

City of Boston BERDO Review Board
Public Meeting Minutes
Zoom Virtual Meeting
November 20, 2023 at 4:30 pm
[View recording here](#)

Board Members in Attendance: Rashida Boyd, Stephen Ellis, Lovette Jacobs, Gail Latimore, Jack Nelson, Matt O'Malley, Kai Palmer-Dunning

Board Members not in Attendance: Councilor Kendra Lara, Lee Matsueda

Staff Present: Diana Vasquez, Hannah Payne, Claudia Diezmartinez, Aladdine Joroff

Others: Approximately 9 members of the public attended this meeting.

Motion to Nominate Acting Chair

4:35 pm: Environment staff, D. Vasquez, led a vote for Acting Chair. Board Member G. Latimore made a motion to nominate Board Member K. Palmer-Dunning to serve as Acting Chair. Board Member M. O'Malley seconded the motion. All Board Members in attendance (7) were in favor. The motion carried at 4:36 pm.

Call Meeting to Order

4:36 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 November 20, 2023 at 4:36 pm. This meeting was held virtually.

Roll Call

4:37 pm: The following BERDO Review Board members were in attendance: Acting Chair Kai Palmer-Dunning, Rashida Boyd, Stephen Ellis, Lovette Jacobs, Gail Latimore, Jack Nelson, Matt O'Malley (exited from the meeting at 5:24 pm).

The following Environment Department staff were in attendance: Diana Vasquez, Hannah Payne, Claudia Diezmartinez, Aladdine Joroff

Others: Approximately 9 members of the public attended this meeting.

First Agenda Item: Approval of Meeting Minutes

4:39 pm: The Review Board voted on approving [November 6 Meeting Minutes](#). Board Member G. Latimore made a motion to approve the meeting minutes. Board Member M. O'Malley seconded the motion. All Board Members in attendance (7) voted in favor. The

motion carried at 4:39 pm.

Second Agenda Item: Update and Discussion on Phase 3 Regulations Development Process

4:40 pm: H. Payne presented on updated regulations and policy language regarding Hardship Compliance Plans (HCP).

5:01 pm: Board Members' questions were responded to.

- K. Palmer-Dunning asked for clarification on whether a single building in an approved Building Portfolio can apply for a Hardship Compliance Plan.
 - H. Payne clarified that the current proposal states that a Hardship Compliance Plan can be applied to the entirety of an approved Building Portfolio, but not to an individual building that's in an approved Building Portfolio. That's because the portfolio is already going to change the Emissions Limit for all of the buildings in a portfolio, so a standalone building with a Hardship Compliance Plan would not make sense within a portfolio format.
- G. Latimore asked a clarifying question about what is considered an “unexpected or unforeseeable” event. For example, would a flooding event in a single building within an approved portfolio be considered eligible for a Hardship Compliance Plan?
 - H. Payne replied that this was a good question and something to be considered more during continued regulations development. The example Board Member Latimore provided was a good flag for the BERDO team to take a closer look at.
- G. Latimore also asked for clarification on the circumstance and characteristic “low-income Owners of Buildings that provide affordable housing to low-income tenants.”
 - H. Payne clarified that it is another circumstance or characteristic that can lead to a hardship when Owners are putting together their application.

5:08 pm: C. Diezmartinez presented updated regulation and policy language on the Equitable Emissions Investment Fund.

5:14 pm: Board Q&A Session

- S. Ellis asked for an example of what a reasonable consultant fee could look like.
 - H. Payne described a situation in which a manufacturer may submit an application for a Hardship Compliance Plan that included a specific type of machinery. If none of the Board Members had expertise in that particular technology, the Review Board could request outside assistance to evaluate that application. She also mentioned that there is precedence regarding fees for consultants from the Conservation Commission. She did not foresee every application needing a consultant, but wanted to keep that flexibility for the Review Board.
 - A. Joroff added that the proposed language included considerations the Review Board could use in deciding when to request a fee. Those considerations included number and size of buildings, building use types, the circumstances and characteristics included in an application, and the type and extent of relief requested.
- S. Ellis inquired about a scale or cut off point in terms of square footage for the consultant fee.
 - A. Joroff replied that based on feedback received, a scale based on square footage may not be nuanced enough to capture where there may be complexity in a Hardship Compliance Plan application.
 - H. Payne added that a possible scale that could be used when evaluating a consultant fee is the amount of relief being requested by the applicant.
- S. Ellis asked if a Building Owner could appeal a request for a consultant fee?
 - A. Joroff replied that the fee has changed from an application fee that was required to a consultant fee that is a request. It would be up to the Review Board if they have sufficient information to make a determination on a HCP application and it would be a part of the discussion with an applicant.
- S. Ellis asked if there were changes as a result of public comments expressing concern over the length of the Environmental Justice section of an HCP application.
 - H. Payne replied that the key addition is a requirement for Building Owners with tenants to notify their tenants that they are applying for an HCP and have an upcoming hearing with the Review Board. The intention is to make sure tenants are aware, have the opportunity to provide comments, and participate as much as they would like to.

5:24pm Board Member M. O'Malley exited the meeting.

- G. Latimore asked should a recipient of funds from the Equitable Emissions Investment Fund fail to use their funds or comply with the terms and conditions, what other consequences might they face other than being limited from applying in the future?
 - H. Payne highlighted that for longer-term projects, there will be a schedule for awarding funds and the expectation is that the project will be completed in phases with different deliverables at each phase. So should a recipient fail to meet expectations during a phase, the remaining funds can be withheld.
- J. Nelson asked whether a bidding or procurement process from potential recipients of the Equitable Emissions Investment Fund will be required.
 - A. Joroff replied that a procurement process similar to what the City uses for hiring vendors could be a special condition that the Review Board considers for receiving money from the Equitable Emissions Investment Fund. This would be at the Review Board's discretion, not something that would automatically apply as the draft regulations are currently written.
- J. Nelson asked if the City will inspect progress on projects to ensure money from the Equitable Emissions Investment Fund is spent appropriately.
 - A. Joroff shared that this is another place where the Review Board would have discretion in terms of establishing an inspections schedule. Inspection could either be a site visit or an inspection of paper records.
- J. Nelson sought confirmation that requirements will be established through the Review Board process and the Board will produce stipulations or requirements for the Fund.
 - A. Joroff confirmed this was true.
- K. Palmer-Dunning asked whether Building Owners had to notify tenants of their submitting an application for a Hardship Compliance Plan or did they only have to notify tenants of an upcoming hearing for a Hardship Compliance Plan?
 - H. Payne shared that the current proposal is that the Environment Department will create a template document in multiple languages that a Building Owner can use to create copies. The template would have a space for building addresses and a link for more information about the hearing and

how to request translation services. The linked page would also contain copies of submitted applications.

- K. Palmer-Dunning asked why the current draft states that the Environment Department will conduct community outreach if there are no suitable proposals for the Equitable Emissions Investment Fund after 3 years. Why not sooner?
 - H. Payne replied that the BERDO team believed three years seemed like a reasonable timeframe. Previously language was included that stated that funds could not stay in the Equitable Emissions Investment Fund for more than 5 years. Comments were received in response sharing that before those 5 years are reached, community outreach should be required. She does not believe this will be the only outreach conducted, but more so, it serves as a backstop.
- K. Palmer-Dunning sought clarification on whether applicants will be eligible to apply for matching funds elsewhere.
 - H. Payne replied yes. Applicants for the Equitable Emissions Investment Fund are open to apply to other complementary funding, and in fact she believes those who have done research into other forms of funding will likely have a stronger application.

5:35 pm: Acting Chair K. Palmer-Dunning opened a public comment period.

5:37 pm: Acting Chair K. Palmer-Dunning closed the public comment period.

5:37 pm: C. Diezmartinez presented updates on language for [Fines & Enforcement](#) and H. Payne presented updates on [Miscellaneous Clarifying Regulations and Policy](#) and [next steps](#).

5:58 pm: Board Q&A Session

- G. Latimore asked how the City will know whether tenants have been notified.
 - H. Payne replied that at least seven (7) days ahead of a hearing, a Building Owner will have to share evidence that they noticed their tenants. This could be in the form of photos of fliers in common spaces, emails shared with tenants, etc.
- G. Latimore asked about processes the City has in place for data tracking, and whether any of them are automatic.

- H. Payne shared that the BERDO team uses a data management system that the team started using a year ago. The team is continuing to build it out with the ultimate goal being that all data tracking is housed within this platform. A big focus over the next few months will be gearing up for reporting season with clean processes.
- G. Latimore asked if the Review Board can listen to tenants outside of the designated tenant meeting?
 - H. Payne confirmed that tenants are welcome to join any Review Board meeting because the meetings are open to the public. They are able to provide comments as a member of the public and the Review Board is able to add agenda items that are specific to tenants.
- G. Latimore sought clarification between the Equitable Emissions Investment Fund and the 'zero over time' planning grant money.
 - H. Payne clarified that the City of Boston received funding from the Department of Energy to create a grant program to support BERDO Building Owners in making 'zero over time' plans and strategizing their compliance pathways.
- G. Latimore asked if the BERDO team can share resources about state funding for commercial and multifamily decarbonization efforts.
 - H. Payne shared [the Mass CEC Pilot Program](#).
- S. Ellis asked if notice to tenants about a hearing is required for hearings related to Building Portfolios and Individual Compliance Schedules, in addition to Hardship Compliance Plans.
 - H. Payne replied that as written, the regulations state that Building Owners only need to notify tenants about hearings for Hardship Compliance Plans. The BERDO team believed that HCPs may offer the biggest relief and may impact tenants the most and therefore it would be important to keep tenants notified of an HCP application process. Semi-relatedly, applications for the Fund do not require a notice to tenants, but include language that states letters of support from tenants would strengthen an application. She mentioned that feedback or thoughts on this from Board members are welcome.
- S. Ellis commented that tenants should be able to know about a Building Portfolio hearing before they are in a situation where they want to appeal an already

approved portfolio. He believes that similar regulation language that spells out that tenants must receive notice for a HCP hearing should be included for Building Portfolios.

- S. Ellis asked about how the Community Advisory Group (CAG) has been engaged on the topic of Fines & Enforcement.
 - C. Diezmartinez and H. Payned confirmed that the Community Advisory Group has been engaged on the topic of fines and enforcement. The BERDO team meets with the CAG monthly and hosts an additional, optional 'office hours' each month.
- S. Ellis requested the BERDO team to investigate an alternative time that may work best for the annual tenant meeting in case the usual Monday time does not work for tenants.
- S. Ellis inquired about how vacant buildings interact with Building Portfolios.
 - C. Diezmartinez explained that an eligibility criteria for applying for a Building Portfolio is that proposed portfolios have no vacant buildings. People applying for a Building Portfolio that do not meet eligibility criteria can apply through Pathway 3. Pathway 3 would require a hearing by the Review Board and have a more thorough review process.
- K. Palmer-Dunning suggested, in addition to an alternative time for the meeting, utilizing nominating community-based organizations to help spread the word about the annual tenant meeting.

6:17 pm: Acting Chair K. Palmer-Dunning opened a public comment period.

6:18 pm: Acting Chair K. Palmer-Dunning closed the public comment period.

Third Agenda Item: Administrative Updates

6:18 pm: D. Vasquez reviewed the 2024 Review Board meeting dates. Lastly, she reminded board members that the following meeting is scheduled for December 4, 2023.

Meeting Adjournment

6:19 pm: Board Member G. Latimore made a motion to adjourn the meeting. Board Member J. Nelson seconded. All (7) were in favor and the motion carried at 6:19 pm.