

City of Boston BERDO Review Board
Public Meeting Minutes
Zoom Virtual Meeting
July 10, 2023 at 4:30 pm
[View recording here](#)

Board Members in Attendance: Rashida Boyd, Gail Latimore, Lee Matsueda, Jack Nelson, Kai Palmer-Dunning

Board Members not in Attendance: Lovette Jacobs

Staff Present: Diana Vasquez, Claudia Diezmartinez, Aidan Callan, Aladdine Joroff

Staff Not Present: N/A

Others: Approximately 15 members of the public attended this meeting.

Motion to Nominate Acting Chair

4:35 pm: Environment staff, D. Vasquez, led the vote for Acting Chair. Board Member K. Palmer-Dunning made a motion to nominate Board Member Lee to serve as Acting Chair. Board Member J. Nelson seconded the motion. All board members in attendance (5) were in favor and the motion carried at 4:36 pm.

Call Meeting to Order

4:37 pm: A meeting of the Building Emissions Reduction and Disclosure Ordinance, hereafter referred to as (BERDO), within the Air Pollution Control Commission, was called to order on July 10, 2023 at 4:37 pm. This meeting was held virtually.

Roll Call

4:38 pm: The following BERDO Review Board members were in attendance: Acting Chair Lee Matsueda, Rashida Boyd, Gail Latimore, Lee Matsueda, Jack Nelson, Kai Palmer-Dunning

The following Environment Department staff were in attendance: Diana Vasquez, Claudia Diezmartinez, Aidan Callan, Aladdin Joroff

Others: Approximately 15 members of the public attended this meeting.

First Agenda Item: Approval of Meeting Minutes

4:41 pm: The Review Board voted on approving the [June 26, 2023 Review Board Meeting Minutes](#).

Board Member R. Boyd made a motion to approve the meeting minutes. Board Member J. Nelson seconded the motion. Four (4) board members were in favor and one (1) board member abstained. The motion passed at 4:42 pm.

Second Agenda Item: Updates and Discussion on Phase 3 of BERDO Regulations Development

4:42 pm: D. Vasquez and C. Diezmartinez reviewed Phase 3 of BERDO regulations development and shared comments received during an informal comment period regarding preliminary proposals on Building Portfolios and Individual Compliance Schedules. C. Diezmartinez and D. Vasquez reviewed next steps regarding Phase 3 regulations development.

5:05 pm: Board Q&A Session and staff responses if applicable:

- R. Boyd: No comments at this time.
- G. Latimore: Thank you Chair Matsueda. Can you remind us what the Environmental Justice requirements are? Or are they to be developed further? I think we have some of those requirements already in place. Can you remind us what those are in a nutshell?
 - C. Diezmartinez: Yes. Essentially these would be the requirements, the ones you're seeing on the screen. In our preliminary proposals, we had mentioned the emissions standard compliance plan that would need to be submitted by the building owner two years after their Building Portfolio is approved. We previously had an optional brief narrative on any preliminary compliance plans to be provided at the time of application. But we heard feedback from the Review Board that it would be great to have this be a requirement. So we are proposing to have this brief narrative as a requirement of the application, and then two years after the Building Portfolio is approved, to have the formal emissions standard compliance plan.
- G. Latimore: Thank you. So this process represents the Environmental Justice review process. I thought it was a process that was a part, but separate. I understand now, thank you. The other question that I had was, and maybe this is not yet defined and is part of another area of Phase 3, but I believe there was a suggestion or in the initial regulatory language, that building owners do a couple of things to try to prevent displacement of tenants, try to also hire folks to do the work that reflected racial justice populations, and utilized minority businesses. Is any of that thinking in any of the emissions standard compliance plans, or is that

more just the actual emission piece. Where do the notions I just mentioned, preservation and retention, MBE utilization or some of the work done on the properties, where does that fit in any of the other pieces that we have or will talk about?

- C. Diezmartinez: That's a great question. We envision those two topics, displacement and gentrification and workforce development, to be more clearly and explicitly addressed in conditions for hardship compliance plans, which will come as part of phase 3, as well as conditions for the Equitable Emissions Investment Fund. These environmental justice reviews will provide the review board with more information to track the impacts and benefits to environmental justice populations that could be generated by Building Portfolios. And we welcome feedback on any potential reporting requirements or conditions that could address those workforce development goals or displacement and gentrification, through the Building Portfolio reviews and standard conditions, but at the moment I think these topics will be more directly addressed in hardship compliance plans and the Equitable Emissions Investment Fund.
- G. Latimore: Thank you.
- L. Matseuda: When I look at the slide with the three different pathways, my understanding of the new EJ definitions with the four, different criteria is that most of the City and its buildings fall under pathways 2 and 3. Is it not true that by and large, the majority of our applications are going to come from those two pathways? I was trying to even imagine where are those pathways ones and how many are there?
 - C. Diezmartinez: That's a good question. We don't have any real numbers on the number of applications that we will receive. It is true that according to the Environmental Justice definition that we have for BERDO, which is the same at the state level for Massachusetts, about 80 percent of the census blocks in Boston qualified as an environmental justice population. Our way of trying to streamline these applications is to specify further who would apply for pathway 2 - so those would be those higher emitting building uses that are located inside environmental justice populations, combinations of residential buildings inside and outside of environmental justice populations, and combination of market rate housing and deed-restricted, affordable housing. It could be hundreds of applications, or thousands. We have almost six-thousand (6,000) buildings covered by BERDO and even large building owners could decide to have different types of building

portfolios, not only one. So it's hard to say how many applications we would actually have at this moment.

- L. Matseuda: One other specific question - when we think about the EJ reporting criteria, there was a comment about including metrics around things like air quality, both indoor and outdoor. How do you imagine and how does that fit into the type of criteria we currently have listed on this slide?
 - C. Deizmartinez: That's a good question. I think we envisioned the environment justice reporting to be a part of these progress reports, and to be mainly related to the progress made on their emissions standard compliance plans and efforts made by building owners. The issue here is that we need to find metrics that could be reliably measured and reported by building owners, and that also does not infringe on the privacy of residential tenants, for example. We welcome feedback on ideas on how to have different proxies or metrics that could be provided by building owners through annual reporting, but it's not very straightforward unfortunately.
- L. Matseuda: I think I understand that. The only other thing, and it sounds like the City is already in contact with other cities that are doing similar things. We were talking about Cambridge earlier, newly announcing their BEUDO efforts for a thousand plus buildings in the City of Cambridge, which is exciting, but obviously there are a handful of cities across the country that are doing something similar. I'm curious to know more about how they're addressing, not just this issue of criteria, but I know one that's come up a lot has been this conversation around how do we talk about the issue of displacement and gentrification? Just seeing if there are ways to build off of other municipalities that have had similar conversations. I'm curious to learn more about that and if you know about that, I would love to hear that. I can also pass it along to Board Member Nelson.
 - C. Diezmartinez: Yes, we're definitely in contact with other cities in the Commonwealth, but also across the country, that have building performance standards. That's the name for the type of policy that BERDO represents. We are kind of all building it as we go, because we're all kind of early actors. We're kind of all figuring it out at the same time and unfortunately there's not a lot of benchmarks or things we can directly copy from other cities. So a lot of the decisions that we make here with BERDO can also be influential for other cities which is exciting, because of that, to have the Review Board here and have this public process to think through these issues.
- L. Matseuda: Thanks Claudia. Board Member Nelson.

- J. Nelson: You mentioned a third-party consultant that's going to be hired, or has been hired. Is this consultant going to help with the language in defining these various processes and how an owner will develop these different plans, such as the emissions standard compliance plan?
 - C. Diezmartinez: The technical consultant will be focused more on the Hardship Compliance Plans. The goal of that is for them to help us have ideas on, first, how the review board can identify technical hardship. So when a building owner comes to the review board, making sure we have a process and criteria for the review board to be able to discern what is a technical hardship and what could not be considered a technical hardship. Also, they will help us identify the different types of technical hardships that are out there for different building types as well as ideas on how the City could build hardship compliance plans or provide a methodology for building owners to create their own hardship compliance plans. They're more giving us the technical information and technical background that we'd need to create the regulations language if that makes sense.
- J. Nelson: Okay, but as far as the emissions standard compliance plan, what will be required by the City, your group is defining that? The City's Environment Department?
 - C. Diezmartinez: Yes. Based on conversations we have with technical working sessions, focus groups, the Community Advisory Group, but we do not have a technical consultant focused on that part of the regulations.
- J. Nelson: Are you thinking about putting together some type of an application that walks through the applicant through this process, so they know exactly what information to provide and to try to keep it simple? Because some of this stuff gets very complicated, and the more complicated it gets, the less successful it will be.
 - C. Diezmartinez: Yeah, we hope that in these new revised regulations we will provide more details on what the contents of the emissions standard compliance plans could be, but I think once the regulations are passed, our team will also be working on making sure that it's clear on our website and that there's guidance on how to make these compliance plans. Because these will need to be done by building owners that are big institutions but also any building owner that has two or more buildings. We need to make sure that they're accessible to everyone, so there will, I expect, guidance on that.
 - A. Joroff: And Claudia, if I can jump in for a minute, sorry Commissioner Nelson, but an example is an earlier phase of the regulations talked about

how owners can designate a tenant to be responsible as the owner and then we created a form letter that building owners and tenants can use. So the goal is once the regulations are done, create as many form documents or annotated instruction forms that will help guide people through the process. And to echo a point that Claudia made before, these will also all be informed by input from the review board so we welcome suggestions on how to help give directions that make it a simpler process.

- J. Nelson: As a Review Board member, we'll need something to utilize to go through when we're reviewing these applications to make sure that all the requirements have been met.
 - A. Joroff: Yes, so there's hopefully the package material of guidelines for applications that we can also use on the flipside to say if an application is complete. What are the questions we might have around different answers, exactly. Again, we welcome feedback now and throughout the process of developing this material.
- J. Nelson: Thank you.
- L. Matseuda: Great, thank you Board Member Nelson. Board Member Palmer-Dunning?
- K. Palmer-Dunning: No questions at this time.
- L. Matseuda: Before we go on to public comments, any last questions or comments from board members? Board Member Boyd or anyone?
- G. Latimore: Yes, I do. I want to make sure I understand things too. Can you give an example, Claudia, of the characteristics of buildings not requiring an EJ review? What's their characteristics again?
 - C. Diezmartinez: That do not require, that would mean the building portfolio does not have any district energy systems, combined heat and power plants, it's not an industrial or manufacturing buildings located in an EJ population, the building portfolio does not have both residential buildings inside and outside of EJ populations, or it does not have a combination of market rate and deed restricted affordable housing. Sorry, I know that's a lot of words.
- G. Latimore: No, that's helpful. I thought that was the case, I just wanted to clarify that.

- A. Joroff: An example might be a portfolio with a few office buildings that don't have any of their own kind of combined heating systems.
- J. Nelson: I was going to say a highrise in the financial district might be one.
- C. Diezmartinez: Or it could also be a residential portfolio that is only located outside of EJ populations. For example only three buildings in Back Bay, which is one of the areas that are not EJ according to the definition.
- G. Latimore: Thank you. And then also with the Emissions Standard Compliance Plan, that is the plan where the owner will say how they're going to meet emissions targets over time? Is that what that plan is doing? I want to make sure I understand what the emissions standard compliance plan is.
 - C. Diezmartinez: Correct, so it would be how the Building Owner expects to comply with the Ordinance for the next two compliance cycles across the portfolio. So that could include building owners telling us 'oh we're planning to have this power purchase agreement or buying these RECs, or we're planning to do a complete retrofit of this building or we're having some capital improvement projects in x, y, and z building. It can be any combination of the compliance pathways that are available through BERDO.
- G. Latimore: Got it, thank you, I thought that was the case too. But I want to make sure that I understand it. So we as a board will be viewing people's applications and approving people's applications before we get an emissions standard compliance plan. Then the owner has two years from the date of approval to actually submit an emissions standard compliance plan, correct?
 - C. Diezmartinez: That is correct.
- G. Latimore: Is there a reason for the two year period? As an affordable housing developer at scale, I like that kind of timeframe, but it also does feel like quite a long time. So I wondered how that two year period came about. And then to follow up, even as someone has two years to put together an emissions standard compliance plan - so they're held accountable on reporting but they're not being measured against any emissions reduction standards until they submit their compliance plans, which could take two years?
 - C. Diezmartinez: If we're talking about a building portfolio after 2025, which is when the first emissions standard kicks in for the larger buildings, then they would need to comply even if they haven't submitted their emissions standard compliance plans yet. I guess the only option where they wouldn't

be complying with an emissions standard is if the portfolio is approved say 2024, before the emissions standard kicks in if that makes sense?

- G. Latimore: Okay, so they still have to. That's helpful.
 - C. Diezmartinez: To answer your previous question, part of the reasoning to having the lag between the approval of the building portfolio and submitting the emissions standard compliance plan is that the compliance plans for building owners might change very drastically if they get approved as a building portfolio or if they need to apply it on a building by building basis. We're trying to avoid burdening the building owner at the application time to do a more thorough plan if it's at a time where they don't know if they will get approved of a building portfolio. But we still want to have a sense of what their strategies will be and that's what we're hoping to address with the brief narrative requirement at the moment of application. Then once the building portfolio is approved and the building owner is aware of all buildings that will be in the portfolio and of the conditions that the review board will set for that portfolio, they can actually go into planning in more detail and more thoroughly describe compliance efforts. But we welcome feedback if that timing should change, if there are any other recommendations.
- G. Latimore: No, I don't have any other questions, and now that I know that they are still held accountable to emissions reduction standards...[audio temporarily cuts out]. No more questions.
- L. Matsueda: Board Member Boyd or any other board members before we open it up to the public?
- R. Boyd: No comment.
- L. Matsueda: Okay, if there's nothing else, I think now we want to move the meeting to public comment.

5:28 pm: Acting Chair L. Matsueda opens Public Comment Period

5:30 pm: Acting Chair L. Matsueda closes Public Comment Period.

Questions/Comments via Zoom Chat:

- C. Diezmartinez: APCC Hearing 2:30 pm on July 19:
<https://us02web.zoom.us/j/86329377111>

Third Agenda Item: Administrative Updates

5:30 pm: D. Vasquez shared that the next tentative BERDO Review Board meeting is scheduled for July 24, 2023 and that a meeting is tentatively scheduled for Labor Day (September 4). Board members discuss the possibility of changing the date to September 11.

Acting Chair L. Matsueda gave a reminder of the time and date of the July 19 Air Pollution Control Commission hearing where draft regulations on Building Portfolios and Individual Compliance Schedules will be presented.

- G. Latimore: What's on the docket for discussion at the next meeting? Assuming it's continued around phase 3 regulations but what specific phase 3 topics?
 - D. Vasquez: Given that the APCC meeting is on July 19, I imagine we'd probably review the regulations in a little bit more depth or in a more visually friendly way with the board. I think by then we should also have a compliance map of the city of Boston where you could click on BERDO buildings and see whether they are in compliance, maybe they're waiting on a third-party verification, and or maybe they haven't submitted yet. A visual of how many BERDO buildings are in Boston and what their statuses are. We've also set a precedent at the top of the meeting to do a basic review of activities that have happened so far, so I imagine we'll probably do that at the top as well.
- G. Latimore: Thank you. So at what stage are we going to get to some of the things that Lee and I were talking about earlier - like tenant protections and other things. Do you have a sense of timing for that part of the regulatory review process and discussion?
 - D. Vasquez: Hardship compliance plans are our next phase 3 topic that we're digging into deeply. I think we envision that hardship would be one of the pathways to talk about tenant protections and workforce development.
- I wasn't necessarily saying that we had to put it on the next agenda but wanted to get a sense of what timeframe we might be discussing those matters.
 - C. Diezmartinez: Our tentative goal right now is to introduce preliminary proposals on hardship and the Equitable Emissions Investment Fund in the August 16 APCC meeting. If we are successful with that tentative goal, I anticipate that we will talk to the review board about these same topics either in the meeting right before or after the APCC hearing. So likely August.

- A. Joroff: To clarify Claudia's point, we'd be presenting those as preliminary, so it would be an informal public comment period. So there would be several opportunities to discuss with the review board and get public feedback and then revise for public comments. So we're starting in August, but it won't end in August.

5:40 pm: Acting Chair L. Matsueda opens Public Comment Period.

5:41 pm: Acting Chair L. Matsueda closes Public Comment Period.

Meeting Adjournment

5:42 pm: Board Member G. Latimore made a motion to adjourn the meeting. Board Member R. Boyd seconded. All in attendance (5) were in favor and the motion carried at 5:42 pm.