



MID CITY WEST COMMUNITY COUNCIL

543 N. Fairfax Avenue, Suite 106 Los Angeles CA 90036  
323-651-3512 [www.midcitywest.org](http://www.midcitywest.org)

Beverly Center • Beverly Grove • Burton Way • Carthay Circle • Fairfax District • Melrose • Miracle Mile • Park La Brea

---

## Bylaws/Grievance Committee

### Minutes

Thursday, August 19, 2010 (7:00 p.m.)

543 N. Fairfax Avenue, Suite 106  
Los Angeles CA 90036

- 1. Call to Order; Roll Call** – Call to order 7:06 p.m.. All Committee members present: Chair, Charles Lindenblatt, Tom Eisenhauer, Billy Baughman and Bob Abrahams. Committee member Eisenhauer recused from consideration of item #5.
- 2. Approval of Minutes of 08/09/10 Meeting** – Bob Abrahams moved passage of the minutes; Billy Baughman seconded. Minutes were approved on a 4-0 vote.
- 3. Public Comment Period** – There was no public comment.
- 4. Chairman's Report** – The Chair thanked the Committee for their assistance with putting together the meeting. He said the Committee takes Grievances seriously, and said that he will make every effort to be fair and impartial in the course of consideration of matters.
- 5. Hearing, in accordance with MCWCC grievance procedure prescribed by MCWCC Bylaws Article V., Section 10e., of grievance filed August 2, 2010 by Mr. Yuval Kremer alleging violations of The Plan for a Citywide System of Neighborhood Councils' Article II, Section 2 (Statement of Non-Discrimination) and Section 3 (Transparent and Open Operations), and of the MCWCC Bylaws, Article I, Section 4 (Statement of Non-Discrimination). Grievant: Mr. Yuval Kremer. Respondent: Mr. Thomas "Tom" Eisenhauer.**

---

The grievance was with regard to the Respondent's actions relating to the appointment of members to the Land Use Committee (now called Planning and Land Use Committee) by the Executive Council at their July 20, 2010 meeting. The hearing proceeded according to the following structure:

NOTE: Some of the minutes in this section may include implicit references to the written Grievance and Response. Should they be needed for context, copies of these are available on request.

**A. Public Comment for the Grievant** - There was no public comment for the Grievant.

**B. Presentation by the Grievant – Mr. Kremer spoke about his Grievance:**

- He noted that "Transparent Operations" refers to the conduct being not fair and not open or transparent; and that the "Statement of Nondiscrimination" relates specifically to gender.
- He spoke about whether the "certified neighborhood councils" language in the Plan can refer to the respondent as an individual. He argued that it still means Board members of the Neighborhood Council, because it is mentioned that way in our Bylaws. With regard to fairness, he asked was it fair? He says no.
- On the matter of gender, he spoke about comparing his mother not to Dr. Seamans, but to every male that was put on the committee.
- Again on the issue of fairness, he spoke about the questionnaires not being used as they said they would used, and that there was no proof that any of the people were qualified.

- On the issue of openness, he spoke about the respondent not explaining how he switched names in the motion; that there was no openness or transparency. He also submitted documents related to the questionnaire and minutes.

**C. Public Comment for the Respondent** - There was no public comment for the Respondent.

**D. Presentation by the Respondent – Mr. Eisenhower spoke in response to the Grievance:**

- He spoke about not seeing the referenced questionnaire as being required, and that the email presented from the Land Use Committee (now Planning & Land Use Committee) Chair, Michael Barba, does not say that questionnaire was required
- He mentioned that the MCWCC Executive Council exercised its own authority and appointed 13 people to the Land Use Committee; that it was a difficult, long process; and that it also increased diversity of the committee.
- Respondent also spoke about it being unclear why he is the target of complaint; that the motion was made and seconded. He spoke about the complaint being based on the grievant's impression that discrimination had occurred; that it was not evidence that discrimination had occurred; that there was no evidence of discrimination, or even enough there to allege it.
- He spoke about the complaint being generally based on a misunderstanding or mischaracterization of the process, and that the argument was based on the erroneous argument that the Chair can appoint all on a committee, except for one, but that he (Mr. Eisenhower) was personally responsible for the one who wasn't.
- It was also noted that the Executive Council consulted with the Chair, over the course of three meetings, etc. It was noted that the grievance asserted that the Executive Council had a will that was different from how it voted, and that the Executive Council was hoodwinked. Respondent spoke about how this is illogical, that the Council's preferences are expressed in their votes.
- Finally, he spoke about Article II, Section 3 of the Plan discuss about how certified Neighborhood Councils shall adopt fair and open procedures, but also spoke about how it doesn't say how the Neighborhood Councils should act, but just adopt, and the Executive Council did adopt fair and open procedures, and they were followed, with three open meetings; the process was followed, chairs were consulted, etc.

**E. Committee Questions –**

**Questions from Committee member Bob Abrahams:**

- Request for clarification of the sections of the NC Plan being discussed: Article II, Sections 2 and 3.
- Asked the Grievant regarding the questionnaire being required. Grievant spoke about one part noting it as voluntary, and another as mandatory.
- Asked for further clarification on this matter. Grievant referred to "Committee will be using the information.." and, in the questionnaire, "you need not answer all of the questions."
- Asked the Grievant how not appointing Ms. Kremer is discrimination at all, related to bylaws? Grievant said to compare her qualifications to the men who were selected.
- Asked the Grievant about how the sentence "certified Neighborhood Councils shall adopt fair and open procedures for the conduct of their business." applies. Grievant said that "Neighborhood Councils" includes committees of the Council.
- Asked the Grievant if he believed that the Executive Committee had adopted fair and open procedures. Grievant replied that they did not. It was not open, in that no explanation why Ms. Kremer was excluded. It was not fair as to the whole process was not fair. There was no going through why nine appointees would get a "pass," two were appointed due to the "noise they made," and another two withdrew. That was the conversation – they didn't go through them, or why they did what they did

**Questions from Committee member Billy Baughman:**

- Asked the Grievant, whether he believed Ms. Kremer is the only applicant who had a problem. Grievant said that the process was also not fair to Mr. Tomaszewski.
- Asked the Grievant to confirm that he was not at every meeting related to appointments to the Committee. Grievant said he was not but had followed the developments through the minutes.
- Asked the Grievant whether he believed that a Committee member has to explain why he or she voted a certain way. Grievant said that in this situation, one should indicate why they selected the other person, and be sure it's a fair process to everyone.
- Asked the Grievant why this case is it different. Grievant spoke about the making of motion turning the decision into a non-transparent process.

- Asked the Respondent whether he felt Ms. Kremer is qualified. Respondent replied that she was as well qualified as many other Board members. He noted that it the resulting appointments increased diversity (was 1 woman, 10 men; now 3 women, 10 men).
- Asked the Respondent whether anyone asked to explain his decision. Respondent indicated no.
- Asked the Respondent whether he believed that the meetings violated the Brown Act? Respondent indicated no.

**Questions from Committee Chair Charles Lindenblatt:**

- Asked the Grievant why he thought the Respondent would seek to retaliate; whether it because he (the Grievant) had repeatedly challenged the power structure of the Neighborhood Council? Grievant indicated that this was possible.
- Asked the Respondent whether what is being seen as gender discrimination is because of an impression the Grievant has of what happened. Respondent indicated, yes, that it is not evidence of discrimination of any kind.

**F. Closing Remarks of the Respondent –** Respondent indicated that he did not want to add anything.

**G. Closing Remarks of the Grievant –**

- He indicated that his mother had been a practicing architect, and is now a realtor, and that he was shocked when she was not on the Committee, and noted that she was very civil during the process.
- He did not like the atmosphere at the last Executive Council meeting, when they were offered a non-voting position committee.
- The Respondent did not say that he supported Dr. Seamans at that meeting.
- The breakdown of the Committee stayed 10 men to 1 woman; diversity didn't go up; it stayed that way.
- There was an attempt to rationalize after the fact who they wanted.
- He didn't like the Respondent's attitude about power, and that's why he was targeted, indicated he was an abuser of power, and shouldn't have it.

**H. Committee Questions**

**Questions from Committee member Bob Abrahams:**

- Who seconded the motion in question? Grievant indicated Chair Jeff Jacobberger seconded; Respondent indicated that First Vice Chair Bruce McCormick seconded. The minutes had not been finalized.
- Asked the Grievant if someone not selected, is that, in itself, unfair? Grievant indicated no. Question withdrawn.
- Asked the Grievant about someone saying to Ms. Kremer, "You're in.." This was then decided not relevant.
- Regarding the "abuser of power" comment by the Grievant about the Respondent, asked the Grievant how he can demonstrate that? The Grievant said It was his impression.
- Asked Committee Chair Lindenblatt if, at the July 20 Executive Council meeting, he understood who was included in the motion? Chair responded, yes.

**Questions from Committee member Billy Baughman:**

- Noticing that the Grievant had something to say in response to the Chair's answer, above, asked the Grievant what he had to say. The Grievant's response was "Mr.Lindenblatt is a long-time member of the committee. I think that it would stick out like a sore thumb to him because he's a member of that committee. As far as the treasurer and, Bruce McCormick, those are not members of the Land Use Committee"
- On diversity, asked the Grievant if it was his recollection that Boardmembers Yudy Machado, Rosalie Wayne and Teresa Feldman were all appointed at the July 20 meeting. The Grievant said that it was.
- On process, asked the Respondent for some clarification: Respondent answered that the Executive Council appointed Land Use Committee as interim 11 members in April. Then, prior to the July 20 meeting originally there were 17 applicants. As of the July 20 meeting, there were 15, as two had dropped out.

**Committee Chair Charles Lindenblatt had no further questions.**

**Committee Member Bob Abrahams had a final question:**

- Asked the Respondent for further clarification on diversity. Respondent noted that there were different periods involved, one in which there wasn't increased diversity (at the April meeting) and later on, after the changes had been made on July 20, that the final result of the Land Use Committee increased diversity, as more women were on the Committee, as well as more diversity of geographical areas they came from.

**I. Committee Deliberations and Votes on Findings and Recommendations:**

In introducing the deliberations, Committee Chair Lindenblatt spoke about advising the committee to look at what the City Attorney said in an earlier distribution, versus some issues in the Bylaws that seem to suggest action could be taken versus a director. Then, he spoke about figuring out whether we want to come to a determination regarding the three points.

**Findings: Deliberation and Votes**

**Point 1. Plan, Article II, Section 2, Statement of Non-Discrimination.**

Committee member Billy Baughman spoke about finding it hard to agree with a violation of the statement of non-discrimination when there is diversity on the Committee, but that the Respondent was responsible for it, if there was any. Further, he spoke about there being a lot of hearsay, secondhand information, that can't be substantiated, conjecture; that based on the facts, he didn't see it.

Committee member Bob Abrahams spoke about whether the Grievant demonstrated the allegations in a way that is convincing. He said he didn't believe there was information that gave facts, but there was a lot "impression," "belief," "it felt like." He also spoke about how he can understand how the Grievant feels that way, but doesn't see discrimination by anyone.

Committee Chair Charles Lindenblatt then spoke about being a little closer to where committee member Billy Baughman is coming from, that we don't know that we have enough information to say that discrimination happened, but if there was any, that the Respondent would have done it. He also spoke about how he did agree, and could understand how the Grievant would be upset with how everything unfolded, but that he didn't know that it's something that we can move forward with. He concluded by finding that he did not think that there was discrimination for certain.

Committee member Bob Abrahams moved, committee member Billy Baughman seconded, that on the allegations of discrimination regarding violation of the Plan, Article II, Section 2, that the allegations could not be supported.

After some discussion about whether or not to incorporate discussion about this item, or leave it as it is, with just the finding, a friendly amendment was made by Billy Baughman simply to add in the words "by the evidence" at the end of the motion.

The motion passed 3-0, unanimous among the three voting members of the committee.

**Point 2 – Bylaws, Article I, Section 3, Statement of Non-Discrimination.**

Committee member Bob Abrahams spoke about the two discrimination clauses coming the same thing, and he reached the same finding.

Committee member Billy Baughman spoke about the same thing, as did Committee Chair Lindenblatt

Committee member Billy Baughman moved, committee member Bob Abrahams seconded, that on the allegations of discrimination regarding violation of the MCWCC bylaws, Article 1, Section 3, that the allegations could not be supported by the evidence.

The motion passed 3-0, unanimous among the three voting members of the committee.

**Point 3 – Plan, Article I, Section 3, Transparent Operations.**

Committee member Billy Baughman said that fair and open procedures has been done, that if that is the only criteria, it has been done. He said that if we look further, were meetings transparent and open. There were three meetings, none that violated the Brown Act, and were attended by stakeholders. He said that the Grievant attended one, July 20, and information on other meetings was based on secondhand information, and that he didn't see how the "switcheroo" is relevant when it comes to a vote, that the vote's the thing.

Committee member Bob Abrahams said that he agreed with some of what Committee member Billy Baughman said, that the meeting of July 20, was agendized, that no doubt it was open. He said that the motion was made in the open and nothing was done without following procedures and Robert's Rules of Order. He also said that "fair" is a subjective thing and he thinks that the procedures were fair even if the results weren't fair to everyone. Finally, he said he found that not only has the certified neighborhood council adopted fair and open procedures, but there is no evidence that fair and open procedures weren't followed by the committee and the Respondent.

Committee Chair Charles Lindenblatt spoke about the difficulty of deciding this finding. He spoke about feeling that the meeting as far as being open -- following Brown Act requirements, etc., -- that the motion was made in the open there. But he did not share the view that because the Grievant only attended one of the Executive Council meetings, that that was an issue, and that relying on minutes is good enough.

As far as the fairness aspect of it, Chair Lindenblatt spoke about how, frankly, he was a bit surprised as to how the meeting unfolded as far as what the Land Use Committee Chair had indicated how things would go leading up to that point, with the questionnaire distribution etc. He had the sense that they would be used a lot more than they were, and talked about this being a bit different, strange it seemed, but he could understand the concerns that someone would have in this case. But on the whole there is not enough to find that it wasn't fair, although there was some concern on how things didn't go as he expected, but not to point where it wasn't fair.

Committee member Bob Abrahams was unclear as what was meant by "as expected", and clarification was provided by the Chair, to the effect that, what happened at the Executive Council was different from what he expected at end of the Land Use Committee leadership meeting.

Committee member Bob Abrahams moved, committee member Billy Baughman seconded, that on the allegations of discrimination regarding violation of the Bylaws, Article I, Section 3, that the allegations could not be supported by the evidence.

The motion passed 3-0, unanimous among the three voting members of the committee.

**Recommendations: Deliberations and Votes:** Recommendation was moved by committee member Bob Abrahams and seconded by Committee member Billy Baughman, to dismiss the grievances based on the findings.

Some discussion then ensued as to whether or not to prepare a written report for the Board, and if so, what to put into it. The Committee agreed to prepare a report without the whole background, as both Grievant and Respondent were okay with this.

---

**6. MCWCC Bylaws Amendments: Discussion and Possible Action on Bylaws Amendments for Consideration by the Board at its September meeting.**

The Committee ran out of time and was unable to consider this item at this meeting.

**7. Adjourn – 9:20 p.m.**

For information on the Process for Reconsideration, MCWCC Stakeholder Grievance policy or any other procedural matter related to this Council, please consult the MCWCC Bylaws by clicking on [www.midcitywest.org](http://www.midcitywest.org) or visiting the MCWCC Office at 543 N. Fairfax Avenue, Room 106.