1. The name of any corporation or business organization in which the Commissioner/employee or his or her spouse holds a controlling interest or at least one percent of the stock.
2. The location of any real property situated in the City of Buffalo which the Commissioner/employee or his or her spouse, owns or has an interest in, except real property which is the Commissioner/employee's principal residence.

BMHA PERSONNEL POLICY

Chapter VII - General Policies

(Page 5 Of 7)

Section 1 - Code of Ethics

3. Any employment, outside of the Commissioner/employee's position at the BMHA, from which the Commissioner/employee derives a gross income in excess of five thousand dollars (\$5,000) per year. Exempt and non-represented employees only must disclose amount.

If the employee has no such employment, the Commissioner/employee shall state so in the disclosure statement.

TRANSACTIONAL

A Transactional disclosure Statement shall be filed by BMHA Commissioners and employees, as listed above, upon the occurrence of the following transactions:

1. **Private Interests.** Before participating in any official BMHA duty that may affect a Commissioner or exempt, managerial/confidential employee's private interests or that of his or her spouse, the Commissioner/employee must file a statement disclosing such interest and describing the proposed official action.
2. **Professional or Business Interests.** If a BMHA Commissioner/employee wishes to enter into an employment, professional, business, or financial transaction, other than a normal retail purchase or credit transaction on the same terms available to the general public, and the other party to this transaction has pending or is involved in any BMHA matter, and the BMHA Commissioner/employee has or may have any official duties or responsibilities in relation to this matter, said employee shall file a statement disclosing the proposed employment, professional, business or financial transaction and the nature of his or her participation in it, within thirty days of entering such transaction.

FILING

All disclosure statements, both annual and transactional, shall be filed with the General Counsel of the BMHA, within the time limits set forth in this code.

BMHA PERSONNEL POLICY

Chapter VII - General Policies
Section 1 - Code of Ethics

(Page 6 Of 7)

ETHICS REVIEW BOARD

For the purpose of administering, interpreting, and enforcing this Code of Ethics, the BMHA Board of Commissioners hereby establishes an Ethics Review Board.

COMPOSITION

The Ethics Review Board shall be composed of three BMHA Commissioners, including: one tenant-elected Commissioner; the Chairperson of the Board of Commissioners who shall also serve as the Chair to the Ethics Review Board, and one other Commissioner.

The Ethics Review Board terms shall stand concurrently with the term of the Chairperson of the Board of Commissioners, and Ethics Review Board Members shall be appointed for that term by the Chairperson.

The Executive Director of the BMHA will act as Secretary to the Board, and shall have no vote. General Counsel to the BMHA upon request of the Ethics Review Board, shall provide legal advice and representation, but shall have no vote. The Board or General Counsel may consider it appropriate in some cases to consult outside counsel.

In the event that a complaint is issued against one of the members of the Ethics Review Board, the BMHA Board of Commissioners shall vote on a replacement Commissioner, unless the complaint is against the tenant-elected Commissioner; in that case, the remaining tenant-elected Commissioner shall serve on the Ethics Review Board. In the event that there is no remaining tenant-elected Commissioner on the Board at the time, the Board of Commissioners shall designate a Commissioner to serve in his/her place.

VOTING

Ethics Review Board decisions shall be made by simple majority. The Ethics Review Board shall issue its findings within twenty (20) days of the Ethics Review Board hearing(s).

BMHA PERSONNEL POLICY

Chapter VII - General Policies
Section 1 - Code of Ethics

(Page 7 Of 7)

SCOPE OF POWERS

The Ethics Review Board shall be responsible for:

1. Rendering advisory opinions to BMHA staff regarding this Code of Ethics;
2. Recommending amendments to the Code of Ethics to the full Board of Commissioners;
3. Reviewing and referring to the proper authorities complaints charging a violation of this Code, either brought on the Board's own initiative or filed as a complaint by another person.
4. Hearing and, if necessary, subpoenaing evidence and testimony in the determination of violations of this Code in accordance with applicable Public Housing Law;
5. Issuing findings regarding violations of this Code and recommending disciplinary action to the appropriate disciplinary channels.

FILING OF COMPLAINTS

Any person wishing to report a violation of this Code of Ethics may file a complaint on a form available in the office of the BMHA General Counsel. The completed form is to be filed with the BMHA General Counsel.

Every BMHA Commissioner/employee shall acknowledge that they have received a copy of this Code. Commissioners and non-represented employees shall sign a statement attesting to the fact that they have received a copy of this Code and that they have read and understood it.

APPLICABILITY OF CODE

In no way shall this Code of Ethics prohibit the appointing Authority from routinely administering disciplinary and discharge actions in accordance with the union contracts and/or the New York State Civil Service Law.

Adopted: 08-24-1988

Revised: 09-18-1991 (section on Disclosure Statements)

TO: Buffalo Municipal Planning Authority

FROM:

Joseph A. Masera
Print Name

SUBJECT: Employee Handbook

This is to acknowledge receipt of a copy of the BMA's Employee Handbook. I understand this handbook contains a summary of policies and procedures and that more complete explanations of benefits and policies are contained in the collective bargaining agreements, BMA's Personnel Policy Manual and Manual of Safety Policies and Procedures.

I further understand that this handbook is not to be considered an agreement or a contract of employment and that the BMA reserves the right to apply, modify or withdraw any policy or procedure contained hereunder unless specifically bound by the collective bargaining agreements.

This acknowledgment will be filed in my Personnel File.

Joseph A. Masera
Signature

June 20, 1984
Date

Exhibit D

MINUTES OF BMHA ETHICS REVIEW BOARD MEETING

July 29, 2015

I. CALL TO ORDER

Pursuant to and subject of the BMHA Personnel Policy and Ethics Code, BMHA ETHICS REVIEW BOARD convened its meeting session on the 29th day of July, 2015 at 3:00 p.m. in the BMHA Executive Conference Room, located at 300 Perry Street, Buffalo, New York 14204.

II. ROLL CALL The meeting was called to order by BMHA Ethics Review Board Chair, Michael Seaman, who subsequently called the roll. Those present were as follows:

Members Present:

Michael Seaman, BMHA Board Chair and BMHA Ethics Review Board Chair
Donna Brown, BMHA Board Commissioner and BMHA Ethics Review Board member
Yvonne Martinez, BMHA Resident Elected Board member and BMHA Ethics Review Board member

Staff:

Dawn E. Sanders-Garrett, BMHA Executive Director, BMHA Board Secretary and BMHA Ethics Review Board secretary
David Rodriguez, BMHA General Counsel
Modesto Candelario, BMHA Assistant Executive Director

Others:

None present

III. RECOGNITION OF GUESTS

None present

IV. APPROVAL OF AGENDA

Mr. Seaman made a motion to approve the Agenda for the **BMHA ETHICS REVIEW BOARD** session for the 29th day of July, 2015 meeting; Ms. Yvonne Martinez seconded. The motion was carried unanimously.

V. Discussion of BMHA Resolution and referral

The Review Board's Secretary began discussion about last week's board meeting of July 23, 2015 and their Resolution to demand that the subject commissioner resign effective immediately and if he did not, the matter would be referred to this Ethics Review Board. The matter is now being undertaken by this body and the formalized complaint is that on or about March 9, 2015, the subject commissioner made racially based comments about Mayor Byron W. Brown, NY Assembly member Crystal Peoples-Stokes, Buffalo Common Council President Darius Pridgen, BMHA Executive Director, Dawn E. Sanders-Garrett and BMHA resident Leonard Williams. Additionally, he made disparaging remarks against BMHA Board Chairman, Michael Seaman. The comments were recorded and we listened to the recording at our July 23, 2015 Board meeting during executive session. Commissioner Donna M. Brown has signed the formal Complaint form and it is being made part of the record.

The Secretary submitted two documents from HUD, one was titled Public Trust and Integrity is our Collective Responsibility and the other was related to a HUD Initiative and training to Lead the Way: Governance and Financial Management. Discussions were had about the initiatives, diversity training for Board members and how to inform BMHA residents about the status of this matter.

The Ethics Review Board then listened to the recording of the subject commissioner's statements, reviewed the BMHA Personnel Policy's Code of Ethics. Additionally, various media reports and publications were reviewed. More discussion followed.

VI. RESOLUTION

The following Resolution was considered by the BMHA Ethics Review Board:

FINDINGS

After full review of the audio recordings, media reports and full discussion, the BMHA Ethics review Board makes the following findings:

- a. That Commissioner Joseph Mascia made the racially based comments about Mayor Byron W. Brown, NY Assembly member Crystal Peoples-Stokes, Buffalo Common Council President Darius Pridgen, BMHA Executive Director, Dawn E. Sanders-Garrett, BMHA resident Leonard Williams and disparaging remarks against BMHA Board Chairman, Michael Seaman;
- b. That Commissioner Joseph Mascia admitted making those comments in various media reports;
- c. That the subject commissioner did not apologize to the BMHA Board of Commissioners or its Executive Director, Dawn E. Sanders-Garrett;
- d. That commissioner Joseph Mascia has violated the BMHA Personnel Policy and its Code of Ethics, specifically:
 - i. Using his position or title for private gain;
 - ii. Giving preferential treatment;
 - iii. Impeding the Authority's effectiveness, efficiency or economy;

- iv. Influencing a commissioner's or employee's ability to be impartial or to maintain independence of judgment;
 - v. Undermining the public's confidence in the integrity of the Authority;
 - vi. Discriminating against any other employee, applicant for employment, or any tenant of public housing on the basis of race, color, religion, national origin, sex, age or handicap;
- e. That the statements made by commissioner Joseph Mascia have caused and will continue to cause an unnecessary distraction to the work of the BMHA Board in executing their mission;
- f. That Commissioner Joseph Mascia received a copy of the BMHA Personnel Policy and Code of Ethics and was aware of their contents.

REFERRAL

THE BMHA Board of Ethics Review has further resolved to:

- i. Charge commissioner Joseph Mascia with violation of the BMHA Personnel Policy and Code of Ethics; and
- ii. To refer these findings to the Honorable Mayor Byron W. Brown and request that he begin proceedings to remove Mr. Joseph Mascia from his position as Commissioner of the BMHA Board; and
- iii. Request that the Mayor suspend Commissioner Joseph Mascia from service on the BMHA Board of Commissioners pending the outcome of all hearings and/ or proceedings; and
- iv. To send copies of this referral to the following agencies;
 - a. US Department of Housing and Urban Development, Buffalo local and DC offices;
 - b. US Department of Justice, Civil Rights Division;
 - c. NY Homes and Community Renewal;
 - d. NY Division of Human Rights

The Chairman called for a motion to move the Resolution for a vote and a motion was made by Commissioner Donna M. Brown and seconded by Commissioner Yvonne Martinez. The resolution was unanimously passed by the full BMHA Ethics Review Board.

VII. OTHER BUSINESS

None

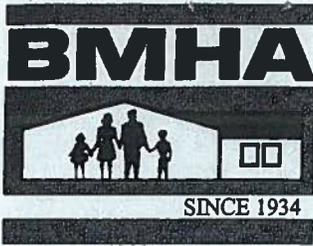
VIII. ADJOURNMENT

There being no further business to come before the BMHA Ethics Review Board, a motion was made to adjourn by Chair Michael Seaman, seconded by Donna Brown. The motion was carried unanimously.

Very truly yours,


Dawn E. Sanders-Garrett,
BMHA Ethics Review Board Secretary

Exhibit E



RECEIVED AUG - 5 2015

Buffalo Municipal Housing Authority

Executive Staff

Dawn E. Sanders-Garrett
Executive Director

Modesto Candelario
Assistant Executive Director

David Rodriguez
General Counsel

August 4, 2015

Honorable Byron W. Brown, Mayor
City of Buffalo
65 Niagara Square
201 City Hall
Buffalo NY 14202

RE: BMHA Commissioner
Joseph Mascia

Honorable Mayor Brown:

I submit this referral from the Buffalo Municipal Housing Authority's Ethics Review Board. As a matter of background, Commissioner Joseph Mascia was recorded on or about March 9, 2015 making racially based comments about certain elected and executive level African American individuals and a former BMHA resident commissioner. Additionally, he was recorded making disparaging remarks about the BMHA's Chairman of the board.

On July 23, 2015, after listening to the recording in executive session and discussing the matter, the BMHA Board of commissioners passed a Resolution demanding that Mr. Mascia resign his position as commissioner effective immediately. If he did not resign, the board further resolved that the matter be referred to its Ethics Review Board.



The BMHA's Ethics Review Board met on July, 29, 2015 and made certain findings and resolved that the matter be referred to your office as Appointing Authority for further action pursuant to Section 34 of the NY Public Housing Law.

The BMHA Ethics Review Board has found that Mr. Mascia violated the BMHA Personnel Policy and its Code of Ethics. As a result of their findings, they have directed that the matter be referred to your office and ask that as Appointing Authority, your office begin removal proceedings against Mr. Mascia.

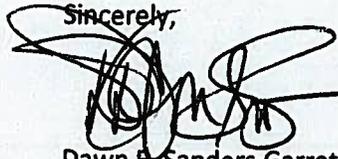
Additionally, they have asked that your office suspend Mr. Mascia from his position as BMHA Commissioner pending the proceedings. The suspension request is an attempt to avoid any more distractions from the work of the BMHA Board and its staff.

I am attaching the following in order to provide you with information and actions taken by the BMHA Board of Commissioners and its Ethics Review Board on July 23rd and 29th, 2015:

1. BMHA Resolution passed by the BMHA Board of Commissioners on July 23, 2015 demanding immediate resignation of Commissioner Joseph Mascia and if he did not resign, refer the matter to the BMHA Ethics review Board for further processing and referral to outside agencies;
2. BMHA Code of Ethics Complaint to Ethics Review Board from Commissioner Donna M. Brown dated July 28, 2015;

3. Copy of BMHA personnel Policy/Ethics Code with Commissioner Mascia's acknowledgment page that he received the same when he first started his BMHA service;
4. BMHA Ethics Review Board minutes containing findings and resolution from July 29, 2015 meeting.
5. Copy of the recording containing Joseph Mascia's racially based comments on or about March 9, 2015.

Sincerely,



Dawn E. Sanders-Garrett
As Secretary to the BMHA Ethics
Review Board

cc:

US Department of Housing and Urban Development, Buffalo local and DC offices
US Department of Justice, Civil Rights Division
NY Homes and Community Renewal
NY Division of Human Rights

Exhibit F

CD of Audio/Visual Recording

Hearing Officer's Exhibit 2

▼

HURWITZ & FINE, P.C.
ATTORNEYS AT LAW

Hearing Officer
Ex. 2

Ann E. Evanko
aee@hurwitzfine.com

December 7, 2015

Shauna Strom, Esq.
Senior First Deputy Counsel
Department of Law
City of Buffalo
65 Niagara Square, 1100 City Hall
Buffalo, New York 14202-3379

Steve M. Cohen, Esq.
HOGAN WILLIG
2410 N. Forest Road, Suite 301
Amherst, New York 14068

Via Email

RE: In the Matter of Misconduct and Disciplinary Charges Against
Commissioner Joseph A. Mascia, a Member of the Buffalo
Municipal Housing Authority

Dear Ms. Strom and Mr. Cohen:

At our last formal Pre-Hearing Conference, we reviewed the process by which we would conduct the Public Hearing in this matter. During that conference, Mr. Cohen indicated his intent to defer his opening statement until after the City of Buffalo concluded its evidence. Ms. Strom vigorously objected to this position. After discussion, I allowed both parties an opportunity to provide in writing the basis for their position. Both counsel responded.

Mr. Cohen relies primarily on *U.S. v. Amawi*, 541 F. Supp. 3d 955 (N.D. Ohio 2008). This case held that the *criminal* defendant had a right to reserve his opening until after the prosecution rested, despite the fact that his two co-defendants intended to make their opening at the outset of the case. The *Amawi* court cites no case law in support of this “right” and the case itself is not cited by any subsequent court and is in a different jurisdiction than the current matter. The court itself even notes that “[t]ime has not permitted thorough research into the question, and cursory research has not uncovered a case similar to this in which the government’s contentions are discussed.”

Mr. Cohen also relies on *People v. Orcutt*, 49 A.D.3d 1082 (3d Dept. 2008). This case actually stands only for the proposition that defense counsel’s decision to defer the opening

HURWITZ & FINE, P.C.

Shauna Strom, Esq.
Steve M. Cohen, Esq.
December 7, 2015
Page 2

statement did not constitute ineffective assistance of counsel. ("Defendant has not shown that counsel's decision to delay an opening statement until after the People rested, which allowed him to comment on their proof... lacked legitimate strategic purpose.")

The only other cases that hold there is a right to defer an opening statement are where there is a statute expressly permitting the defendant to do so. *See, e.g., Forrest v. State*, No. 02-13-00557-CR, 2015 WL 294272, at *2 (Tex. App. Jan. 22, 2015); *Herndon v. Bell*, No. 1:07-CV-285, 2010 WL 1172549, at *21 (W.D. Mich. Feb. 22, 2010) *report and recommendation adopted*, No. 1:07-CV-285, 2010 WL 1172547 (W.D. Mich. Mar. 24, 2010).

I do not find persuasive the argument that the alleged "conclusory" nature of the charges against Commissioner Mascia makes it impossible for defense counsel to understand and anticipate the City of Buffalo's evidence. The charges are grounded in the specific comments that Commissioner Mascia has publicly stated he has made and for which he is on notice.

The City of Buffalo cites to the proposition that where the general rule in a jurisdiction is that the defendant's opening statement should be made immediately after the prosecution's opening statement, refusal to make a statement at that time generally constitutes a waiver, citing 75 Am. Jur.2s Trail §441. Again, the context for this is criminal, not civil.

The City of Buffalo also relies on NY CPLR 4016, which is permissive, not mandatory, and makes no reference to a waiver.

Case law and secondary sources in New York indicate that it is within a court's discretion whether to allow a defendant to reserve opening. While a court can generally allow the defense to defer opening until after the plaintiff's case in chief is presented (*see, e.g., Passionist Communicatiosn, Inc. v. Arnold*, 23 Misc.3d 1130(A) (Sup. Ct. Westchester County 2009) ("Defense counsel elected to reserve making his opening statement until the time of presentation of the defense case")), *it is not required to do so* (emphasis added) and it is not an abuse of discretion to deny defendant's motion to reserve opening. *People v. Winchell*, 36 A.D.2d 779 (3d Dept. 1971). *Accord People v. Theriault*, 75 A.D.2d 971 (3d Dep't 1980) (*abrogated on other grounds by People v. Ely*, 68 N.Y.2d 520 (1986)); Village, Town and District Courts in New York § 5:32 ("The defense opening statement typically follows the statement made by the prosecutor. (See § 5:8) However, with the court's permission, the statement may be made after the prosecution has presented its case in chief and rested.").

The available case law supports a ruling that deferral of an opening statement is a matter of discretion resting squarely with the trial judge or in this case, the Hearing Officer. Therefore, I conclude that it is in my discretion to allow, and I hereby so rule, that the defendant may defer his opening statement until after the City of Buffalo presents its case and that the deferral is not a waiver.

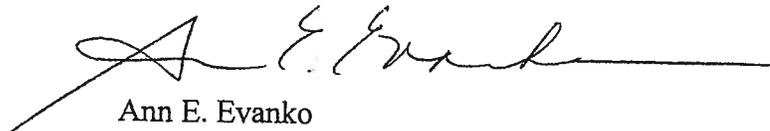
HURWITZ & FINE, P.C.

Shauna Strom, Esq.
Steve M. Cohen, Esq.
December 7, 2015
Page 3

On a different issue, the City of Buffalo has asserted an objection to certain of the witnesses on Commissioner Mascia's witness list. In particular, objections are asserted against defense witness #1, 10, 12, 15 and 18 as lacking in relevance. They appear to lack relevance because they appear not to have direct, personal knowledge of the facts and circumstances relating to the charges against Commissioner Mascia's conduct as a Commissioner and the fulfillment of his duties and responsibilities as Commissioner. If defense counsel cannot provide relevance of the testimony by showing specific, direct personal knowledge that these witnesses possess relating directly to one or more of the charges, then such witness may be stricken. I will entertain a further motion from the City of Buffalo once additional information is provided by defense counsel as to relevance.

Very truly yours,

HURWITZ & FINE, P.C.



Ann E. Evanko

AEE/
file

Hearing Officer's Exhibit 3

Ann E. Evanko

From: Ann E. Evanko
Sent: Wednesday, December 09, 2015 2:05 PM
To: Steven M. Cohen
Cc: Strom,Shauna L.; Rebecca Kujawa; Moore,Joel C.; Corey Hogan
Subject: Re: Notice for public hearing attached

Hearing Officer
Ex. 3

To All-

I am in a hearing and expect to be unavailable until early evening. My initial response to Mr. Cohen 's position is that his interpretation of the statute is incorrect--- I am not aware of any hearing that involves simply the reading of charges with an unfettered right of the defendant/respondent to present evidence without challenge. A hearing generally provides for both parties to present evidence--otherwise I would be able to take the charges as presented and deem them to be true in all respects. Your client, Mr Cohen, would then have the burden of persuasion.

I will review further and advise if there is s basis for reconsidering my ruling.

Ann

Sent from my iPhone

> On Dec 9, 2015, at 11:35 AM, Steven M. Cohen <scohen@hoganwillig.com> wrote:

>

> Not only that, but after reading the statute referenced by Ms. Strom (which I should have done a long time ago) I have learned that the Public Hearing is not to bring charges against a Commissioner, nor to prove charges against a Commissioner. It is, by statute, specifically to give an accused Commissioner the opportunity to present a defense at a public hearing to the written charges served upon him. Accordingly, and pursuant to Public Housing Law Section 34, this Public Hearing shall consist only of a reading of the charges against Commissioner Mascia, and Commissioner Mascia's defense to those charges. That should shorten things up quite a bit.

>

> Attached is my edited version of the public notice.

>

> Your Honor, I would ask for confirmation that my reading of the statute is correct, and that the hearing will consist of a reading of the written charges against the Commissioner, and the Commissioner's defense to those charges, and without testimony by witnesses against him.

>

> V/R,

>

> Steve Cohen

>

Hearing Officer's Exhibit 4

Ann E. Evanko

From: Ann E. Evanko
Sent: Thursday, December 10, 2015 11:09 AM
To: scohen@hoganwillig.com; Strom,Shauna L. (sstrom@ch.ci.buffalo.ny.us)
Cc: Rebecca Kujawa (rkujawa@hoganwillig.com); Ball,Timothy (tball@ch.ci.buffalo.ny.us); Corey Hogan; jmoore@ch.ci.buffalo.ny.us
Subject: City of Buffalo-Commissioner Mascia

To All--

As a follow-up to my position yesterday afternoon on what constitutes a "hearing" for purposes of this matter, I am confirming my initial ruling that Mr. Cohen's interpretation of the statute is misplaced, incorrect, and is rejected. Pursuant to Section 34 of the Public Housing Law of the State of New York, Commissioner Mascia has a right to a copy of the charges, which he has, and he has an opportunity to be heard, which he intends to do with the assistance of counsel. He also has a right to a "public hearing" which he has requested and has been scheduled. There is little available case law on point, but there is absolutely nothing in the statute or in any interpreting case law or other authority that would limit the public hearing to merely a "reading of the charges" and the defense of those charges. As indicated in my prior correspondence, if the statute contemplated adopting Mr. Cohen's position, the Hearing Officer would be able to take the charges as presented as true with no need of presenting witnesses or testimony in support of those charges, and Mr. Cohen would then have the burden of proof in persuading otherwise. There is simply no support for the notion that the hearing contemplated by Section 34 of the Public Housing Law of the State of New York would be anything less than an in depth, full hearing, with the City of Buffalo presenting evidence to support its charges and Commissioner Mascia having an opportunity to defend against those charges.

Have the parties agreed upon the language for the public notice?

Thank you,
Ann

Ann E. Evanko

President
Hurwitz & Fine, P.C.
1300 Liberty Building ■ Buffalo, NY 14202
tel (716) 849-8900 ■ fax (716) 855-0874
[website](#) | [bio](#) | [vCard](#) | [map](#) | [email](#)



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Hearing Officer's Exhibit 5

Ann E. Evanko

From: Steven M. Cohen <scohen@hoganwillig.com>
Sent: Thursday, December 10, 2015 3:20 PM
To: Ann E. Evanko; 'Strom,Shauna L. (sstrom@ch.ci.buffalo.ny.us)'
Cc: Rebecca Kujawa; 'Ball,Timothy (tball@ch.ci.buffalo.ny.us)'; Corey Hogan; Hearing Officer
'jmoore@ch.ci.buffalo.ny.us' Ex. 5
Subject: RE: City of Buffalo-Commissioner Mascia

Your Honor:

The Mayor has suspended Commissioner Mascia based upon charges and evidence that was supposed to have been served upon Commissioner Mascia. The sanction has been imposed, with the statutory proviso that now Commissioner Mascia has a right to refute the charges and evidence served upon him. It would be the Hearing Officer's role to evaluate the sufficiency of the charges and evidence served upon Commissioner Mascia at the time of the suspension and to weigh it against the defense presented by the Commissioner. Absent evidence to substantiate the charges, the Mayor should not have suspended the Commissioner in the first place. That suspension should only have occurred after His Honor's own investigation and establishment of proof. To now give the Mayor a second chance to gather evidence against Commissioner Mascia is contrary to the language of the statute as I read it.

When interpreting a statute to determine its meaning and affect, the court, or, in this case, hearing officer, should attempt to effectuate the intent of the Legislature (State v. Patricia II, 6 NY3d 160, 162 [2006]; Pines v. State, 115 AD3d 80, 91 [2d Dept. 2014]). The text of a statute is the first and best indicator of the Legislature's intent (Id.; Theroux v. Reilly, 1 NY3d 232, 239-40 [2003]). When the statutory language is clear and unambiguous, the court must give effect to the plain meaning of the words used (Patrolmen's Benev. Ass'n of City of New York v. City of New York, 41 NY2d 205, 208 [1976]; Riley v. County of Broome, 95 NY2d 455, 463 [2000] ["As a general rule, unambiguous language of a statute is alone determinative."]).

Public Housing Law § 34 provides:

A vacancy occurring other than by reason of the expiration of the term of a member of an authority shall be filled for the unexpired term. The mayor of a city or village, or the town board of a town, may remove a member of the authority for inefficiency, neglect of duty, or misconduct in office, but only after the member shall have been given a copy of the charges against him and an opportunity to be heard in person or by counsel in his own defense at a public hearing. In the event of removal, the mayor of a city or village, or the town board of a town, shall file with the commissioner a record of the proceedings together with a copy of the charges made against the member and his or its findings thereon. Pending the determination of charges against a member, the mayor or the town board, as the case may be, may suspend him from office.

There is no language within this provision authorizing the charging authority to bring forth evidence. The only party who is permitted to bring forth evidence is the party charged. Section 34 clearly gives the Commissioner "an opportunity to be heard in person or by counsel in his own defense at a public hearing." Section 34 does not give this opportunity to anyone else, including the City of Buffalo.

Public Housing Law § 34 is unambiguous and must be given its plain language meaning. As a result of that plain language and its obvious meaning, the party charging a commissioner and seeking that commissioner's removal (the City of Buffalo) is not entitled to present evidence at the hearing.

If Your Honor is unwilling to reconsider your position as stated below, we wish our objection and this argument preserved for appeal.

Respectfully,

Steve Cohen

From: Ann E. Evanko [mailto:AEE@hurwitzfine.com]
Sent: Thursday, December 10, 2015 11:08 AM
To: Steven M. Cohen; Strom,Shauna L. (sstrom@ch.ci.buffalo.ny.us)
Cc: Rebecca Kujawa; Ball,Timothy (tball@ch.ci.buffalo.ny.us); Corey Hogan; jmoore@ch.ci.buffalo.ny.us
Subject: City of Buffalo-Commissioner Mascia

To All--

As a follow-up to my position yesterday afternoon on what constitutes a "hearing" for purposes of this matter, I am confirming my initial ruling that Mr. Cohen's interpretation of the statute is misplaced, incorrect, and is rejected. Pursuant to Section 34 of the Public Housing Law of the State of New York, Commissioner Mascia has a right to a copy of the charges, which he has, and he has an opportunity to be heard, which he intends to do with the assistance of counsel. He also has a right to a "public hearing" which he has requested and has been scheduled. There is little available case law on point, but there is absolutely nothing in the statute or in any interpreting case law or other authority that would limit the public hearing to merely a "reading of the charges" and the defense of those charges. As indicated in my prior correspondence, if the statute contemplated adopting Mr. Cohen's position, the Hearing Officer would be able to take the charges as presented as true with no need of presenting witnesses or testimony in support of those charges, and Mr. Cohen would then have the burden of proof in persuading otherwise. There is simply no support for the notion that the hearing contemplated by Section 34 of the Public Housing Law of the State of New York would be anything less than an in depth, full hearing, with the City of Buffalo presenting evidence to support its charges and Commissioner Mascia having an opportunity to defend against those charges.

Have the parties agreed upon the language for the public notice?

Thank you,
Ann



Ann E. Evanko
President
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1300 Liberty Building ■ Buffalo, NY 14202
tel (716) 849-8900 ■ fax (716) 855-0874
[website](#) | [bio](#) | [vCard](#) | [map](#) | [email](#)

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Hearing Officer's Exhibit 6

Ann E. Evanko

From: Ann E. Evanko
Sent: Friday, December 11, 2015 9:46 AM
To: 'Steven M. Cohen'; 'Strom,Shauna L. (sstrom@ch.ci.buffalo.ny.us)' Hearing Officer
Cc: Rebecca Kujawa; 'Ball,Timothy (tball@ch.ci.buffalo.ny.us)'; Corey Hogan; Ex. 6
Subject: RE: City of Buffalo-Commissioner Mascia

Dear Mr. Cohen,

I have carefully considered my rulings on your interpretation of Section 34 of the Public Housing Law and whether the statute mandates simply a refutation of the charges at a public hearing or a substantive public hearing with evidence presented by both sides. I stand by my rulings on this.

I also rule that you have waived your argument/objection by the failure to raise this issue at our pre-hearing conferences over the last 3+ months, having participated in witness and exhibit exchanges and other details addressing the City of Buffalo's proposed proof as late as December 7th, and not raising the objection until after I ruled and granted your request to defer your opening statement until after the City of Buffalo presents its evidence. All of your conduct indicates and presumes consent to the substantive nature of the hearing with evidence presented by both parties. Nonetheless, I will note your objection and include the rulings and email exchange on waiver in the record.

Thank you.

Ann



Ann E. Evanko

President
Hurwitz & Fine, P.C.
1300 Liberty Building ■ Buffalo, NY 14202
tel (716) 849-8900 ■ fax (716) 855-0874
[website](#) | [bio](#) | [vCard](#) | [map](#) | [email](#)

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From: Steven M. Cohen [mailto:scohen@hoganwillig.com]
Sent: Thursday, December 10, 2015 3:20 PM

To: Ann E. Evanko; 'Strom,Shauna L. (sstrom@ch.ci.buffalo.ny.us)'

Cc: Rebecca Kujawa; 'Ball,Timothy (tball@ch.ci.buffalo.ny.us)'; Corey Hogan; 'jmoore@ch.ci.buffalo.ny.us'

Subject: RE: City of Buffalo-Commissioner Mascia

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There is no language within this provision authorizing the charging authority to bring forth evidence. The only party who is permitted to bring forth evidence is the party charged. Section 34 clearly gives the Commissioner "an opportunity to be heard in person or by counsel in his own defense at a public hearing." Section 34 does not give this opportunity to anyone else, including the City of Buffalo.

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If Your Honor is unwilling to reconsider your position as stated below, we wish our objection and this argument preserved for appeal.

Respectfully,

Steve Cohen

From: Ann E. Evanko [<mailto:AEE@hurwitzfine.com>]
Sent: Thursday, December 10, 2015 11:08 AM
To: Steven M. Cohen; Strom,Shauna L. (ssstrom@ch.ci.buffalo.ny.us)
Cc: Rebecca Kujawa; Ball,Timothy (tball@ch.ci.buffalo.ny.us); Corey Hogan; jmoore@ch.ci.buffalo.ny.us
Subject: City of Buffalo-Commissioner Mascia

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Have the parties agreed upon the language for the public notice?

Thank you,
Ann



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tel (716) 849-8900 ■ fax (716) 855-0874
[website](#) | [bio](#) | [vCard](#) | [map](#) | [email](#)

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Hearing Officer's Exhibit 7

From: Steven M. Cohen <scohen@hoganwillig.com>
Sent: Friday, December 11, 2015 6:05 PM
To: Ann E. Evanko; 'Strom,Shauna L. (sstrom@ch.ci.buffalo.ny.us)'
Cc: Rebecca Kujawa; 'Ball,Timothy (tball@ch.ci.buffalo.ny.us)'; Corey Hogan; 'jmoore@ch.ci.buffalo.ny.us'
Subject: RE: City of Buffalo-Commissioner Mascia

Your Honor:

It is my position that subject matter jurisdiction is never, and can never be, waived. I maintain that a plain reading of the statute establishes what the subject matter of the hearing shall be.

I can brief that for you if you'd like, or if your mind is made up, I will just want to include that argument on the record at the time you note my objections and include the rulings and email exchange on waiver in the record.

Respectfully,

Steve Cohen

From: Ann E. Evanko [mailto:AEE@hurwitzfine.com]
Sent: Friday, December 11, 2015 9:46 AM
To: Steven M. Cohen; 'Strom,Shauna L. (sstrom@ch.ci.buffalo.ny.us)'
Cc: Rebecca Kujawa; 'Ball,Timothy (tball@ch.ci.buffalo.ny.us)'; Corey Hogan; 'jmoore@ch.ci.buffalo.ny.us'
Subject: RE: City of Buffalo-Commissioner Mascia

Dear Mr. Cohen,

I have carefully considered my rulings on your interpretation of Section 34 of the Public Housing Law and whether the statute mandates simply a refutation of the charges at a public hearing or a substantive public hearing with evidence presented by both sides. I stand by my rulings on this.

I also rule that you have waived your argument/objection by the failure to raise this issue at our pre-hearing conferences over the last 3+ months, having participated in witness and exhibit exchanges and other details addressing the City of Buffalo's proposed proof as late as December 7th, and not raising the objection until after I ruled and granted your request to defer your opening statement until after the City of Buffalo presents its evidence. All of your conduct indicates and presumes consent to the substantive nature of the hearing with evidence presented by both parties. Nonetheless, I will note your objection and include the rulings and email exchange on waiver in the record.

Thank you.

Ann

Hearing Officer's Exhibit 8

▼

HURWITZ & FINE, P.C.
ATTORNEYS AT LAW



Ann E. Evanko
aee@hurwitzfine.com

December 22, 2015

Shauna Strom, Esq.
Senior First Deputy Counsel
Joel C. Moore, Esq.
Department of Law
City of Buffalo
65 Niagara Square, 1100 City Hall
Buffalo, New York 14202-3379

Steven M. Cohen, Esq.
HOGAN WILLIG
2410 N. Forest Road, Suite 301
Amherst, New York 14068

Via Email

RE: In the Matter of the Disciplinary Hearing of Commissioner Joseph A. Mascia,
A Member of the Buffalo Municipal Housing Authority

Dear Counsel:

I have carefully considered the Mayor's objections to Mr. Mascia's proposed further amended witness list as well as the arguments of Mr. Cohen in support of the witnesses. As of this afternoon, two of the witnesses previously identified (Rick Marzullo and Anthony Zachary) are no longer on Mr. Cohen's list and therefore, the objections as to those witnesses have resolved. Ms. Strom objects to Angelo Otero, Murray Holman, and Elaine Diallo, primarily on grounds of relevancy. I previously ruled that the objections to these witnesses would be addressed at the time Mr. Cohen presents his case.

Mr. Otero and Mr. Holman will be permitted to appear to testify, to the extent their testimony can be demonstrated to be relevant to the charges, and subject to any further objections and rulings.

I am limiting Ms. Diallo's testimony to her personal observations and interactions with Mr. Mascia, including when she served on the Buffalo Municipal Housing Authority Board of Commissioners, subject to any further objections. I am ruling that she will not be permitted to testify to the policies, procedures, and practices of the BMHA, as she is no longer a Commissioner of the BMHA and such testimony is not relevant and, to the extent needed, can be addressed by a different sitting Commissioner on Mr. Cohen's witness list.

Letter to Counsel
Mascia Hearing
December 22, 2015
P.2

Counsel agreed at the end of today's proceeding to permit the Mayor's proof to continue tomorrow with the witnesses Ms. Strom and Mr. Moore have intended to produce, and that Mr. Cohen will present his proof beginning on Monday.

Thank you.

Very truly yours,

HURWITZ & FINE, P.C.

A handwritten signature in blue ink, appearing to read "Ann E. Evanko", with a long horizontal flourish extending to the right.

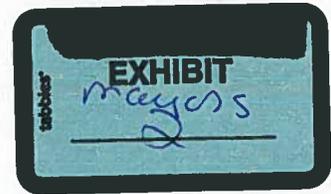
Ann E. Evanko

AEE/aec

Mayor's Exhibit 1

CD of Audio/Visual Recording

Mayor's Exhibit 2



BMHA PERSONNEL POLICY

Chapter VII - General Policies
Section 1 - Code of Ethics

(Page 1 Of 7)

BUFFALO MUNICIPAL HOUSING AUTHORITY

POLICY

It is the policy of the BMHA in compliance with HUD regulations, to enforce a Code of Ethics enacted by the Board of Commissioners that shall apply to all employees of the BMHA and to all members of the Board of Commissioners. The purpose of this Code of Ethics shall be to ensure the highest standards of behavior in the conduct of the BMHA Commissioners and employees, who, as members of the public corporation, hold positions of public trust. This Code of Ethics is an effort to provide BMHA employees with guidelines to help them to evaluate potential ethical problems before they have developed, to avoid potential conflict of interest situations; and to recognize and change behaviors not compatible with an employee's position of public trust.

The goals of the BMHA Code of Ethics shall be:

1. To ensure and maintain public confidence in the integrity of the employees and operations of the BMHA;
2. To ensure the accountability of the BMHA to the people it serves;
3. To provide a system for the fair and effective enforcement of this Code of Ethics, through disciplinary actions as provided by Law and Contract against BMHA employees who violate the Standards of Conduct, as set forth herein, and a mechanism for sanctions against BMHA Commissioners and non-represented employees who violate the standards of conduct as set forth herein.

DEFINITIONS

1. Conflict of Interest: A situation where a benefit or advantage of an economic or tangible nature that might inure to a BMHA employee, creates a potential bias or loss of independence of judgment in the performance of that employee's duties.
2. Contract: Any obligation or commitment arising from an exchange of promises or consideration of any kind.



BMHA PERSONNEL POLICY

Chapter VII - General Policies
Section 1 - Code of Ethics

(Page 2 Of 7)

3. Employee: Any person appointed or hired whether full or part time, seasonal, temporary, paid or unpaid on a fixed or unfixed term, provisional or permanent status.
4. Public Information: Any information obtainable pursuant to the New York Public Officers Law, Article 6 (Freedom of Information Law).

CODE OF CONDUCT

This Code of Conduct shall apply to the BMHA Board of Commissioners and to every BMHA employee. In addition, copies of the Code shall be distributed to all contractors and, at the BMHA's discretion, to vendors and others doing business with the BMHA. While the BMHA realizes that it has no authority to control the internal policies of the entities that it deals with, the BMHA requests that all contractors, vendors, and others doing business with the BMHA, honor our Standards of Conduct.

ABUSE OF POSITION

Every BMHA Commissioner/employee shall refrain from any action, even if not specifically prohibited by this Code, which results in:

1. Using his or her position or title for private gain;
2. Giving preferential treatment;
3. Impeding the Authority's effectiveness, efficiency or economy;
4. Influencing a Commissioner's or employee's conduct of his or her duties and responsibilities;
5. Impairing the Commissioner's/employee's ability to be impartial or to maintain independence of judgment;
6. Undermining the public's confidence in the integrity of the Authority;
7. Using Authority-owned vehicles, equipment, materials, or property for unauthorized illegal purposes.
8. Discriminating against any other employee, applicant for employment, or any tenant of public housing on the basis of race, color, religion, national origin, sex, age, or handicap;

BMHA PERSONNEL POLICY

Chapter VII - General Policies
Section 1 - Code of Ethics

(Page 3 Of 7)

GIFTS AND FAVORS

A BMHA Commissioner/employee shall not solicit or accept, directly or indirectly any gift, gratuity, favor, loan, or any other thing of value, from any person or entity, or group of persons or entities who or which:

1. Have, or may seek, any contractual or other business or financial relationship with the BMHA;
2. Conduct operations or activities regulated by the BMHA;
3. Have interests, or whose members or clients have interests, that may be substantially affected by the actions of the BMHA;
EXCEPT, when circumstances clearly show that family or personal relationships were the basis of a gift, or favor or where food, refreshment, or favors were of a nominal value (less than \$50) accepted on infrequent occasions during the normal course of business.

OUTSIDE ACTIVITIES OR EMPLOYMENT

A BMHA Commissioner/employee shall not engage in outside employment, or other outside activities, or incur any obligations that are not compatible with the full and proper discharge of the Commissioner/employee's official duties and responsibilities. Incompatible activities include, but are not limited to:

1. Outside activities that impair the Commissioner's/employee's independence of judgment or ability or capacity to perform official duties;
2. Outside activities that are represented by the employee to be official acts of the BMHA;
3. Outside activities that establish relationships or property interest that result in a conflict between the employee's private interests and his or her BMHA duties and responsibilities;
4. Accepting employment, with or without compensation, with any person or business entity doing business with the BMHA;
5. Accepting salary, payment, or anything of monetary value from a private source in exchange for BMHA services.

BMHA PERSONNEL POLICY

Chapter VII - General Policies
Section 1 - Code of Ethics

(Page 4 Of 7)

FINANCIAL INTERESTS

A BMHA Commissioner/employee shall have no direct or indirect financial interest that conflicts with his or her official duties and responsibilities. In addition, no Commissioner/employee shall discuss, make decisions about, or take part in, formally or informally, any matter before the BMHA in which he or she or his/her spouse has an interest, except where such interest is minimal and specifically have disclosed interest, or upon the occasion of said interest in the disclosure statement as provided in the disclosure statement section of this Code of Ethics. The question of minimal interest, when in doubt, is to be resolved in a binding decision by the Ethics Review Board.

OTHER MATTERS

Except where mandated by law, BMHA Commissioners/employees shall not disclose without proper authorization non-public information or records concerning any aspects of BMHA operations, nor shall any Commissioner/employee use such information to the advantage or benefit of himself or any other person. This extends to records maintained on tenants of the BMHA, except for whom a properly executed release of information form has been obtained and kept in the tenant's file.

DISCLOSURE STATEMENTS AND ETHICS REVIEW BOARD

ANNUAL

All Commissioners, exempt, and managerial/confidential employees shall file, within 30 days of their appointment and on October 1st of each year, a statement of disclosure of financial interests which shall include the following:

1. The name of any corporation or business organization in which the Commissioner/employee or his or her spouse holds a controlling interest or at least one percent of the stock.
2. The location of any real property situated in the City of Buffalo which the Commissioner/employee or his or her spouse, owns or has an interest in, except real property which is the Commissioner/employee's principal residence.

BMHA PERSONNEL POLICY

Chapter VII - General Policies
Section 1 - Code of Ethics

(Page 5 Of 7)

3. Any employment, outside of the Commissioner/employee's position at the BMHA, from which the Commissioner/employee derives a gross income in excess of five thousand dollars (\$5,000) per year. Exempt and non-represented employees only must disclose amount.

If the employee has no such employment, the Commissioner/employee shall state so in the disclosure statement.

TRANSACTIONAL

A Transactional disclosure Statement shall be filed by BMHA Commissioners and employees, as listed above, upon the occurrence of the following transactions:

1. **Private Interests.** Before participating in any official BMHA duty that may affect a Commissioner or exempt, managerial/confidential employee's private interests or that of his or her spouse, the Commissioner/employee must file a statement disclosing such interest and describing the proposed official action.
2. **Professional or Business Interests.** If a BMHA Commissioner/employee wishes to enter into an employment, professional, business, or financial transaction, other than a normal retail purchase or credit transaction on the same terms available to the general public, and the other party to this transaction has pending or is involved in any BMHA matter, and the BMHA Commissioner/employee has or may have any official duties or responsibilities in relation to this matter, said employee shall file a statement disclosing the proposed employment, professional, business or financial transaction and the nature of his or her participation in it, within thirty days of entering such transaction.

FILING

All disclosure statements, both annual and transactional, shall be filed with the General Counsel of the BMHA, within the time limits set forth in this code.

BMHA PERSONNEL POLICY

Chapter VII - General Policies
Section 1 - Code of Ethics

(Page 6 Of 7)

ETHICS REVIEW BOARD

For the purpose of administering, interpreting, and enforcing this Code of Ethics, the BMHA Board of Commissioners hereby establishes an Ethics Review Board.

COMPOSITION

The Ethics Review Board shall be composed of three BMHA Commissioners, including: one tenant-elected Commissioner; the Chairperson of the Board of Commissioners who shall also serve as the Chair to the Ethics Review Board, and one other Commissioner.

The Ethics Review Board terms shall stand concurrently with the term of the Chairperson of the Board of Commissioners, and Ethics Review Board Members shall be appointed for that term by the Chairperson.

The Executive Director of the BMHA will act as Secretary to the Board, and shall have no vote. General Counsel to the BMHA upon request of the Ethics Review Board, shall provide legal advice and representation, but shall have no vote. The Board or General Counsel may consider it appropriate in some cases to consult outside counsel.

In the event that a complaint is issued against one of the members of the Ethics Review Board, the BMHA Board of Commissioners shall vote on a replacement Commissioner, unless the complaint is against the tenant-elected Commissioner; in that case, the remaining tenant-elected Commissioner shall serve on the Ethics Review Board. In the event that there is no remaining tenant-elected Commissioner on the Board at the time, the Board of Commissioners shall designate a Commissioner to serve in his/her place.

VOTING

Ethics Review Board decisions shall be made by simple majority. The Ethics Review Board shall issue its findings within twenty (20) days of the Ethics Review Board hearing(s).

BMHA PERSONNEL POLICY

Chapter VII - General Policies
Section 1 - Code of Ethics

(Page 7 Of 7)

SCOPE OF POWERS

The Ethics Review Board shall be responsible for:

1. Rendering advisory opinions to BMHA staff regarding this Code of Ethics;
2. Recommending amendments to the Code of Ethics to the full Board of Commissioners;
3. Reviewing and referring to the proper authorities complaints charging a violation of this Code, either brought on the Board's own initiative or filed as a complaint by another person.
4. Hearing and, if necessary, subpoenaing evidence and testimony in the determination of violations of this Code in accordance with applicable Public Housing Law;
5. Issuing findings regarding violations of this Code and recommending disciplinary action to the appropriate disciplinary channels.

FILING OF COMPLAINTS

Any person wishing to report a violation of this Code of Ethics may file a complaint on a form available in the office of the BMHA General Counsel. The completed form is to be filed with the BMHA General Counsel.

Every BMHA Commissioner/employee shall acknowledge that they have received a copy of this Code. Commissioners and non-represented employees shall sign a statement attesting to the fact that they have received a copy of this Code and that they have read and understood it.

APPLICABILITY OF CODE

In no way shall this Code of Ethics prohibit the appointing Authority from routinely administering disciplinary and discharge actions in accordance with the union contracts and/or the New York State Civil Service Law.

Adopted: 08-24-1988

Revised: 09-18-1991 (section on Disclosure Statements)

Mayor's Exhibit 3

tabbies
EXHIBIT
Mayor's 3



BMHA Code of Ethics Complaint

Date : July 28, 2015

Name : Donna Brown, BMHA Commissioner

Address : 300 Perry Street,

Telephone Number : 716-855-6711

City Buffalo State NY Zip 14204

Subject of complaint: Commissioner Joseph Mascia

Allegations:

On or about March 9, 2015, the subject commissioner made racially based comments about Mayor Byron W. Brown, NY Assembly member Crystal Peoples-Stokes, Buffalo Common Council President Darius Pridgen, BMHA Executive Director, Dawn E. Sanders-Garrett and BMHA resident Leonard Williams. Additionally, he made disparaging remarks against BMHA Board Chairman, Michael Seaman. The comments were recorded and we listened to the recording at our July 23, 2015 Board meeting during executive session.

(Add additional pages if necessary)

Are you aware of any witnesses: Yes No

Witness name: audio recording and media reports Contact number: n/a

Witness name: _____ Contact number _____

This complaint will be submitted to the BMHA Ethics Review Board for processing pursuant to the BMHA Code of Ethics Policy.

SIGNED BY Donna M Brown
Donna Brown, BMHA Commissioner

DATE 7/28/2015

*All completed forms should be submitted to General Counsel, BMHA, 300 Perry Street, Buffalo NY 14204 Attn: Legal. Dept. and marked "Confidential"

Buffalo Municipal Housing Authority - Form -Code of Ethics viol.

EXHIBIT
Mayor's
3 per 7/28/15

Mayor's Exhibit 4



MINUTES OF BMHA ETHICS REVIEW BOARD MEETING

July 29, 2015

I. CALL TO ORDER

Pursuant to and subject of the BMHA Personnel Policy and Ethics Code, BMHA ETHICS REVIEW BOARD convened its meeting session on the 29th day of July, 2015 at 3:00 p.m. in the BMHA Executive Conference Room, located at 300 Perry Street, Buffalo, New York 14204.

II. ROLL CALL The meeting was called to order by BMHA Ethics Review Board Chair, Michael Seaman, who subsequently called the roll. Those present were as follows:

Members Present:

Michael Seaman, BMHA Board Chair and BMHA Ethics Review Board Chair
Donna Brown, BMHA Board Commissioner and BMHA Ethics Review Board member
Yvonne Martinez, BMHA Resident Elected Board member and BMHA Ethics Review Board member

Staff:

Dawn E. Sanders-Garrett, BMHA Executive Director, BMHA Board Secretary and BMHA Ethics Review Board secretary
David Rodriguez, BMHA General Counsel
Modesto Candelario, BMHA Assistant Executive Director

Others:

None present

III. RECOGNITION OF GUESTS

None present

IV. APPROVAL OF AGENDA

Mr. Seaman made a motion to approve the Agenda for the **BMHA ETHICS REVIEW BOARD** session for the 29th day of July, 2015 meeting; Ms. Yvonne Martinez seconded. The motion was carried unanimously.



V. Discussion of BMHA Resolution and referral

The Review Board's Secretary began discussion about last week's board meeting of July 23, 2015 and their Resolution to demand that the subject commissioner resign effective immediately and if he did not, the matter would be referred to this Ethics Review Board. The matter is now being undertaken by this body and the formalized complaint is that on or about March 9, 2015, the subject commissioner made racially based comments about Mayor Byron W. Brown, NY Assembly member Crystal Peoples-Stokes, Buffalo Common Council President Darius Pridgen, BMHA Executive Director, Dawn E. Sanders-Garrett and BMHA resident Leonard Williams. Additionally, he made disparaging remarks against BMHA Board Chairman, Michael Seaman. The comments were recorded and we listened to the recording at our July 23, 2015 Board meeting during executive session. Commissioner Donna M. Brown has signed the formal Complaint form and it is being made part of the record.

The Secretary submitted two documents from HUD, one was titled Public Trust and Integrity is our Collective Responsibility and the other was related to a HUD Initiative and training to Lead the Way: Governance and Financial Management. Discussions were had about the initiatives, diversity training for Board members and how to inform BMHA residents about the status of this matter.

The Ethics Review Board then listened to the recording of the subject commissioner's statements, reviewed the BMHA Personnel Policy's Code of Ethics. Additionally, various media reports and publications were reviewed. More discussion followed.

VI. RESOLUTION

The following Resolution was considered by the BMHA Ethics Review Board:

FINDINGS

After full review of the audio recordings, media reports and full discussion, the BMHA Ethics review Board makes the following findings:

- a. That Commissioner Joseph Mascia made the racially based comments about Mayor Byron W. Brown, NY Assembly member Crystal Peoples-Stokes, Buffalo Common Council President Darius Pridgen, BMHA Executive Director, Dawn E. Sanders-Garrett, BMHA resident Leonard Williams and disparaging remarks against BMHA Board Chairman, Michael Seaman;
- b. That Commissioner Joseph Mascia admitted making those comments in various media reports;
- c. That the subject commissioner did not apologize to the BMHA Board of Commissioners or its Executive Director, Dawn E. Sanders-Garrett;
- d. That commissioner Joseph Mascia has violated the BMHA Personnel Policy and its Code of Ethics, specifically:
 - i. Using his position or title for private gain;
 - ii. Giving preferential treatment;
 - iii. Impeding the Authority's effectiveness, efficiency or economy;

- iv. Influencing a commissioner's or employee's ability to be impartial or to maintain independence of judgment;
 - v. Undermining the public's confidence in the integrity of the Authority;
 - vi. Discriminating against any other employee, applicant for employment, or any tenant of public housing on the basis of race, color, religion, national origin, sex, age or handicap;
- e. That the statements made by commissioner Joseph Mascia have caused and will continue to cause an unnecessary distraction to the work of the BMHA Board in executing their mission;
 - f. That Commissioner Joseph Mascia received a copy of the BMHA Personnel Policy and Code of Ethics and was aware of their contents.

REFERRAL

THE BMHA Board of Ethics Review has further resolved to:

- i. Charge commissioner Joseph Mascia with violation of the BMHA Personnel Policy and Code of Ethics; and
- ii. To refer these findings to the Honorable Mayor Byron W. Brown and request that he begin proceedings to remove Mr. Joseph Mascia from his position as Commissioner of the BMHA Board; and
- iii. Request that the Mayor suspend Commissioner Joseph Mascia from service on the BMHA Board of Commissioners pending the outcome of all hearings and/ or proceedings; and
- iv. To send copies of this referral to the following agencies;
 - a. US Department of Housing and Urban Development, Buffalo local and DC offices;
 - b. US Department of Justice, Civil Rights Division;
 - c. NY Homes and Community Renewal;
 - d. NY Division of Human Rights

The Chairman called for a motion to move the Resolution for a vote and a motion was made by Commissioner Donna M. Brown and seconded by Commissioner Yvonne Martinez. The resolution was unanimously passed by the full BMHA Ethics Review Board.

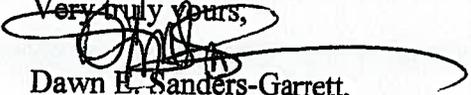
VII. OTHER BUSINESS

None

VIII. ADJOURNMENT

There being no further business to come before the BMHA Ethics Review Board, a motion was made to adjourn by Chair Michael Seaman, seconded by Donna Brown. The motion was carried unanimously.

Very truly yours,


Dawn E. Sanders-Garrett,
BMHA Ethics Review Board Secretary

Mayor's Exhibit 5

T.M./F.D.T

PETITION

RECEIVED
 BUFFALO MUNICIPAL HOUSING AUTHORITY
 AUG 19 2015
 EXECUTIVE DEPARTMENT

We, the undersigned, tenants of Buffalo Municipal Housing Authority, demand the removal of Joe Mascia, who, this year, made demeaning, disgraceful, reprehensibly racist statements about people of color. This conduct is extremely unacceptable and should not be tolerated. Joe Mascia must be removed from his post.

Full Name	Address
Esther Mathis	44 Mary B. Talbert
Denise Richardson	515 CLINTON ST
Francine Peoples	46 Mary B. Talbert
Jemine Moore	53 Mary B. Talbert
Carole Wilson	515 Clinton St
San Johnson	515 Clinton St
Cathy Johnson	515 Clinton St
Gold L. Green	515 Clinton St
Levy Williams	515 Clinton St
Jean Williams	515 Clinton St #603
Jesse Brewster	210 Jefferson Ave Apt 805
Shirley Ann Jordan	210 Jefferson Ave #502
Malinda Taylor	210 Jefferson Ave 301
Angela Williams	210 Jefferson Ave apt. 304
Bryndy Satter	42 B CARDINAL ST
Edna Stevens	210 Jefferson Ave PT. 305
Willie Leathwood	180 Jeff 807
Willie Crowe	210 JEFFERSON 801
Willie Crowe	585 Clinton
Willie Crowe	2 Mary B. Talbert
Willie Crowe	50 Mary B. Talbert
Dena Jayman	49 Mary B. Talbert
Mary F. Walker	47 Mary B. Talbert Blvd
D. Owens	45 MARY B TALBERT
Rosa Hubbard	6 Mary B Talbert
Jerry McCham	515 CLINTON
Gollie McCham	515 Clinton
Hester Lee Hatten	488 Elizabeth
Mavis Williams	7 Mary B Talbert
Jenny McCham	148 JEFFERSON AVE
William Wardlaw	502 J. MURKIN
William Wardlaw	502 J. MURKIN
Theresa Grant	550 Jefferson Ave BFLD
Mary Potter	210 Jefferson Ave BFLD
Mable Martin	56 Mary Talbert Blvd

EXHIBIT
 Mayor
 Dan
 12/15/15

EXHIBIT

TM / F.D.T.

PETITION

RECEIVED
 BUFFALO MUNICIPAL HOUSING AUTHORITY
 AUG 19 2015
 EXECUTIVE DEPARTMENT

We, the undersigned, tenants of Buffalo Municipal Housing Authority, demand the resignation of Joe Mascia, who, this year, made demeaning, disgraceful, reprehensibly racist statements about people of color. This conduct is extremely unacceptable and should not be tolerated. Joe Mascia must be removed from his post.

Full Name	Address
CEDRIC LOWE	210 JEFFERSON AVE #807
Regina EVANS	3552 Mary B Talbert
Megan Evans	52 Mary B Talbert
Michelle Cheever	180 Jeff apt 300
Allie Dilla	180 Jeff apt. 305
JEO GAMB	180 607
Jearline Taylor	210 Jeff Ave
Ben HEAR	180 JEFFERSON
JUCILE GARNER	180 JEFF
Wanda Hwale	38 Gladys Holmes
DOUNIA Scott	43 Gladys Holmes
Marlene Allen	161 Spring St
Julius Allen	161 Spring St.
WJ Ingram	180 808
Audrey Anderson	210 Jefferson II 806
Deborah Turner	180 S E JEFFERSON 804
Cheryl Qilas	54 Mary Talbert Bld
Erica Smith	55 Mary Talbert Bld
CLAIRISSA ALSTON	36 Gladys Holmes Blvd
Michelle Carter	180 Jefferson 608
Christine Harris	210 Jefferson Apt 402
Deborah M. Day Sr	20 Jefferson apt 704
Deborah Alston	180 Jefferson
Cheryl Kelly	210 Jefferson 604
Autone Thomas	55 Mary B. Talbert
Jonathan ALSTON	36 Gladys Holmes
Debra Rouse	180 Jefferson Ave #204
Theresa Duke	210 Jefferson 208
Barbara Johnson	210 JEFFERSON 507
OLIVER	180 JEFFERSON - 707
Terry Anderson	180 Jefferson 703
ANDREY THOMAS JR	180 Jefferson 508
James Cummins	515 Clinton St
Edna M. Cole	210 Jefferson Ave apt 706
Dorothy Maulsby	210 Jefferson 292-5052
Jamie Ramey	210 Jeff
	210 Jeff
	South Building 210 Jefferson #166

Mayor's Exhibit 6

EXHIBIT

TO: Buffalo Municipal Housing Authority

FROM: Joseph A. Mascia
Print Name

SUBJECT: Employee Handbook

This is to acknowledge receipt of a copy of the BMHA Employee Handbook. I understand this handbook contains a summary of policies and procedures and that more complete explanations of benefits and policies are contained in the collective bargaining agreements, BMHA Personnel Policy Manual and Manual of Safety Policies and Procedures.

I further understand that this handbook is not to be construed as an agreement or a contract of employment and that the BMHA reserves the right to supplement, modify or abolish any policy or procedure contained therein that is not specifically bound by the collective bargaining agreements.

This acknowledgement will be filed in my Personnel File.

Joseph A. Mascia
Signature

June 26, 2006
Date

EXHIBIT
MAYOR'S 6
12/21/15
PERCAD 800-631-6989

Mayor's Exhibit 7

CD of Audio Recording (WBEN Interview)

Mayor's Exhibit 7 – 1

Joe Mascia on "Hardline"

Now, here's WBEN's Dave Debow.

And what a week it is to talk politics. Coming up in the second hour today, we will talk about a major arrest, obviously this week earlier in Lackawanna, Arafat Nagi, accused of trying to pledge his support for and eventually to go to help fight ISIS – with ISIS in Syria. We'll be kicking that around in the second hour. But the first hour, Joe Mascia is here. He's a name that has been in the news. I know you've heard of him, running for the Fillmore District City Council at the same time that he has been caught on tape using the "N" word to describe several black city leaders, including Buffalo Mayor Byron Brown and City Council President Darius Pridgen. Along the way, if you would like to join the conversation, we will have phone calls open. 803-0930 is the number. Joe is here to talk a little bit about that. In recent weeks, you've probably seen not only is he, and defiant is maybe a value-laden word but we'll use it – defiant, saying that he is going to stay in the race, but he also now says that yes, of course, he did use the "N" word to describe these leaders but he wants to take that and use that to try to and make for a bigger dialog about racism is Western New York. He's here to talk about that a little bit and again to take your calls – 803-0930 is the number. Joe, thanks for stopping by.

Mascia: Thank you, Dave, and I want to thank the listening audience for listening in and hopefully we can use this as a positive moment.

Dave: How do you define racism? What is it to you?

Mascia: Well, you know, it's...racism... you know, it's something that we know we've been living with for you know years and years and years. I mean even if a comment, an unfortunate comment, vile comment that I made you know the subject of racism needs to be brought to the forefront and I think that's what needs to happen. I'm sure that you know it's not going to go away and what we need to do is open up a dialog.

Dave: But how do you define racism? Isn't it judging people as a group?

Mascia: Sure.

Dave: Derogatorily, rather than as an individual?

Mascia: Absolutely. I've looked it up. People have read it to me as early as yesterday. And you're right. It's using a derogatory name at a certain race of people.

Dave: Isn't that what you did?

Mascia: Yes.

Dave: Aren't you, therefore, racist?



Mascia: Well, yeah. You know, I can't deny that you know everyone has racist thoughts or racist feelings. I can't deny it. You know, don't forget, I've been brought up in the 50s and 60s, this was a little more prevalent at the time, and I'm not shying away from it, Dave.

Dave: Here's that part I think a lot of people don't get – how can you use that word, say those things, and yet still go on to represent a minority community?

Mascia: I've represented a minority community for the last nine years as Commissioner with the Buffalo Municipal Housing Authority. Um, about 90% maybe more of the people who live in housing are minority and poor and I've represented them for 9 years, they've elected me 5 times and I think that most of this conversation is the shock and surprise from residents and when you talk about representation, who better to represent a group or a class of people than someone who admits they made a mistake; admits they did something wrong; admits they shouldn't have done it and moving forward.

Dave: But it is such a hateful word for some many black people.

Mascia: Sure. Sure it is.

Dave: You....uh....the disconnect here is you support them, you follow their issues, you want to represent them, you say you represent them, and yet at the same time, you're using a word that would suggest you hate them. How do those two go together on the same page?

Mascia: You know, hate is strong word.

Dave: I know. But I think if you talk to black people, they will say it's a hateful word.

Mascia: It's a hateful word and I know because I've talked to many people in the community already – the African America community – and don't forget, this didn't happen yesterday. So I've been out talking and actually been on some public access television shows and now, you know, when you do something or say something, I think all of us have said something we wish we would've retracted after we said it, but a word like this, sure, it's like a hot knife cutting through butter with the African America community. I realize that. I accept it. I've taken responsibility for it. I'm not walking away from it.

Dave: Do you hate black people?

Mascia: No.

Dave: I know but I had to ask because there are those who say he used the word and therefore....

Mascia: Yeah. Of course. And, Dave, you're going to say it and everyone else is going to say it and anybody who knows me and knows what I've done, it's like two words that don't fit, you know what I mean?

Dave: How can the word be in your mouth without the feelings being in your heart?

Mascia: That's a great question. That's a great question. If the feelings were in my heart, ok, I wouldn't be able to do what I do every day for the past nine years and longer than that. I mean, you know, like I said, the word was used, I accept responsibility for it, and as you know, Dave, when this tape was released, I didn't step away. I didn't run and hide. I didn't say oh my God what did I do. Yes, it's embarrassing. It's vile, it's hateful. I understand that. But you know what, I could've did like so many other people have done and say, you know what, I don't want...I don't want to acknowledge it. I could walk away. I can run and hide. I can leave the people that I represent, what kind of man would I be.

Dave: So, you can use racist words without being a racist?

Mascia: Let me ask you a question, Dave.

Dave: Yeah.

Mascia: Can a racist person do a decent thing?

Dave: I would think so.

Mascia: Can a decent person make a racist comment?

Dave: I don't know about that one.

Mascia: Well...

Dave: Because a lot of people are that saying otherwise.

Mascia: Yeah. And absolutely, but you know what Dave we live in a big country and you know I mean a conversation I'm making, sure, is something that needs to be said.

Dave: Our number is 803-0930. We'll be going to phones in just a moment. Joe Mascia is here, caught on tape using the "N" word and still running for City Council, still staying on the BMHA Board of Commissioners. A lot of people, Joe, have said that this makes you unfit for public office. In fact, Mayor Brown actually used those words. Let's listen to his comments from earlier, and then I want to get your reaction to it.

[Recording]

Mayor Brown – The residents of public housing should ask for his resignation as well. I know that today, the BMHA Housing Commissioners have called for his resignation. These are his fellow public housing commissioners and they voted today unanimously with one absence to call for his resignation.

Reporter - After saying what he said, do you think he can fairly represent the people he's supposed to represent?

Mayor Brown – I think that he is unfit for public office after his racist comments. I think it's difficult for him to represent the diverse tenants in the Buffalo Municipal Housing Authority, and I think the best thing for him to do for himself, for his family, and not to be a distraction in the Buffalo Municipal Housing Authority is to resign from his office as a tenant commissioner.

Reporter – And when you heard his comments, how did that make you feel personally?

Mayor Brown – You know, they are disturbing. His comments are unacceptable and they are particularly unacceptable for someone who has been elected by the tenants and BMHA to represent them, a diverse body of people, totally unacceptable those racist comments.

Reporter – Were you surprised that he said it? I mean, it's a small town. You hear things about people.

Mayor Brown – I don't think those comments are out of character for this individual. I think in 2015, it is disturbing for people to issue racist comments, particularly disturbing for an elected representative, someone who represents a diverse body of people to express those racist views that Joe Mascia expressed.

Dave: Alright. Now let's take each one of those points in turn. "I don't think those comments are out of character".

Mascia: Well, they are out of character for anybody who knows me and again, of course, you know, I've been a major critic of the Housing Authority and actually, you know, some of the things that are being done there. Let's face it, five of the appointees are appointed by the Mayor. And I've been critical for the last two years, probably more than that, about, you know, the handling of situations at the Housing Authority.

Dave: So you think his response is not to the use of the "N" word as politics because you've been fighting for reform at the BMHA?

Mascia: Well, you know what, it's the use of the "N" word. I'm not backing away from that. I mean, Dave, the word was said, I've taken full responsibility for it. I've accepted it. I've apologized for it. Even Reverend Pridgen said, you know what, I've accepted your apology, Joe, I stuck my hand out, shook his hand. He said I forgive you. I said okay. He said let's put this behind us. Now, of course, you know, when you're in a political field, you know, people are going to use it for whatever means they need to....for political expedience, and I'm not saying that....

Dave: Has this grown because of politics? Is that what you're saying?

Mascia: There's no doubt.

Dave: Out of proportion, you think?

Mascia: Listen, I think, now you're asking me what I think.

Dave: Yeah.

Mascia: I think, yeah. It's blown out of proportion for a reason. You know, I'm a candidate for the Fillmore District, ok. It's not only about the Housing Authority, being a commissioner with the Housing Authority and things I've exposed over the past several years. You know, the outrage should be, you know, the treatment of the residents that live there. That's the outrage. The outrage to me is, lookit, we've got a Housing Authority executive staff that the operational costs for the administration has grown over 9% since 2012, yet we're supposed to be getting less money. Now, how do you justify raising, which I argued against, pay raises for the administration when people can't get their apartments painted? You know, I've been a big advocate for the maintenance of these apartments and how they're done. Now, of course, everybody's going to say well, you know what, here's a guy that said a word, and the words were vile. The words were indefensible, and I'm not trying to defend anything.

Dave: Of the people you described with the "N" word, Dawn Sanders, Crystal Peoples-Stokes, Mayor Brown, Council President Pridgen, Leo Williams, a past commissioner of the BMHA, Mike Seaman, a counsel of the BMHA, of those people, how many of them have you spoken to personally?

Mascia: Reverend Pridgen. I've put word out to the Mayor. I haven't got a response, which that's not going to stop, but you said something, Dave, that's very interesting. You said what I've said. Now, if, I'm sure you listened to it, I didn't mention those names. I said the word. The names were mentioned by someone else and

Dave: Someone...was on tape.

Mascia: Wait.

Dave: Let's explain this to people who have not heard the tape.

Mascia: Sure.

Dave: Someone was on tape asking you what do you think about Mayor Brown? What do you think about Darius Pridgen? What do you think about Crystal Peoples-Stokes? And in each of these cases you responded with the "N" word".

Mascia: Sure. But isn't it unusual that, you know, it was the high profile, political figures; three figures that are three individuals that are with the Housing Authority? I mean, it wasn't done...it wasn't done....

Dave: You're saying that this person was leading you on?

Mascia: Well, you know what, I said they word.

Dave: Right.

Mascia: Ok...and...let's talk about the situation. Ok. Now you're talking about a person that I've known since probably he was 10 years old; treated this guy like a son. So when you're talking....

Dave: The person who made the recording?

Mascia: Yes. When you're talking to someone in a private conversation, and you know, it's like you talking to your wife, she tapes you and plays it on the radio later. I had full trust in this individual for years. Like I said, and you know what, let's get down to one thing, okay. This guy is no altar boy. He didn't have a "come to Jesus" moment when this was recorded.

Dave: But, Joe, I think that one of the things that people have a problem with is the idea that if you say these words in private, that that is a bigger indication of your mindset and your heart than what you say in public. Because....

Mascia: Sure, sure.

Dave: Public people are aware of what they're saying in public and they'll put on a mask, as it were, to not necessarily be entirely honest with their points of view. But if you said it in private, people argue, hey, that's different.

Mascia: Well, you know, it's pretty good mask, that this hasn't come out in me for 47 years that I've been married to my wife, and my daughter's that's 43 years old that she's old she's never heard this word come out of me. That's a pretty good mask, and 9 years that I've been an elected official with the Housing Authority, and I mean, listen, we need to get to the bottom of this tape.

Dave: I want to ask you more about the mask. Hold on we will. We got to take a break. We'll go to calls in a minute. But Mayor Brown said "I don't think that those comments are out of character for this individual". He then went on to say "unfit for public office". A phrase a lot of people have used. How do you respond to that phrase - "unfit for public office"?

Mascia: Well, you know, when you're an objector to the Mayor of the City of Buffalo, you object to some of the things that happen in housing, you object to the patronage pit that's at the Housing Authority and Housing Authority is controlled by the Mayor and the Mayor has the five appointees, every person that gets hired there has to go through the Mayor's Office for approval, you know, I've put the target on my back, Dave. I have. I have because you know I've been outspoken. And you know what? Let's get rid of this guy and if you really want to know the truth this isn't the first time this has happened as far as...as far as you know trying to relieve me of my duties as commissioner. Ok? This has been going on for 6 years. It hasn't been publicized, you know...people...you know...when it comes to outrage about a word, I think people should be outraged about the millions of dollars in outside legal counsel that the Housing Authority spends, a cost overrun of five and half million dollars at Kensington Heights. These are tax payer dollars.

Dave: I get that you're upset about those things and I understand that you advocate for those things, but it sounds as if you're dismissing the severity of the "N" word.

Mascia: I'm not....when did I...when did I...hold...Dave. Let me say something.

Dave: Let me explain my remark.

Mascia: (laughing)

Dave: The outrage we should have is da ta da ta da is pretty much what you just said. And to my mind, that almost dismisses the amount of outrage that's being raised around the "N" word.

Mascia: Dave, since this was exposed, have I not accepted responsibility? I mean, you're trying to say to this studio, to this audience in the studio here that I haven't apologized enough.

Dave: No.

Mascia: Well, you know, Dave, what is the apology? You know, I mean I've done it. I've accepted it.

Dave: Here....go ahead.

Mascia: Let me finish. I want to take this as a moment that we need to do as a community to start an open dialog. Nobody wants to start an open dialog about the "N" word or racist. Everybody sort of walks away from it. You know, what did Joe Mascia do? He set race relations back 500 years. It's not true. You know. Ok. What we need to do now is talk about it. And it's an odd thing that people in the African community can take can accept that and say, you know, the guy's right. We need to start talking about it and not put it away.

Dave: Here's the point I was trying to make and I think it's an argument that's out there which is why I'm raising it. I try on this program often not have my own opinions but to try and please...put things on the table for the sake of discussion.

Mascia: Sure.

Dave: In your previous sentence, you said...you basically constructed a parallelism – we should have outrage about the situation at the BMHA, not just outrage about use of the "N" word, and I've talked to black civil rights leaders who have been involved in this struggle forever or just average African Americans who say that that parallel construction, that that comparative nature of we should be outraged about BMHA as much as outrage about the use of the "N" word to these people's expression that means that the "N" word to ...isn't a severe offense? Do you see the point that they raise?

Mascia: Sure, I see the point that they raise and I've been out there talking to them, you know...

Dave: But... so...are you trying to say that there is...are you trying to dismiss the outrage? Are you trying to say that outrage over the "N" word, ah, well that doesn't matter. We should be outraged about x, y, or z.

Mascia: Dave, if you listen to the comments that I've made about it, I haven't walked away from it. I'm not saying one is worse than the other or that Joe's trying to deflect this to make himself...I didn't say that. I haven't said that once, ok. What I want to bring to the people's attention is that there's a reason why this was made and they owe a full explanation in the future of the why, the how and the production and the distribution of something, okay? Alright. So, with that being said, I'm not trying to deflect anything. I haven't deflected anything from the word that I said. I haven't said oh this should be parallel to this because the BMHA is doing this or the Mayor is doing this or whoever is doing what. Listen. Just so you know, some things are always said in anger, ok, and I think we regret it after we say it because it's done in anger. About eight days before this tape was recorded – not released –

Dave: Got ya.

Mascia: Recorded.

Dave: Which was months before the release. I understand what you're saying.

Mascia: Ok. I had filed a lawsuit against the City, Mayor and the Common Council. And the lawsuit involved the reappointment of the five commissioners that the Mayor appoints. Five commissioners who I felt and I talked to the Mayor many times that we need to make a change. Things aren't happening. Things are going down. We need to make a change. The five appointees were reappointed. I was angry about it. I made some comments about it and sure when you're representing a group of people who are poor and don't have their own voice and here we go, the same people are coming back and expecting a different result, and it's not going to happen. So you know something is said in anger and it doesn't deflect from the word itself, and I've never said in all...I haven't walked away from anything, Dave. For the last week and half, every newspaper, every TV station, every radio station has approached me – Joe, would you come on and talk about this. Yes, but you know what? Let's do something productive, Dave. Let's not....listen....let's not crucify this guy because of a word he said. Let's use this word. In fact, me, I want to use this to open up a dialog about race. And I think I think that's what needs to happen.

Dave: And I think to that point, you have been accessible. We'll open it up for phone calls after this quick break. News cast on the other side, and then we'll be back with your calls for Joe Mascia straight ahead. It's Hardline on News Radio 930 WBEN.

Dave: It's Hardline on News Radio 930 WBEN. This is Dave Debow. Joe Mascia is here, running for the Fillmore District City Council. Of course you've heard his name in the news a lot caught on tape using the "N" word to describe some leaders of Buffalo city government; says he's not a racist; says he's staying in the race. By now, that story is probably stuff you're already aware of. Let's take some phone calls on it - 803-0930 is the number if you'd like to join the conversation as soon as you hear someone hang up, that's a good time to get in. He's here

for at least another twenty minutes. We'll try to squeeze in as many as we can. Let's start with Daryl in Niagara Falls. Go ahead. You're on the air.

Daryl in Niagara Falls: Yes, good morning. Thanks for taking my call.

Dave: Glad I could.

Daryl in Niagara Falls: Just...uh...I'd just like to preface my statement by saying that I think that everyone is afforded a degree of forgiveness and contrition. I'm not equipped to judge whether or not the apology is sincere or the contrition is sincere. However, there are various elements within the context of this happening that brings question into the equation. Let me just also say there is thin line between prejudice and racism. I heard at the beginning of the show when the both of you were talking about...

Dave: That is a great point. Elaborate. Define for me what you see as racism and define for me what you see as prejudice and then try to put Joe in column A or column B for me.

Daryl from Niagara Falls: Sure. Sure. When we look at racism, by definition, racism is not just solely based on an ideology. Racism is also practice and for an individual that is...that may harbor certain views that are prejudice or are racist views of another person based on their culture or ethnicity, their gender, their creed, what have you, if they're in position to impose various restraints or impact that person in any way, in my estimation, that's what makes it a racist situation.

Dave: So repeated prejudice with the power to propagate it – to continue doing it, that's racism.

Daryl from Niagara Falls: Yes.

Dave: Ok. Now, bring it home for me for Joe.

Daryl from Niagara Falls: So, what I think is...the... I can understand why the...some of the leaders, local leaders that were subject to Mr. Mascia's statements would feel that, you know, in their estimation, he would not be capable of leading out his duties as a public official because he would be in position to impose things based on his views.

Dave: But it sounds like you're adding an asterisk. In your opinion, he's okay to be in office?

Daryl from Niagara Falls: I don't think so. I think that, especially just looking at it within the context with the constituency he would represent that, if I were a part of that, that demographic there, I would not be comfortable with him, you know, having any level of oversight and let me just also say that, you know, I appreciate his willingness to make lemons into lemonade, it always seems that, you know, I'm sure he's not a stupid man, you know, I'm sure he's calculate the costs/benefits.

Dave: Daryl, we're talking as if he's not here in the room. Have a question for Joe or Joe, do you have a response for Daryl.

Mascia: Yeah. Hey, Daryl, and I can understand where you're coming from. Believe me. And I think, you know, some of the people that I have talked to of course, you're going to get different views and I think the more the conversation is...is...is...the dialog is opened and we talk about this in the manner in which it was done, I think that, you know, in time, people will understand that, you know, this comment, of course, inexcusable. I mean, it was made. There's no way I can take it back. You know, and a lot of things people say, I'm sure, you know, maybe other people have said things in the heat of the moment which they regret what was said and I mean this was said in a private conversation. Of course, there's no excuse for it. I'm not...I haven't deflected once from the responsibility or the word. But Daryl, when you look at a guy like me, okay, who's an average guy, a hardworking guy who worked in construction for fifty years, ok, blue collar, dirt under my fingernails, who represented people in housing for the last nine years, you know, I mean, sure. An inexcusable word but you know the people I've advocated for understand that you know just like I just said to Dave you can be a decent person and make a racist comment absolutely, and you know I think we need to put this in the total context of the situation and you know my outspokenness you know about the things that are happening to the people I represent. It's not pretty.

Dave: Daryl, thanks so much for joining us. Glad you could call. Call any time. Let's bring another call here. Joe, go ahead. You're on the air with Joe Mascia.

Joe (caller): Hey. Good morning.

Dave: Hi.

Joe (caller): So, I've listened to this whole thing on the radio over the past week or so since it happened. I've heard Mr. Mascia explain himself which I give him credit for and I'd just have to say that I have had a change of heart in that I no longer think that he's unfit to represent based on racism. I now think that he's unfit to represent based on total insanity because just listening to this man desperately try and hold onto basically hold onto his income is...I'm blown away.

Dave: He's shaking his head as you say it. Joe, jump in here.

Mascia: Yeah. Just so you know, Joe, and it's great having another Joe call in, you know, when I was...as a commissioner, okay, just so you know, I was at a meeting one day and one of the residents had said, geez, you know, Joe, boy, you're making the big bucks. I says, yeah I'm making the big bucks here. I says what do you think I make? He says probably between ten and fifteen thousand dollars a year you know, I don't know. I says well I make two thousand dollars a year as commissioner. Two thousand dollars a year, Joe. And you know what he told me? Why do you do this? Ok so anybody who thinks I'm hanging on because I'm making big money I mean is ridiculous and you know, when you talk about insanity, Joe, when you talk about insanity, everyone has bit of insanity. If I'm insane for trying to protect and advocate for the poor people and the people who need housing and the people that need jobs and the people that need employment and opportunity, I'm insane.

Dave: Alright, but Joe the caller, there's more to your point than just he's trying to hold onto his income. Go ahead.

Joe (caller): Because you can't seem to put your head around the idea is that you're basically saying now since you got caught and you know I'm sure this is the very first time you've ever used that word miraculously just caught on tape that particular time anyways you're basically saying who better to take care of all you "N" words than a guy like me who's a racist. That's what you're saying. And the fact that you don't see that I mean is you're comedy gold. Period. I don't have anything else to say besides good luck at election time or whatever.

Mascia: Thanks a lot Joe and you know what? You're absolutely right. September, people will decide.

Joe (caller): They've decided believe me. Good bye.

Dave: Don't you see the dichotomy there? I can call them this word but I still like them enough to support them to represent their views.

Mascia: Listen, let me say this, Dave. Is it...is it...is it an opportunity for me? Is it an opportunity for me to move forward? Is it an opportunity to say hey, let's open up this dialog? You know, I've had pastors and reverends of the Baptist ministry come up to me and quote bible studies about bible words and phrases about what's happened and you know, again I think that you know people are forgiving. I think that people can overlook a word, even though it's a word that's vile and say, you know what, this guy, look at what this guy's done over the past several years and my problem is, you know what my problem is Dave, I've stepped out of the box.

Dave: So...so again, not to repeat ourselves here, but you really reject the whole unfit argument. To you, the...the... nature of the offense is, I don't know, maybe superseded by all the good that you've done on behalf of the BMHA.

Mascia: Listen, no. Not the BMHA.

Dave: Okay.

Mascia: The residents.

Dave: Okay.

Mascia: Okay. Don't...let's not get them mixed up.

Dave: Right. On the housing issue, is what I should've said.

Mascia: Yeah. Listen, I've taken the responsibility. I've never said that, you know, that I shouldn't be this or I shouldn't be that but you know when you get people who live in housing that are calling me up the same week that this came out, okay, that are calling me for help because they don't know where to turn. You know. What am I supposed to do? Am I supposed

to say I can't help you because I said a nasty word or did they say Joe, I don't want your help because you said a nasty word?

Dave: Patrick in Buffalo, hi, you're on the air.

Patrick: Hello. Uh...you said a few times you wanted to open up the dialog on racial issues, so I'm going to give you a chance. Uh, first, a lot of people believe that there's reverse discrimination in the hiring of police and fire fighters. I know some Buffalo fire fighters won a lawsuit for reverse discrimination. I wanted to know what your opinion was on that and I also wanted to know, a lot of code words being used like white privilege. Do you have white privilege and do you...what are your feelings on that?

Mascia: Well, you know what. I've lived in the city all my life, okay. I've lived in a mixed community all my life. The place where I live is a mixed community with probably seventy-five percent of the people who live there are either Hispanic in origin or African American and I get along pretty good with those people. Now when you talk about the disparity when it comes to police and fire department, I believe everybody should have a right to have a job now. We do discriminate. Let's face it. This isn't coming from me. These are...these are evident analysis and things that have come from you know outside Buffalo when they talk about Buffalo being a racist city. Absolutely it's a racist city. Absolutely and when you talk about the equality in police and fire department, absolutely. You know what? I think we should have some Burmese police officers. We've got a community now of Somali Burmese that people who are actually afraid of the police department. Let's open it up to a lot of people.

Dave: But more specifically to Patrick's question, there has been a lawsuit or a decision saying that the fire department basically discriminated against whites – reverse discrimination – in some of their promotions. Do you agree with that ruling?

Mascia: What did I just say about discrimination? There's discrimination on both sides.

Dave: On both sides. Ok. I just wanted to be plain and make sure you were addressing

Mascia: Again...again I am in favor I am in favor of an opportunity for everyone to have a job, okay. I'm on a committee called a Section 3 committee with the Housing Authority. I've instituted policies to have the African American community get involved. I said I was in construction for fifty years. I happened to have a job that I loved, that I enjoyed and made money at and I'd like to see other people do the same thing. So I've talked to Spencer Ganskin several times with the Outsource Center in the Masten District. We just approved him as a Section 3 contractor. I'm out there fighting every day for the people who need to have a voice. They don't have a voice.

Dave: Jason, let's squeeze you in quickly before the break. Hi. You're on the air.

Jason: Hey. How are you guys?

Dave: Good.

Jason: I'm not at all condoning anything Joe said this or that but I'm a contractor. I'm all over Buffalo doing different jobs, and I got to tell you, I'm tired of everything being applied racism towards whites. There's a lot of lack of confidence in white people that I have to overcome when I first come into a community. I mean I end up impressing them with my work but guard is always up. There's definitely feelings of animosity because the color of my skin and I get lumped into you know being a person of anything whatever white privilege or this or that but I'm glad you take ownership of this word and I'm glad you want to lead a conversation but to lead a conversation, it has to be more than one side is apologetic I mean, real quick, ice cream, I offer, an ice cream truck comes by, I offer some little kids in the neighborhood, I'll buy them an ice cream if they can tell me who won the Revolution War, who we fought against and they said the white man, you know what I mean. There's a lot of animosity on the other side of the coin that needs to be addressed. If we're going to come together as a people, we need to address both sides of this and to drop the animosity. A disparaging word is a disparaging word.

Dave: What are your thoughts on the "N" word, Jason?

Jason: My thoughts on the "N" word? I mean it's obviously something I'm glad we've evolved from from a society. You got back to the Archie Bunkers days not that long ago, it was commonly thrown around during Joe's time growing up. My generation, I'm only thirty-nine. We don't use the word. It happens, but I do hear a lot of things that are derogatory towards white people when I'm in those areas and I just don't feel that it should be a one sided discussion. I think both sides need to take ownership and we've evolved quite far from where we've come from 30, 40 years ago and to continue that it now...you know, you have reverse racism brought up on some of the civil service things and things like that. I mean people should be judged on the content of their character and not the color of their skin and there shouldn't be awards given because of it because it only creates more animosity.

Dave: We are late for our break. Joe was nodding his head if this was television, you'd see that. By the way, we'd like to thank the TV cameras that did stop by. You might see a bit of this on Channel 2 news tonight. Also Channel 7. Joe, a quick comment before the break.

Mascia: Well, you know what? He's right. And the forums that we're going to put together and this is a, you know this is a continuing conversation. Not let's do it next week and then it's over. That's what I said. We need to bring both sides it and then let's open up an honest dialog that we can talk about the issues on both sides. It's not a one sided issue. It's both sides. Again if I'm the messenger, than I'm the messenger.

Dave: Alright. 803-0930 is the number. Two calls on hold. Enough time to squeeze a couple more in and Joe's agreed to stick a little bit after the newscast at the top of the hour to clear out some phone calls if you're on board for that. 803-0930 is the number. Joe Mascia is here, running for the City Council's Fillmore District after being caught on tape using the "N" word to describe some black leaders of the City of Buffalo. More to come. It's Hardline on News Radio 930 WBEN.

Dave: It's Hardline on News Radio 930 WBEN. A couple minutes left this hour with Joe Mascia and then we'll be taking more of your calls after the newsbreak. He has as you've probably heard, maybe once or twice, is the Fillmore District Council candidate who was caught on tape describing top city leaders, including Buffalo Mayor Brown with the "N" word. It's something he's apologized for, but it's something he also says it does not necessarily make him unfit for office. Right back to the phones we go. Wes in West Seneca, thanks for waiting. You're on the air now.

Wes: Dave, you are an absolute breath of fresh air. It's nice to hear a fair interview of this guy who I'm not a big fan of but you're very, very objective and a very good interview.

Dave: I...I think that's something I have to underline and kind of humbly say, that's my job here, to be Mr. Moderator, to not have opinions. Other talk shows are by design opinionated. You tune into Tom or Sandy because you want to hear their opinions. That's not my role, so I guess I'll take that as not so much a compliment to me but to the format of this particular program. Anyway, go ahead.

Wes: That's true. That's true but you do have that well-earned reputation for being fair and you have been fair. So nice that you didn't call him a liar. The Buffalo News is big on that-calling a liar even though they used deception when they asked him the question if the tape existed. They already knew that it did. It was very deceptive on their part. They're liars themselves.

Dave: If you think Joe is a liar, there's nothing I'm going to say on either side that is going to change that.

Wes: No. I know.

Dave: My audience can judge the guests. Go ahead with your question, though.

Wes: Very, very good. I just don't think... I do think that he should remain where he is. I don't think he should resign but I don't think he's fit to lead the conversation. I like that one caller you just had that asked him about basically affirmative action and white democrats always sidestep the issue just like he did because if you're white, there's no way you would say, yes please I'm for affirmative action, discriminate against me and my kids and my grandkids. Please put people that scored lower on the test ahead of them and ahead of me. I want them to get the job and not me and mine. That's just not true so I don't think he's honest. White people...

Dave: Alright, let's before the break, let's get him to react before we have to hold you over.

Mascia: Wes, how are ya? Just so you know, if you heard the whole...the whole comment by me, I think everybody should have an opportunity to have a job. When it comes to discrimination, of course there's discrimination. Everybody knows there's discrimination. When it's in the national news, you know, about Buffalo and discrimination and racism, of course. But you know what, everybody needs a fair shake. Now when you talk about I'm a white democrat, yeah. I'm a white democrat. I don't deny that. I mean, that's what I am. And I am under the impression that everybody needs a fair shake. Ok? Everybody needs to have a job.

You know, there's a disproportionate level of jobs all over and when you're in the African American community, like I am, you can see that happening. I mean you know, Dave, I don't know how to tell you this. I'm sorry, Wes, I don't know how to tell you this but God, people need jobs. You know, and I guess it's our job to see that people have the opportunity to get those jobs.

Dave: Hey Wes, we're late for the newscast. Do you need to hold over or are have we covered it?

Wes: I'd like to hold over and comment on what he just said.

Dave: Okay, we'll pop you on hold and we'll pick it up after this. More to come. It's Hardline on News Radio 930 WBEN.

Here's WBEN's Dave Debow

Dave: And what a week it is to talk politics. A couple of weeks for Joe Mascia. He's running for Fillmore City Council District and he was caught on tape using the "N" word and the redemption tour, Joe, I guess you could call it, continues. He's now saying that not only has he used the word more than once, but he also thinks it can be used to create some sort of dialog around race issues in Western New York and he rejects the argument that's been put forth by a lot of people saying just the use of the word disqualifies him; makes him unfit for office. 803-0930 is the number. Joe, you had a quick comment before we get back to the calls.

Mascia: Yeah. Wes, you know, and here's my problem, ok. And I understand what you're saying, you know, because you live in West Seneca but you know, if we can give someone an edge for an opportunity, I think that's what we're supposed to do as a community. I think what we need to do is worry about the violence that's going on on the East Side. The shootings on a daily basis, the crime in housing that hasn't been addressed because we don't have a police force that's adequately equipped to handle the problems that are in housing where...where...that's what bothers me. What bothers me is are we doing enough to help people who need a job. You know, there's an old saying if you want to stop a bullet, give somebody a job. And I think that's what we need to do. You know the crime isn't in West Seneca. You don't hear about a lot of shootings out there in West Seneca but you know what, on a daily basis, there's shooting happening in Buffalo, there's murders happening in Buffalo on the East Side and you know, that's my biggest concern. It's heartbreaking to me, Wes, when I get a phone call as a commissioner that some other kid has gotten shot that lives in housing. I mean, how does that make me feel? You know what? What we need to do is okay yeah it's a disparity and maybe we shouldn't do this and maybe we shouldn't do that but you know what? We need to help people and give them an opportunity, no matter what it is, to get them off the street and get them in a job.

Dave: Wes in West Seneca, you're still with us before the break. You were talking about reverse discrimination. Go ahead. Talk with Joe a little bit about this.

Wes: Okay. I just want to respond to just things he said. Number one, he said it twice now. Buffalo has not – has not – been proven to be a racist community.

Mascia: I didn't say that.

Wes: (inaudible) about being desegregated, that's it's one of the most segregate towns. It's not racist and it's...

Dave: I...I...I don't know when he said that and he's looking...he's looking into the microphone.

Mascia: What I said it's been proven that it's a racist community.

Wes: No, it's not. It's proving to be segregated; not racist.

Mascia: Ah. Ok.

Dave: Ok. I see what you're...ok.

Wes: And that is...and that is an absolute fact. You can look it up. There's no study to prove it's racist.

Dave: You're...

Wes: (inaudible) constantly saying it's segregated, and Joe, if you know anything about housing, and I have, I'm a retired Buffalo policeman, I don't need to understand how you feel when homicides happen. And I was in the housing unit. Buffalo is certainly equipped to handle any housing problems there are. I know. I've been in that unit. Number two, as far as giving someone an edge like you said, that edge is given to someone who's not as qualified as someone who is higher on the list than them, and you still will not address that and that's what the caller asked you about the reverse discrimination and an edge over people that scored higher on a list is discrimination just like that caller said. When you look at the housing, you look at these projects, many of those people, and I know, I'm from Ken-Lang. Everyone in my family, on my mother's and father's side is either from Kenfield or Langfield, you had to shoehorn us out of those projects and we're all white. Well, blacks are the same as whites – once you live somewhere, you want to live there, ok? And you have to do the same thing to those people right now living in those projects, you'd have to force them out just like we were forced out, ok? So, yes, it's segregated, but they chose to live there and they could live somewhere else, and if you try to force them to live somewhere else, they wouldn't want to, so it's not as though the white community is forcing them to live somewhere they don't want to live. And again, I just want to compliment Dave that you're not joining the Salem witch trials here, and I understand the format of the program and that's why...

Dave: That's it exactly. Let's try to squeeze in a couple more. Joe, quick comment on Wes.

Mascia: Yeah, Wes. Thanks a lot and I'm glad you were with the police unit but you're not in a police unit and I don't think you're in a police unit now that service is the Housing Authority which is two officers and two cars on a steady basis that basically give out parking tickets. So anyhow, you're...you're...you're right on about the people, but you know what, when you start raising rents on people, you're actually causing them to move. Now, I just had, at Marine Drive, they just tried to impose a forty-four percent increase on people's rent. Not approved, and we got it rolled back. Now what that tells me is now what are they trying to do at Marine Drive and Shore Line Apartments and some of these other apartments where minorities live? They're trying to raise rents to get people to move; to get other people to move in. Now, you know what? I'm against gentrification. I don't know how anybody else feels about it but you know, when you start doing certain things slowly to make people move because they can't afford to live there or rents are at a point where they can't even apply, we need to address it. And that's what I've been addressing.

Dave: Brian in Depew, thanks for waiting. You're on the air.

Brian: Hey. How are you doing guys?

Dave: Great.

Brian: Great show. I just wanted to tell you that I used to work at a major food plant in South Buffalo that closed and I would hear that word in the locker room – the “N” word – at least twenty times a day coming from other people that were not white, but as soon as a white person says it, it's a big issue and the way Joe came into this, I mean, Joe, you're like Cecil the Lion. You got baited into this.

(laughing)

Dave: Do you think his background or his upbringing or anything like that excuses the use of the word, Brian?

Brian: It's a word. Um...to be honest with you guys, I have a Puerto Rican wife and she has a big family and sometimes I say the racist things...um...out of anger or, you know, but it's taken you know I love them people and they know it's just a word.

Dave: Is it any different when a politician or someone running for office like Joe uses it versus the guy at I'm assuming Tyson Foods in the locker room?

Brian: I don't see what the difference is. It's like you say, reverse discrimination. I mean...I mean this guy has done everything. I know people that live at Marine Drive. You know, he's a good guy. He helps the people. I was a union steward for many, many, many years. I know what he's doing. It's a thankless job and sometimes people make, you know, they say something stupid.

Dave: Alright, let's try to squeeze in a couple more. John in Buffalo, thanks for waiting. Your turn now.

John: Yeah, I was concerned. They brought this up once in the news and it was never brought up again and I just would like him to elaborate on this. I mean I'm not going to beat all the other stuff to death like everybody else is but this thing is so conveniently-they apparently they recorded this guy months and months and months ago, then because he brought a lawsuit against the Mayor, all of a sudden, they brought out this tape. Isn't that ironic? Isn't that funny?

Dave: Is that the way it went down, Joe?

Mascia: Well, you know, when you look at the timeline, John, right? When you look at the timeline, John, you know, this tape was made in early March. Now, you know, two things have happened since then, alright. Nothing was said about it unless this guy had a "come to Jesus" moment and it comes out, you know, a week before petitions. Now, when you look at petitions, ok, because this is a public office, the tape was made and exposed when I could not actually use my committee of vacancies to put somebody else in office.

Dave: So, if we can continue with this Cecil the Lion metaphor, the trap was laid and you confess it's a trap, but Joe, you put your foot in it. You stepped in the trap.

Mascia: Well, I'm sure somebody steps in traps every day. I mean, you know, Dave, again, I'm not deflecting this. I'm not denying it. I've said the apologies and you know, it keeps coming back to the same thing. Joe, you stepped in the trap. Joe, you said the word. Joe, you did this. Joe, you did that. Absolutely but let's look at what John said. John brought an interesting point up. Now, why should we walk away from that point? You know, things will be coming out shortly about this timeline and the way it was done; the distributing of the tape, the production of the tape, why it was done, who did it and how much somebody was paid for it. So, you know what? I said the word but you're right, John. It was off...and I don't believe in coincidences, ok, and when this tape was released, it was not a coincidence. Not when it was made nine months ago or six month ago or whatever the timeline. Again, you know, it was made after I brought a lawsuit against the Common Council and the Mayor about his appointees.

Dave: Rick in Cheektowaga, quickly, you're the last one. Let's squeeze you in here.

Rick: Quickly. Thank you. Open dialog, um, I'm not going to cast dispersions or lay guilt. That's not my job. However, in the public eye (inaudible) it sounds to me, just listening, I want to open the dialog, I want to do that, got caught with your hand in the cookie jar and now it looks like you want to backpedal on that. Secondly, the comment earlier today saying Buffalo is a racist city, that's what prompted me to call. There may be racists in the city as well as in our country and around the world but to define our city as a racist city I think is very irresponsible and lacks the leadership we need in our community to move forward. That's my opinion. And lastly, Joe, I hope you listen to what callers are saying and instead of being defensive about it, take a little humility. Understand where the people are coming from and try to really internalize that and make a real responsible decision as far as where you really need to go with your candidacy because it's, in my opinion, is just...it's sad to hear what you are saying, what you are doing.

Dave: Alright. Enough time here Joe to quickly respond to that – it's sad what you're saying.

Mascia: Yeah, well, you know, John, I'm sorry, I didn't get his name, but anyhow, um, that's again, that's a great opinion and I accept your opinion just like others opinions have given me, you know, and sad? I think the sad thing is the treatment that the people are getting in housing. I think that's sad. I think it's sad that the people, the treatment that the people are getting in the city of Buffalo when it comes to the inequities and opportunity and millions, billion dollars...billion? Billion? Is that billion dollars going where it needs to go? You know, and that's my point. My point is we need to open up the dialog and everyone says oh you got caught with your hand in the cookie jar. Ok. You know, I said a word, a nasty word, vile. No excuse. Inexcusable. But you know what? When I say open up a dialog, is anybody else open up a dialog? I don't think so. Any of your elected officials want to come forward and say you know what? This guy's right. We need to talk about it. And when you say of Buffalo isn't racist, ok. Alright. Maybe it isn't racist. Segregated, ok. But there are people who are racist in the city of Buffalo. If I'm included in one of those people, you know, I'm sorry to say because I said the word, you know, maybe there's a little racist in all of us. Did anybody ever think about that? You know, so, when you say sad, I think it's sad what happens in the city of Buffalo and when someone steps forward and willing to take on the establishment and willing to help the people for the last nine years who need help, I think it's sad not for me to step up.

Dave: Joe, thanks for stopping by. Thanks for doing this. Joe Mascia, running for Fillmore District City Council. Again, caught on tape using the "N" word but defiant to some degree saying he'll press ahead with his candidacy despite many who say that in light of that, he's unfit for office. Joe, thanks for doing this.

Mascia: You're welcome.

Mayor's Exhibit 8



Community Action Organization of Erie County, Inc.

70 Harvard Place • Buffalo, New York 14209 • (716) 881-5150 • Fax (716) 881-2927

July 23, 2015

Dawn Sanders-Garrett, Executive Director
Buffalo Municipal Housing Authority
300 Perry Street
Buffalo, NY 14204

Dawn,

I don't know that I can adequately put into words the anger bitterness I feel toward what I have learned about one of your Commissioners, Joseph Mascia.

Over the past several years, I have met Mascia at community meetings. I took him to be a community-minded person representing the interests of BMHA, and of affordable housing overall.

As a consequence, during the CAO's annual dinner, June 10th, I spoke highly of Mascia from the dais, thinking I was being supportive of BMHA.

To find him to be so blatantly and consciously racist nearly emptied me. To learn that he has such a contemptuous attitude towards you and all members of our shared community turns my stomach. To find that such a person actually seeks to become the Fillmore District Councilperson, and continues to sit on the BMHA Board of Commissioners strains one's ability to believe.

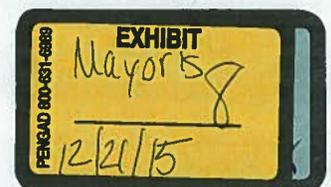
I do not know what, if any, role is appropriate for you to play in this matter. But, it begs the question whether someone like him can serve with any credibility on the BMHA Board.

I simply ask that my sentiments be made known to your Board of Commissioners at today's meeting.

Yours truly,

L. Nathan Hare
President/Chief Executive Officer

An Equal Opportunity Employer



Mayor's Exhibit 9

National Association for the Advancement of Colored People

FRANK B. MESIAH
President
Buffalo, New York Branch

Chartered 1915

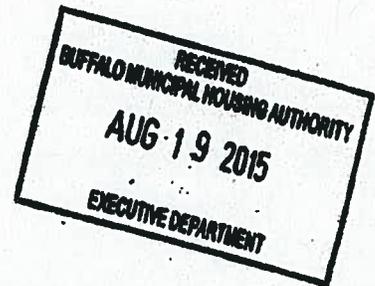


395 E. Ferry Street
Buffalo, New York 14208-1504

Phone (716) 884-7242
Fax (716) 884-7243

August 17, 2015

Michael Seaman, Chairman
BMHA Board of Commissioners
300 Perry Street
Buffalo, NY 14204



Dear Chairman Seaman;

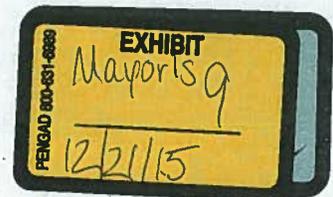
The Buffalo Branch NAACP thanks you for referring the Joe Mascia matter to the BMHA's Ethics Committee.

The Buffalo Branch NAACP strongly urges the BMHA Board of Commissioners to pursue every avenue to remove Joe Mascia from having any type of managerial position with the BMHA.

Finally, we would appreciate hearing of the findings and result(s) of the BMHA Ethics Committee relative to this matter.

Sincerely

Frank B. Mesiah
President



Mayor's Exhibit 11

At a Special Term, Part 21, of the Supreme Court of the State of New York, held in and for the County of Erie, at 25 Delaware Avenue, Buffalo, New York, on the 9th day of April, 2015, at 9:30 a.m.

Present: Hon. John F. O'Donnell, J.S.C.

**STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE**

JOSEPH MASCIA

Petitioner,

ORDER

vs.

Index No.: I 2015-000038

**COMMON COUNCIL OF THE CITY OF
BUFFALO, NEW YORK;**

**BYRON BROWN, MAYOR OF THE CITY
OF BUFFALO, NEW YORK**

Respondents.

**STATE OF NEW YORK)
COUNTY OF ERIE)
CITY OF BUFFALO)**

ss.

**FILED
ACTIONS & PROCEEDINGS**

JUN 05 2015

**ERIE COUNTY
CLERK'S OFFICE**

Respondents, above named, by their attorney, Timothy A. Ball, Esq., Corporation Counsel, and by John J. Hannibal, IV, M.D., J.D., of counsel, having duly moved for an Order pursuant to CPLR §§ 7804(f), 3211(a)(2), 3211(a)(3), 3211(a)(7), and 3211(c),

EXHIBIT
Mayor's
11
12/30/15 DD

dismissing the Petition in the above-titled action, and directing that summary judgment be entered in favor of the Respondents and against the Petitioner, upon the grounds that the cause of action fails to state a claim, and that the Petitioner has failed to establish standing and capacity – and such motion having regularly come on to be heard;

NOW, upon reading of the Petition of Joseph Mascia, sworn to on the 27th day of February, 2015; upon the Respondents' filed Notice of Motion to Dismiss the Petition; upon the Attorney Affirmation of John J. Hannibal, IV, in support of the Motion to Dismiss, sworn to on the 6th day of April, 2015, and the exhibits attached thereto; and upon all prior pleadings and proceedings had herein; and after hearing Joseph Mascia, *pro se*, in support of his Petition, and after hearing John J. Hannibal, IV, *of counsel*, for the Respondents in the above-titled action, in support of the Motion to Dismiss; and after due deliberation having been held thereon; it is

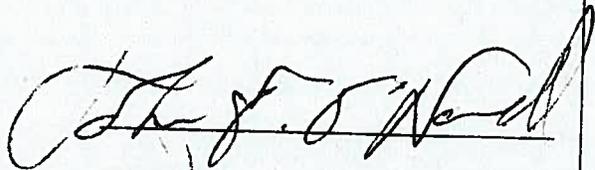
ORDERED, that Respondents' Motion to summarily dismiss the Petition is hereby in all respects granted in its entirety, and the Petition herein is hereby summarily dismissed in its entirety.

GRANTED: **GRANTED**

MAY 27 2015

BY 

ENTERED: JAMES A. KASPRZAK
COURT CLERK



Hon. John F. O'Donnell, J.S.C.

Clerk of the Court

Respondent's Exhibit B



Marine Drive Residents
Mr. Joseph Mascia, BMHA Commissioner
47 Marine Drive Suite 4 E
Buffalo, New York 14202

September 22, 2012

Buffalo Municipal Housing Authority
c/o Mr. Michael Seaman, Chairman
300 Perry Street
Buffalo, New York 14202

Dear Sir:

As you know, the properties at the above address (The Marine Drive Apartments) are now without an on-site manager. We are aware that there is an interim manager that has been given the duties at this site. However, as we understand, she (Ms Jodi Lombardo) will only be available at Marine Drive for approximately one or two days per week.

Unfortunately this is not conducive to good business practice for this site or for the quality of life for the residents that make their homes here. We, the residents of Marine Drive, also believe this constitutes willful neglect on the part of BMHA.

This is an opportune time to re-visit the idea of placing the tenant council and residents of this site back into a co-op run facility.

As you know, this was done successfully for 40 years. Additionally, the last several managers that were placed by BMHA at Marine Drive were, to say the least, unsuccessful. We require a full time manager who can effectively deal with the day-to-day activities here and work well with the council and tenants.

Sincerely,

Mr. Joseph Mascia, BMHA Commissioner

CC: Elizabeth Harris, Marine Drive Council President
Mr. William Travis, President Local 264, AFL-CIO
Mayor Byron Brown
Mr. Joseph Romanowski, DHCR
Mr. Joseph Makowski, Attorney at Law

Respondent's Exhibit C

12/28/15

Joe: _they ask is ,you know, what took me so long and I'm gonna tell him well ya know there was something a little suspicious about it when they were appointed and then when we started our research that's how long it took us to do our research and put this together.Well in case they ask.

Terry: inaudible

Joe: What

Terry: You're a freakin novice.

Joe: Yea

Terry: You're not an attorney.

Joe: right

Terry:You had to put it together.

Joe: right,

Terry: Uh, you know what I mean?

Joe: Yea, ok

Terry: It's not a question of it being a long time, for a guy that's uh, uh, putting together,

Joe: Yea

Terry: you know,

Joe: ok.

Terry: by himself, you know. _

Joe: yea

Terry: You got some help, uh putting the thing together but uh you don't have the money to pay five thousand dollars for an attorney.

Joe: oh I'm bringing, well I'm also bringing the letters with me that they say I have to pay \$581 for the for the FOIL request.

Terry:

Joe: No, no Luke (?) no no he'll get it this morning you know cause I dropped it off Saturday morning to the guard. And then I called Luke and let him know that it was there. So I should hear something this morning if they're going to go ahead and do it. Or, or if we just have to go over there and I look at the paperwork,which is ok, too. I think the thing is, Terry, with that is they want to see if everything adds up.



Ya know when you start adding everything up does it show that the 11 and a half million was spent. (Joe sneezes)

Terry:

Joe: you know what I mean?

Terry:

Joe: Kensington Heights, yea well you know between the legal fees and the contractors, you know, and the checks and everything to see what it adds up to (Joe sneezes) Excuse me, (sounds like the man in the car says bless you) Thanks. , because that is going to be interesting too. But listen, I went on the I went I didn't open it, I didn't have time to read it but I went on the office of special counsel website last night

Terry: Yea

Joe: They've got a um a department that you call about the protection of uh whistle blowers

Terry: Yea

Joe: yea so I didn't open it – I didn't read it – but it was pretty interesting that that's what they do, the office of general, the office of special counsel in Washington. So, I want to read it and see what it says. But uh

Terry:

Joe: yes yea yea they got a whole bunch of stuff. In fact even the political corruption which I'm going to send them a copy of this IG report. I'm going to send them a copy of the IG report so. I'm going to get a letter together for the office of general or special counsel. so.

Terry:

Joe: yea well it was just part of it. This is all part of it. Ya know. So, but I heard that, I didn't talk to Joe Raimonde today, but I had told I got a call from Paul Kiel and they told me that the uh HUD was coming in this whole week and looking at everything. So, we will see what happens.

Terry:

Joe: oh the police? Yea

Terry:

Joe: yea

Terry:

Joe: right

Terry: ... safety, etc.,etc. These guys ,you know, _____ now with you having um filed this thing, as soon as the word gets out that you're saying these guys don't even have the authority to approve contracts

Joe: Right.

Terry: uh, because they are sitting there illegally, that the board is sitting there illegally, they're gonna start fucking uh, uh rolling before you know it bro. I mean

Joe: yea

Terry: it's going to be uh, they're going to have to answer that. Can we even, can we even, uh, could we legally vote

Joe: yea, right

Terry: _____ city contract?

Joe: right

Terry: I, the answer is actually "no".

Joe: yea

Terry: These guys don't have, they are not appointed.

Joe: yea

Terry: The fact the fact that even _____ and Battle (?) did not have their regular thing, their regular terms. On October 28th, those guys appointed them to a brand new term

Joe: yea

Terry:- you know , a 5 year term -

Joe: yea

Terry: which was wrong,

Joe: right

Terry: you know so I don't know, so I don't know, it may even knock them out from their old term. Do you know what I am saying? _____

Joe: yea yea

Terry: Do they have any standing to claim _____

Joe: right

.....

Terry: I don't know to tell you the truth, the way they fucked it up

Joe: yea right

Terry: Uh, I dont even know if they have any authority to vote on anything.

Joe: yea

Terry:

Joe: right right

Terry:

Joe: yea well at least the article said I voted against the last police contract. Yea so

Terry:

Joe: yea, yep

Terry:

Joe: yea, right

Terry:

Joe: yea

Paul Christopher: What's up Terry Robinson?

Joe: Paul Christopher said Paul said to say hello

Terry:

Joe: ok alright like I said if you get that down or if I hear anything from anybody else today I'll call you and let you know. Ok?

Terry: Yea, YNN

Joe: yea yea oh yea absolutely at least that's the first one they called so ok alright cool

Terry: I'll be in touch.

Joe: alright bye

Hangs up

Joe: _YNN wants to do an interview with me today. Where you going?

Paul: 7 11

Joe: for what?

Paul: grab uh protein bar

Respondent's Exhibit E – 1

In Re:
JOSEPH MASCIA

Telephone Conversation
March 9, 2015



METSCHL
AND ASSOCIATES

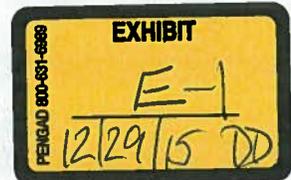
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1
2
3
4
5
6
7
8
9
10
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12
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In Re:

JOSEPH MASCIA

Transcript of excerpt of telephone conversation
between Joseph Mascia and Terry Robinson on March 9,
2015.

1 JOSEPH MASCIA: Ask is what took me so long
2 and I'm gonna tell them, well, you know, there was
3 something a little suspicious about it when they
4 were appointed and then when we started our
5 research, that's how long it took us to do our
6 research and put this together. Well, in case they
7 ask. What? Yeah. Right. Right.

8 TERRY ROBINSON: (Inaudible) you know what I
9 mean?

10 JOSEPH MASCIA: Yeah, okay.

11 TERRY ROBINSON: It's not a question of -- a
12 long time for a guy who's (inaudible).

13 JOSEPH MASCIA: Yeah, okay. Yeah.

14 TERRY ROBINSON: Got some -- got some help
15 putting it together. But, you know, you don't have
16 the money to pay five thousand dollars (inaudible).

17 JOSEPH MASCIA: Oh, I'm bringing -- well, I'm
18 also bringing the letters with me that I signed that
19 I gotta pay five hundred and eighty-one dollars for
20 the -- for the FOIA request. No, no, he'll get it
21 this morning, you know, 'cause I dropped it off
22 Saturday morning to the guard, and then I called
23 Luke and let him know that it was there, so I should

1 hear something this morning if they're gonna go
2 ahead and do it. Or, or if we just gotta go over
3 there and look at the paperwork, which is okay too.
4 I think the thing is -- I think the thing is, Terry,
5 with that is that they want to see if everything
6 adds up. You know, when you start adding everything
7 up, does it show that eleven and a half million was
8 spent -- (sneezes), you know what I mean?
9 Kensington Heights, yeah. Well, you know, between
10 the legal fees and the contractors, you know, and
11 the checks and everything, to see what it adds up
12 to. (Sneezes).

13 PAUL CHRISTOPHER: Hello.

14 JOSEPH MASCIA: Excuse me, 'cause that's --
15 thanks, that's gonna be interesting too. But
16 listen, I went on the -- I went on -- I didn't open
17 it last night, I didn't have time to read it but I
18 went on the Office of Special Counsel Web site last
19 night. They've got a department that you call about
20 the protection of whistleblowers. Yeah, so I didn't
21 open it, I didn't read it, but it was pretty
22 interesting. That that's what they do, the office
23 of general -- the Office of Special Counsel in

1 Washington. So I wanted to read and see what it
2 says, but -- yes, yeah. Yeah. They got a whole --
3 they got a whole bunch of stuff. In fact, even
4 political corruption, which I'm gonna send them a
5 copy of this IG report, I'm gonna send them a copy
6 of the IG report, so I'm gonna get a letter together
7 for the office of general -- of special counsel,
8 so -- yeah, well, this is part of it. This is all
9 part of it, you know. So -- but I heard that -- I
10 didn't talk to Joe Raymond today, but I had told --
11 I got a call from Paul Keela (phonetic). They told
12 me that HUD was coming in this whole week and
13 looking at everything, so we'll see what happens.
14 Oh, the police? Yeah. Yeah. Right.

15 TERRY ROBINSON: (Inaudible) filed as soon as
16 the word gets out but you're saying these guys don't
17 even have the authority to approve the contract.

18 JOSEPH MASCIA: Right.

19 TERRY ROBINSON: They're sitting there
20 illegally, and the board's sitting there illegally.

21 JOSEPH MASCIA: Yeah.

22 TERRY ROBINSON: (Inaudible) before you know
23 it, bro. I mean, it's gonna be -- they're gonna

1 have to answer that (inaudible) illegally vote.

2 JOSEPH MASCIA: Yeah, right.

3 TERRY ROBINSON: (Inaudible) defending their
4 contract.

5 JOSEPH MASCIA: Right.

6 TERRY ROBINSON: The answer is actually no.

7 JOSEPH MASCIA: Yeah. Yeah.

8 TERRY ROBINSON: The fact that (inaudible)
9 their regular meeting, their regular term, October
10 28th, those guys appointed them to a brand-new
11 term --

12 JOSEPH MASCIA: Yeah.

13 TERRY ROBINSON: -- a five-year term.

14 JOSEPH MASCIA: Yeah.

15 TERRY ROBINSON: Which was wrong.

16 JOSEPH MASCIA: Right.

17 TERRY ROBINSON: You know? So I don't
18 (inaudible) term, you know what I'm saying?

19 JOSEPH MASCIA: Yeah, yeah.

20 TERRY ROBINSON: Might have to be (inaudible).

21 JOSEPH MASCIA: Right.

22 TERRY ROBINSON: I don't know, to tell you the
23 truth, the way they talked it out.

1 JOSEPH MASCIA: Yeah, right. Yeah. Right,
2 right. Yeah. Well, at least the article said I
3 voted against the last police contract. Yeah, so --
4 yeah, yep. Yeah, right. Yeah.

5 PAUL CHRISTOPHER: What's up, Terry Robinson?

6 JOSEPH MASCIA: Paul Christopher said -- Paul
7 said to say hello. Okay. All right. Well, like I
8 said, if you get that done or if I hear anything
9 from anybody else today, I'll call you and let you
10 know, okay? Yeah, yeah. Oh, yeah, absolutely.
11 Yeah, at least that's the first one they called,
12 so -- okay. All right. Cool. All right. Bye.

13 TERRY ROBINSON: I'll be in touch.

14 JOSEPH MASCIA: Bye. YNN wants to do an
15 interview with me today. Where you going?

16 PAUL CHRISTOPHER: 7-Eleven.

17 JOSEPH MASCIA: For what?

18 PAUL CHRISTOPHER: I'm gonna grab a protein
19 bar.

20

21

22

23

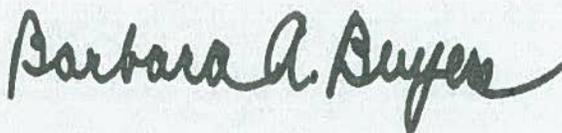
1 STATE OF NEW YORK
2 COUNTY OF ERIE

3 I, Barbara Buyers, a Notary Public in and for
4 the State of New York, do hereby certify:

5 That the witness whose testimony appears herein
6 before was, before the commencement of his
7 deposition, duly sworn to testify to the truth, the
8 whole truth and nothing but the truth; that such
9 testimony was taken pursuant to notice at the time
and place herein set forth; that said testimony was
taken down in shorthand by me and thereafter under
my supervision transcribed into the English
language, and I hereby certify the foregoing
testimony is a full, true and correct transcription
of the shorthand notes so taken.

10 I further certify that I am neither counsel for
11 nor related to any parties to said action, nor in
any way interested in the outcome thereof.

12 IN WITNESS WHEREOF, I have hereunto subscribed
13 my name this 28th day of December, 2015.

14
15
16 

17
18 Notary Public
19 State of New York

A	copy (2) 4:5,5 corruption (1) 4:4 Counsel (3) 3:18,23;4:7	guard (1) 2:22 guy (1) 2:12 guys (2) 4:16;5:10	least (2) 6:2,11 legal (1) 3:10 letter (1) 4:6	P
absolutely (1) 6:10 actually (1) 5:6 adding (1) 3:6 adds (2) 3:6,11 against (1) 6:3 ahead (1) 3:2 appointed (2) 2:4;5:10 approve (1) 4:17 article (1) 6:2 authority (1) 4:17	D defending (1) 5:3 department (1) 3:19 dollars (2) 2:16,19 done (1) 6:8 dropped (1) 2:21	H half (1) 3:7 happens (1) 4:13 hear (2) 3:1;6:8 heard (1) 4:9 Heights (1) 3:9 Hello (2) 3:13;6:7 help (1) 2:14 HUD (1) 4:12 hundred (1) 2:19	letters (1) 2:18 listen (1) 3:16 little (1) 2:3 long (3) 2:1,5,12 look (1) 3:3 looking (1) 4:13 Luke (1) 2:23	paperwork (1) 3:3 part (2) 4:8,9 PAUL (7) 3:13;4:11;6:5,6,6, 16,18 pay (2) 2:16,19 phonetic (1) 4:11 police (2) 4:14;6:3 political (1) 4:4 pretty (1) 3:21 protection (1) 3:20 protein (1) 6:18 put (1) 2:6 putting (1) 2:15
B bar (1) 6:19 board's (1) 4:20 brand-new (1) 5:10 bringing (2) 2:17,18 bro (1) 4:23 bunch (1) 4:3 Bye (2) 6:12,14	E eighty-one (1) 2:19 eleven (1) 3:7 else (1) 6:9 even (2) 4:3,17 Excuse (1) 3:14	I IG (2) 4:5,6 illegally (3) 4:20,20;5:1 Inaudible (10) 2:8,12,16;4:15,22; 5:1,3,8,18,20 interesting (2) 3:15,22 interview (1) 6:15	M MASCIA (19) 2:1,10,13,17;3:14; 4:18,21;5:2,5,7,12, 14,16,19,21;6:1,6,14, 17 mean (3) 2:9;3:8;4:23 meeting (1) 5:9 Might (1) 5:20 million (1) 3:7 money (1) 2:16 morning (3) 2:21,22;3:1	R Raymond (1) 4:10 read (3) 3:17,21;4:1 regular (2) 5:9,9 report (2) 4:5,6 request (1) 2:20 research (2) 2:5,6 Right (15) 2:7,7;4:14,18;5:2, 5,16,21;6:1,1,2,4,7, 12,12 ROBINSON (16) 2:8,11,14;4:15,19, 22;5:3,6,8,13,15,17, 20,22;6:5,13
C call (3) 3:19;4:11;6:9 called (2) 2:22;6:11 case (1) 2:6 cause (2) 2:21;3:14 checks (1) 3:11 CHRISTOPHER (5) 3:13;6:5,6,16,18 coming (1) 4:12 contract (3) 4:17;5:4;6:3 contractors (1) 3:10 Cool (1) 6:12	F fact (2) 4:3;5:8 fees (1) 3:10 filed (1) 4:15 first (1) 6:11 five (2) 2:16,19 five-year (1) 5:13 FOIA (1) 2:20	J Joe (1) 4:10 JOSEPH (19) 2:1,10,13,17;3:14; 4:18,21;5:2,5,7,12, 14,16,19,21;6:1,6,14, 17	N night (2) 3:17,19	S Saturday (1) 2:22 saying (2) 4:16;5:18 send (2) 4:4,5 show (1) 3:7 signed (1)
	G general (2) 3:23;4:7 gets (1) 4:16 gonna (9) 2:2;3:1,15;4:4,5,6, 23,23;6:18 gotta (2) 2:19;3:2 grab (1) 6:18	K Keela (1) 4:11 Kensington (1) 3:9	O October (1) 5:9 off (1) 2:21 Office (4) 3:18,22,23;4:7 one (1) 6:11 open (2) 3:16,21 out (2) 4:16;5:23 over (1) 3:2	
		L last (3) 3:17,18;6:3		

2:18 site (1) 3:18 sitting (2) 4:19,20 sneezes (2) 3:8,12 soon (1) 4:15 Special (3) 3:18,23;4:7 spent (1) 3:8 start (1) 3:6 started (1) 2:4 stuff (1) 4:3 suspicious (1) 2:3				
	W			
	wants (1) 6:14 Washington (1) 4:1 way (1) 5:23 Web (1) 3:18 week (1) 4:12 What's (1) 6:5 whistleblowers (1) 3:20 whole (3) 4:2,3,12 who's (1) 2:12 word (1) 4:16 wrong (1) 5:15			
T				
talk (1) 4:10 talked (1) 5:23 term (4) 5:9,11,13,18 TERRY (17) 2:8,11,14;3:4;4:15, 19,22;5:3,6,8,13,15, 17,20,22;6:5,13 thanks (1) 3:15 thousand (1) 2:16 today (3) 4:10;6:9,15 together (3) 2:6,15;4:6 told (2) 4:10,11 took (2) 2:1,5 touch (1) 6:13 truth (1) 5:23		Y		
	yep (1) 6:4 YNN (1) 6:14			
	2			
	28th (1) 5:10			
	7			
	7-Eleven (1) 6:16			
U				
up (4) 3:6,7,11;6:5				
V				
vote (1) 5:1 voted (1) 6:3				

Respondent's Exhibit E – 2

In Re:
JOSEPH MASCIA

Telephone Conversation (2)
March 9, 2015



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AND ASSOCIATES

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EXHIBIT
E-2

Page 1

1 _____
2 _____
3 In Re:
4 _____
5 JOSEPH MASCIA
6 _____
7 _____
8 Transcript of excerpt of telephone conversation
9 between Joseph Mascia and Paul Christopher on March
10 9, 2015.
11 _____
12 _____
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14 _____
15 _____
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17 _____
18 _____
19 _____
20 _____
21 _____
22 _____
23 _____

Page 3

1 resign. Tell him to save himself some face. Tell
2 him to save face because it's gonna get ugly and
3 he's better off leaving. If he's --
4 PAUL CHRISTOPHER: Taking them all down.
5 JOSEPH MASCIA: Taking them down, Schlotze
6 (phonetic), Don Barzini. Settle all the family
7 business today, Mike Seaman, Dawn Sanders. Oh, you
8 got to read -- you got to read --
9 PAUL CHRISTOPHER: Modesto?
10 JOSEPH MASCIA: Yeah, Modesto.
11 PAUL CHRISTOPHER: Stanley Fernandez?
12 JOSEPH MASCIA: Yeah.
13 PAUL CHRISTOPHER: What about the mayor?
14 JOSEPH MASCIA: He's part of it. They're his
15 appointees, they're all part of his crew.
16 PAUL CHRISTOPHER: What is he?
17 JOSEPH MASCIA: He's a fucken nigger.
18 PAUL CHRISTOPHER: What is he?
19 JOSEPH MASCIA: So who did you hear that from
20 about the mayor leaving in May?
21 PAUL CHRISTOPHER: Favez (phonetic).
22 JOSEPH MASCIA: Fuck does he know?
23 PAUL CHRISTOPHER: What is he?

Page 2

1 JOSEPH MASCIA: Wait'll it hits the papers
2 that I filed suit. I sent them a press release last
3 night. I filed suit against the five appointed
4 commissioners.
5 PAUL CHRISTOPHER: The matter with you?
6 JOSEPH MASCIA: Huh?
7 PAUL CHRISTOPHER: What's the matter with you?
8 JOSEPH MASCIA: Well, they were appointed
9 wrong. They were appointed and they were confirmed
10 by the -- by the Common Council without being --
11 without their due diligence and them vetting the
12 process. So fuck them too.
13 PAUL CHRISTOPHER: Get you for discrimination.
14 JOSEPH MASCIA: They can get me for whatever
15 they want.
16 PAUL CHRISTOPHER: That's why you're going
17 after Seaman?
18 JOSEPH MASCIA: Exactly, Seaman's first, so
19 they can't say it's discrimination. Can't wait till
20 Joel calls me again, 'cause I'm not calling him
21 back. He calls me I'm gonna tell him listen, do
22 your -- tell your -- tell your friend, he's your
23 friend and you can speak to him frankly, tell him to

Page 4

1 JOSEPH MASCIA: Him? He's a fucken camel
2 jockey.
3 PAUL CHRISTOPHER: What's Darius?
4 JOSEPH MASCIA: Oh, another nigger. Fucken
5 niggers.
6 PAUL CHRISTOPHER: What's Leonard Williams?
7 JOSEPH MASCIA: Nigger.
8 PAUL CHRISTOPHER: What's Mike Seaman?
9 JOSEPH MASCIA: Nigger. He's a wigger.
10 PAUL CHRISTOPHER: What's Dawn Sanders?
11 JOSEPH MASCIA: Oh, she's a fucken dumb
12 nigger.
13 PAUL CHRISTOPHER: What's she doing with --
14 what's she doing with the card?
15 JOSEPH MASCIA: See our girlfriend Crystal
16 Peoples and getting her girlfriend Collins as the
17 new chancellor? Bob Bennett is out. Them niggers
18 take over, man. Hey, Heastie says whatever Crystal
19 Peoples wants. So the fucken niggers, man, I told
20 you, once they get in power, forget about it.
21 Forget it. They want it all.
22 PAUL CHRISTOPHER: Bob, Dawn Sanders, Detroit.
23 JOSEPH MASCIA: Wait till my buddy Lou calls

Page 5

1 me this morning. I told ya the FBI wants to give me
2 the money, right?
3 PAUL CHRISTOPHER: What?
4 JOSEPH MASCIA: The FBI wants to give me the
5 money to get the -- yeah, to get the --
6 PAUL CHRISTOPHER: FOIA?
7 JOSEPH MASCIA: -- FOIA request.
8 PAUL CHRISTOPHER: Now, it's all the housing
9 authority papers?
10 JOSEPH MASCIA: Yeah, but Micky told me, he
11 says --
12 PAUL CHRISTOPHER: Where's the CD you had?
13 JOSEPH MASCIA: Oh, I forgot to ask Terry if
14 he read -- if he heard it. The -- Micky told me
15 yesterday, he says Joe, you don't have to pay for
16 it, you're an elected official. He says, we don't
17 have -- he says, the FOIA request that I asked, I
18 don't have to pay for it. He says, you better
19 check, he says, I don't think you gotta pay.
20 PAUL CHRISTOPHER: You don't have to pay. You
21 said the FBI, Luke.
22 JOSEPH MASCIA: No, they don't have to pay
23 anything.

Page 6

1 PAUL CHRISTOPHER: Luke don't want them.
2 JOSEPH MASCIA: I love it.
3 PAUL CHRISTOPHER: How do you got -- you got
4 to file the state.
5 JOSEPH MASCIA: Yeah, I'm gonna file an ethics
6 charge against Seaman with the state and I just told
7 Terry, the OG -- Office of Special Counsel, they
8 have a rule, a law against whistleblowers. I can't
9 get it up on my --
10 PAUL CHRISTOPHER: What about your meeting?
11 You gotta meet with your -- with your buddy?
12 JOSEPH MASCIA: Who?
13 PAUL CHRISTOPHER: Joel.
14 JOSEPH MASCIA: I said I'm not gonna --
15 PAUL CHRISTOPHER: Joel Giambra.
16 JOSEPH MASCIA: Fuck him.
17 PAUL CHRISTOPHER: I know, like you're gonna
18 wear a wire.
19 JOSEPH MASCIA: I just wanted to see one time,
20 the mayor.
21 PAUL CHRISTOPHER: You gonna wear a wire.
22 What are they, all of them?
23 JOSEPH MASCIA: Yeah. What?

Page 7

1 PAUL CHRISTOPHER: Family business.
2 JOSEPH MASCIA: Office of Special Counsel.
3 PAUL CHRISTOPHER: Now, what is Dawn Sanders
4 doing with the -- how do you know she's using the --
5 BMHA, they got credit cards?
6 JOSEPH MASCIA: Yeah.
7 PAUL CHRISTOPHER: What's she doing in
8 Detroit?
9 JOSEPH MASCIA: That's what he wants to know.
10 PAUL CHRISTOPHER: What does Stanley Fernandez
11 do?
12 JOSEPH MASCIA: Oh, he's another one. He's
13 going down. His only appointment was to go there
14 and -- and rebuke everything that I say. That's all
15 he's there for. He's their pit bull. He's there
16 just to get -- just to get at me.
17 PAUL CHRISTOPHER: Stanley?
18 JOSEPH MASCIA: Yeah, of course. Here,
19 federal whistleblower rights protection.
20 PAUL CHRISTOPHER: Is Ron Brown still on the
21 board?
22 JOSEPH MASCIA: No, they took him off too.
23 PAUL CHRISTOPHER: He's got nothing to do with

Page 8

1 the housing authority now?
2 JOSEPH MASCIA: No.
3 PAUL CHRISTOPHER: Why?
4 JOSEPH MASCIA: 'Cause he started asking too
5 many questions too.
6 PAUL CHRISTOPHER: I wonder if Andy ever did
7 his concrete. Andy ever do his concrete?
8 JOSEPH MASCIA: No, I don't think so.
9 PAUL CHRISTOPHER: Who did you say did
10 Seaman's?
11 JOSEPH MASCIA: Eddie Molatol (phonetic).
12 PAUL CHRISTOPHER: I thought you said Destro.
13 JOSEPH MASCIA: Destro did it, got Carmen
14 Zagarrio. So that's -- that's another issue.
15 PAUL CHRISTOPHER: Why, they do work for the
16 city?
17 JOSEPH MASCIA: Yeah, yeah. They do pavement
18 work for the city.
19 PAUL CHRISTOPHER: All the family business,
20 Cooneo (phonetic).
21 JOSEPH MASCIA: Cooneo.
22 PAUL CHRISTOPHER: Seaman might give you a
23 slap.

1 JOSEPH MASCIA: Oh, yeah.
2 PAUL CHRISTOPHER: What would you do?
3 JOSEPH MASCIA: Fall right down, break my
4 glasses, call the cops.
5 PAUL CHRISTOPHER: Punch him in the heart?
6 JOSEPH MASCIA: No, no. We want to --
7 PAUL CHRISTOPHER: Whatever happened to that
8 guy at the housing that pushed you, at your
9 building?
10 JOSEPH MASCIA: Oh, that's still in -- that's
11 waiting to go to court.
12 PAUL CHRISTOPHER: That was, I was gonna say
13 Leonard Williams. What was his name?
14 JOSEPH MASCIA: Henry Littles.
15 PAUL CHRISTOPHER: Henry Littles. Did you
16 look it up?
17 JOSEPH MASCIA: It won't come on. There's a
18 guy that talks and it won't come up. See if I
19 can --
20
21
22
23

1 STATE OF NEW YORK
2 COUNTY OF ERIE
3 I, Barbara Buyers, a Notary Public in and for
4 the State of New York, do hereby certify:
5 That the witness whose testimony appears herein
6 before was, before the commencement of his
7 deposition, duly sworn to testify to the truth, the
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15 of the shorthand notes so taken.
16 I further certify that I am neither counsel for
17 nor related to any parties to said action, nor in
18 any way interested in the outcome thereof.
19 IN WITNESS WHEREOF, I have hereunto subscribed
20 my name this 28th day of December, 2015.
21
22
23

Barbara A. Buyers
Notary Public
State of New York

A	Carmen (1) 8:13	discrimination (2) 2:13,19	Giambra (1) 6:15	last (1) 2:2
again (1) 2:20	cause (2) 2:20;8:4	Don (1) 3:6	girlfriend (2) 4:15,16	law (1) 6:8
against (3) 2:3;6:6,8	CD (1) 5:12	down (4) 3:4,5;7:13;9:3	glasses (1) 9:4	leaving (2) 3:3,20
Andy (2) 8:6,7	chancellor (1) 4:17	due (1) 2:11	gonna (7) 2:21;3:2;6:5,14,17, 21;9:12	Leonard (2) 4:6;9:13
appointed (3) 2:3,8,9	charge (1) 6:6	dumb (1) 4:11	gotta (2) 5:19;6:11	listen (1) 2:21
appointees (1) 3:15	check (1) 5:19	E	guy (2) 9:8,18	Littles (2) 9:14,15
appointment (1) 7:13	CHRISTOPHER (49) 2:5,7,13,16;3:4,9,11, 13,16,18,21,23;4:3,6,8, 10,13,22;5:3,6,8,12,20; 6:1,3,10,13,15,17,21; 7:1,3,7,10,17,20,23; 8:3,6,9,12,15,19,22; 9:2,5,7,12,15	Eddie (1) 8:11	H	look (1) 9:16
B	city (2) 8:16,18	elected (1) 5:16	happened (1) 9:7	Lou (1) 4:23
Barzini (1) 3:6	Collins (1) 4:16	ethics (1) 6:5	hear (1) 3:19	love (1) 6:2
Bennett (1) 4:17	commissioners (1) 2:4	Exactly (1) 2:18	heard (1) 5:14	M
better (2) 3:3;5:18	Common (1) 2:10	F	heart (1) 9:5	man (2) 4:18,19
BMHA (1) 7:5	concrete (2) 8:7,7	face (2) 3:1,2	Heastie (1) 4:18	many (1) 8:5
board (1) 7:21	confirmed (1) 2:9	Fall (1) 9:3	Henry (2) 9:14,15	MASCIA (50) 2:1,6,8,14,18;3:5,10, 12,14,17,19,22;4:1,4,7, 9,11,15,23;5:4,7,10,13, 22;6:2,5,12,14,16,19, 23;7:2,6,9,12,18,22; 8:2,4,8,11,13,17,21; 9:1,3,6,10,14,17
Bob (2) 4:17,22	Cooneo (2) 8:20,21	family (3) 3:6;7:1;8:19	Hey (1) 4:18	matter (2) 2:5,7
break (1) 9:3	cops (1) 9:4	Fayez (1) 3:21	himself (1) 3:1	May (1) 3:20
Brown (1) 7:20	Council (1) 2:10	FBI (3) 5:1,4,21	hits (1) 2:1	mayor (3) 3:13,20;6:20
buddy (2) 4:23;6:11	Counsel (2) 6:7;7:2	federal (1) 7:19	housing (3) 5:8;8:1;9:8	meet (1) 6:11
building (1) 9:9	course (1) 7:18	Fernandez (2) 3:11;7:10	Huh (1) 2:6	meeting (1) 6:10
bull (1) 7:15	court (1) 9:11	file (2) 6:4,5	I	Mick (2) 5:10,14
business (3) 3:7;7:1;8:19	credit (1) 7:5	filed (2) 2:2,3	issue (1) 8:14	might (1) 8:22
C	crew (1) 3:15	first (1) 2:18	J	Mike (2) 3:7;4:8
call (1) 9:4	Crystal (2) 4:15,18	five (1) 2:3	jockey (1) 4:2	Modesto (2) 3:9,10
calling (1) 2:20	D	FOIA (3) 5:6,7,17	Joe (1) 5:15	Molatul (1) 8:11
calls (3) 2:20,21;4:23	Darius (1) 4:3	forget (2) 4:20,21	Joel (3) 2:20;6:13,15	money (2) 5:2,5
camel (1) 4:1	Dawn (4) 3:7;4:10,22;7:3	forgot (1) 5:13	JOSEPH (50) 2:1,6,8,14,18;3:5,10, 12,14,17,19,22;4:1,4,7, 9,11,15,23;5:4,7,10,13, 22;6:2,5,12,14,16,19, 23;7:2,6,9,12,18,22; 8:2,4,8,11,13,17,21; 9:1,3,6,10,14,17	morning (1) 5:1
can (3) 2:14,23;9:19	Destro (2) 8:12,13	frankly (1) 2:23	L	N
card (1) 4:14	Detroit (2) 4:22;7:8	friend (2) 2:22,23	fucked (5) 3:17;4:1,4,11,19	name (1)
cards (1) 7:5	diligence (1) 2:11	G		

<p>9:13 new (1) 4:17 nigger (5) 3:17;4:4,7,9,12 niggers (3) 4:5,17,19 night (1) 2:3</p>	<p>Punch (1) 9:5 pushed (1) 9:8</p>	<p>9:18 Terry (2) 5:13;6:7 thought (1) 8:12 till (2) 2:19;4:23 today (1) 3:7 told (5) 4:19;5:1,10,14;6:6 took (1) 7:22</p>	<p>Y</p> <p>ya (1) 5:1 yesterday (1) 5:15</p>
<p>O</p>	<p>R</p>	<p>U</p>	<p>Z</p>
<p>off (2) 3:3;7:22 Office (2) 6:7;7:2 official (1) 5:16 OG (1) 6:7 once (1) 4:20 one (2) 6:19;7:12 only (1) 7:13 out (1) 4:17 over (1) 4:18</p>	<p>read (3) 3:8,8;5:14 rebuke (1) 7:14 release (1) 2:2 request (2) 5:7,17 resign (1) 3:1 right (2) 5:2;9:3 rights (1) 7:19 Ron (1) 7:20 rule (1) 6:8</p>	<p>ugly (1) 3:2 up (3) 6:9;9:16,18 using (1) 7:4</p>	<p>Zagarrio (1) 8:14</p>
<p>P</p>	<p>S</p>	<p>V</p>	<p>W</p>
<p>papers (2) 2:1;5:9 part (2) 3:14,15 PAUL (49) 2:5,7,13,16;3:4,9,11, 13,16,18,21,23;4:3,6,8, 10,13,22;5:3,6,8,12,20; 6:1,3,10,13,15,17,21; 7:1,3,7,10,17,20,23; 8:3,6,9,12,15,19,22; 9:2,5,7,12,15 pavement (1) 8:17 pay (5) 5:15,18,19,20,22 Peoples (2) 4:16,19 phonetic (4) 3:6,21;8:11,20 pit (1) 7:15 power (1) 4:20 press (1) 2:2 process (1) 2:12 protection (1) 7:19</p>	<p>Sanders (4) 3:7;4:10,22;7:3 save (2) 3:1,2 Schlotze (1) 3:5 Seaman (5) 2:17;3:7;4:8;6:6; 8:22 Seaman's (2) 2:18;8:10 sent (1) 2:2 Settle (1) 3:6 slap (1) 8:23 speak (1) 2:23 Special (2) 6:7;7:2 Stanley (3) 3:11;7:10,17 started (1) 8:4 state (2) 6:4,6 still (2) 7:20;9:10 suit (2) 2:2,3</p>	<p>vetting (1) 2:11</p> <p>wait (2) 2:19;4:23 waiting (1) 9:11 Wait'll (1) 2:1 wants (4) 4:19;5:1,4;7:9 wear (2) 6:18,21 What's (8) 2:7;4:3,6,8,10,13,14; 7:7 Where's (1) 5:12 whistleblower (1) 7:19 whistleblowers (1) 6:8 wigger (1) 4:9 Williams (2) 4:6;9:13 wire (2) 6:18,21 without (2) 2:10,11 wonder (1) 8:6 work (2) 8:15,18 wrong (1) 2:9</p>	
	<p>T</p>		
	<p>talks (1)</p>		

Respondent's Exhibit F

Buffalo Municipal Housing Authority
Attn: Chairman Michael Seaman
300 Perry St.
Buffalo, N.Y. 14204



February 25, 2015

Chairman Seaman,

Your behavior at the Thursday February 19, 2015 Board of Commissioner meeting was disgraceful and disrespectful to the two Elected Resident Commissioners.

Your actions displayed in front of the news media and the general public in an open committee meeting shows your arrogance and disrespect for all the members of the Board and the title of your position as Chairman of the Buffalo Municipal Housing Authority. Roberts Rules of Order, rules of the Buffalo Municipal Housing Authority and Public Authorities in general law forbids admonishment, intimidation or censorship by any of its members. Roberts Rules and Cushing Rules clearly state that if a Chair wishes to make a statement or debate you must relinquish the chair which, in this case, you did not do. The Chairman's major responsibility is to conduct a meeting in a fair and an impartial manner, keep order and make sure every member respects each other which, again, in this case you did not do.

To admonish and insinuate that Commissioner Martinez and I as residents should have to ask your permission to speak on housing authority matters that are of concern to the residents would appear to our residents to lack transparency on the part of their elected commissioners. We have never spoken publicly on the behalf of the BMHA but we have and will continue to speak about the BMHA in an effort to correct their wrongs and to improve the living conditions of all the residents of public housing because that is what we were elected to do and what we must do. Your actions as Chairman of the Buffalo Municipal Housing Authority violates our First Amendment Right of Free Speech guaranteed under the Constitution of the United States of America as residents of housing and citizens.

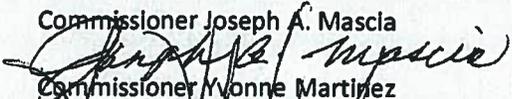
You have abused your authority as Chairman and then had the audacity to boast about it to the general public outside of the Authority in an egregious display of absolute arrogance.

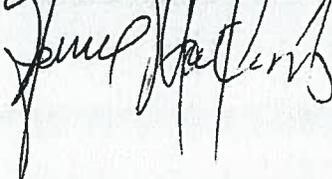
This is not the first time you have displayed this arrogance against me and other Elected Commissioners. I am speaking with counsel to research this matter and may bring further action against you and any commissioners collaborating with you to censor the voices of the residents.

I would hope that you would consider the good and welfare of Public Housing and spare further embarrassment to your fellow commissioners by submitting your resignation.

Respectfully,

Commissioner Joseph A. Mascia


Commissioner Yvonne Martinez



cc:

Honorable Mayor Byron Brown
Commissioner Donna Brown
Commissioner Hal D. Payne
Commissioner Alan Core
Commissioner Stanley Fernandez
Sam Smith, President Jurisdiction Wide Resident Council

Buffalo Common Council President Darius G. Pridgen
Councilman Richard A. Fontana
Councilman David Rivera
Councilman Michael LoCurto
Councilman David Franczyk
Councilman Rasheed Wyatt
Councilman Demone A. Smith
Councilman Christopher Scanlon
Councilman Joseph Golombek Jr.

City Desk Buffalo News
Rod Watson Associate Editor Buffalo News
Jeff Woodard WGRZ Channel 2
Sue Mullen WIBV Channel 4
News Director WKBW Channel 7
News Director YNN
Geoff Kelly Daily Public

Respondent's Exhibit G

Joseph A. Mascia
47 Marine Drive Apt. 4E
Buffalo, N.Y. 14202



May 1, 2015

Congressman Brian Higgins
736 Exchange St. Ste.601
Buffalo, N.Y. 14210

Congressman Higgins,

I am writing this letter to make you aware of a situation that is of great concern to the residents of the Marine Drive Apartments and that will very soon become a concern to the guests that will be coming to the waterfront this summer and fall. The Buffalo Municipal Housing Authority has discontinued the security patrol at Marine Drive during the hours of midnight through 4 P.M. Monday through Sunday. This lack of security has led to an increase in late night and daytime crime including drug trafficking in and around the Marine Drive property. It appears that the increase in activity that comes with the events surrounding the waterfront will increase the need for security not only in the event itself but also in the surrounding areas. Apparently it is becoming well known that this type of activity is going on and rest assured that the upcoming events will bring in "event guests" that will be looking for "this type of entertainment". This will undoubtedly spill over into the waterfront events. It is to everyone's best interest to deter this type of activity before it gets out of hand and places the waterfront events in jeopardy.

Let me assure you, it is not the residents of Marine Drive that are causing this activity but the lack of security that we all have been asking to be restored. We have families, elderly and disabled people living here and we do not want to see this type of activity being allowed here. The residents do not want to be associated with this type of activity and are asking for your help. The fault lies with the BMHA and their lack of concern for the residents and the people of WNY.

These activities, of course, are not well publicized so as not to discourage people from coming to the waterfront. Eventually, when enough people are harmed by these crimes, it will be difficult to ignore. Therefore, I am asking for your assistance, on behalf of the Marine Drive residents and the citizens of WNY that will be attending the waterfront events, that you use your influence with the BMHA and encourage them to restore and perhaps increase their security during the summer and fall months to maintain a safe and secure environment for all of the citizens who live in the area and who will be attending the waterfront events.

We would hope that you would be pro-active instead of re-active regarding this matter and do whatever you can for the good of all concerned. Thank you in advance for your assistance.

Respectfully,

Joe Mascia

cc: Mayor Byron Brown
Robert Gioia
Thomas Dee
Sam Hoyt