

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

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IN THE MATTER OF: :
 :
YFE, Inc. :
t/a Eighteenth Street :
Lounge : Protest Hearing
Retailer CT - ANC 2F :
License #118846 :
Case #21-PRO-00079 :
 :
(Application for a New :
License) :

Wednesday,
January 19, 2022

The Alcoholic Beverage Control Board
met via Webex videoconference,
Chairperson Donovan W. Anderson presiding.

PRESENT:

- DONOVAN W. ANDERSON, Chairperson
- BOBBY CATO, JR., Member
- RAFI ALIYA CROCKETT, Member
- EDWARD GRANDIS, Member
- JENI HANSEN, Member
- JAMES SHORT, JR., Member

ALSO PRESENT:

MS. FASHBAUGH, DC ABRA Staff

KEVIN PUENTE, DC ABRA Investigator

FARID NOURI, Applicant

ANDREW KLINE, Applicant's Counsel

SIDON YOHANNES, Applicant's Co-Counsel

IAN THOMAS, Protestant BANCA's Counsel

TRACY BUCK, Protestant BANCA's Co-Counsel

JOHN GUGGENMOS, Protestant ANC 2F's Rep.

JELENE BUDJAVEC, Protestant Party of Six Rep.

HECTOR PINTO, Protestant Picnic Benchers Rep.

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1 P-R-O-C-E-E-D-I-N-G-S

2 10:02 a.m

3 CHAIRPERSON ANDERSON: We're on the
4 record.

5 Good morning, everyone. As
6 chairperson for the Alcoholic Beverage Control
7 Board for the District of Columbia, and in
8 accordance with DC Official Code Section 2576(4)
9 of the Open Meetings Act, I am welcoming you to
10 an emergency meeting of the Alcoholic Beverage
11 Control Board.

12 This meeting is being conducted
13 pursuant to guidance made available by the
14 District of Columbia Office of Open Government
15 regarding electronic meetings held by the public
16 bodies during the public emergency. Pursuant to
17 this guidance, notice of today's meeting was
18 provided 48 hours in advance on ABRA's website
19 and on the District's Central Meeting Calendar.
20 The notice includes the time, date, agenda and
21 call-in or log-in information for public
22 participation. This electronic meeting is being
23 hosted by a Webex account provided by the
24 District of Columbia government. Please address
25 any questions or complaints to the OOG at

1 Opengovoffice@dc.gov.

2 My name is Donovan Anderson, I'm
3 chairman of the Board. I would like to introduce
4 the other members of the ABC Board who are also
5 participating electronically, pursuant to Mayor's
6 Order 2022-007.

7 Please respond when I announce your
8 name. Mr. James Short.

9 MEMBER SHORT: Mr. James Short
10 present.

11 CHAIRPERSON ANDERSON: Mr. Bobby Cato.

12 MEMBER CATO: Bobby Cato present.

13 CHAIRPERSON ANDERSON: Ms. Rafi
14 Crockett.

15 MEMBER CROCKETT: Rafi Crockett
16 present.

17 CHAIRPERSON ANDERSON: Ms. Jenni
18 Hansen.

19 MEMBER HANSEN: Jenni Hansen present.

20 CHAIRPERSON ANDERSON: Mr. Edward
21 Grandis.

22 MEMBER GRANDIS: Edward Grandis
23 present.

24 CHAIRPERSON ANDERSON: The Board has
25 six members in attendance for the conduct of

1 business today and that constitutes a quorum.

2 I just want to provide some
3 groundwork. We have one case this morning, and
4 it's going to be a protest hearing and we'll have
5 our IT specialist -- once I call the case, our IT
6 specialist will elevate the rights for each
7 party.

8 I will ask that once your rights are
9 elevated and your phones are unmuted, your
10 microphones are unmuted, I would like you to mute
11 your microphone with the exception of when you
12 are speaking. If you have any questions during
13 the presentation today, please put your comments
14 in the question and answer feature.

15 So let us call our calendar, let's
16 move to our calendar. Our first matter on our
17 calendar -- our first and only matter on our
18 calendar is Protest Hearing Case #21-PRO-00079,
19 Eighteenth Street Lounge, License #118846.

20 Ms. Fashbaugh, can you please elevate
21 the rights of the parties in this case, please.

22 MS. FASHBAUGH: Simon Miller, your
23 rights have been elevated.

24 Benjamin Pourian, your rights have
25 been elevated.

1 I don't see Steve Donahoe. If you're
2 in the room send me a message.

3 Alexander Padro, your rights have been
4 elevated.

5 Mike Silverstein, your rights have
6 been elevated.

7 I don't see David Salter. If you're
8 in the room send me a message.

9 Amir Shaikh, your rights have been
10 elevated.

11 I don't see Jelena Budjevac. If
12 you're in the room, send me a message.

13 I do not see Hector Pinto; if you're
14 in the room, please send me a message.

15 I do not see Victor Easley. If you're
16 in the room, please send me a message.

17 Ian Thomas, your rights have been
18 elevated.

19 Chairperson, it looks like some of the
20 members of the group are in the room together, so
21 they'll have to clarify that with you. I just
22 got a message about that.

23 I'm still going through it. Kevin
24 Puente, your rights have been elevated.

25 Robert Goldberg, your rights have been

1 elevated.

2 Sherene Joseph, your rights have been
3 elevated.

4 John Guggenmos, your rights have been
5 elevated.

6 That is all at this time, Chairperson.

7 CHAIRPERSON ANDERSON: Good morning,
8 everyone. What I'm going to do, I want to make
9 sure that all the parties are online, and so
10 let's start with the licensee.

11 Mr. Kline, can you please spell and
12 state your name for the record and let me know
13 who is the licensee, and after that I would like
14 the licensee -- Mr. Kline and Associates, please
15 identify yourself on the record, then I need you
16 to identify the licensee, please.

17 MR. KLINE: Thank you, and good
18 morning, Mr. Chairman and members of the Board.
19 I am Andrew Kline, A-N-D-R-E-W, Kline, K-L-I-N-E.
20 I am counsel to the Applicant. The principal of
21 the Applicant is here, he is Farid, F-A-R-I-D,
22 Nouri, N-O-U-R-I.

23 CHAIRPERSON ANDERSON: And do you have
24 co-counsel, Mr. Kline?

25 MR. KLINE: Yes. Co-counsel with me

1 today is Ms. Sidon Yohannes, first name is
2 S-I-D-O-N, last name spelled Y-O-H-A-N-N-E-S.

3 CHAIRPERSON ANDERSON: Thank you.

4 All right. Can we have the ANC
5 representative state and spell his name for the
6 record, please?

7 MR. GUGGENMOS: Sure. My name is John
8 Guggenmos, J-O-H-N, G-U-G-G-E-N-M-O-S. And we
9 also have Sherene Joseph.

10 CHAIRPERSON ANDERSON: How do you
11 spell that name, please?

12 MS. JOSEPH: Hi, Chair Anderson. My
13 name is Sherene Joseph, that's S-H-E-R-E-N-E,
14 last name Joseph, J-O-S-E-P-H.

15 CHAIRPERSON ANDERSON: And what's your
16 relationship to this case, please, ma'am?

17 MS. JOSEPH: I'm also representing the
18 ANC.

19 CHAIRPERSON ANDERSON: All right.
20 Thank you.

21 Who is representing the Blagden Alley
22 Naylor Court Association?

23 MR. THOMAS: I am, Mr. Chairman. This
24 is Ian Thomas. That's I-A-N first name, last
25 name is Thomas, T-H-O-M-A-S. Along with my co-

1 counsel, Tracy Buck, Tracy, T-R-A-C-Y, last name
2 Buck, B-U-C-K.

3 CHAIRPERSON ANDERSON: All right. So
4 who's representing the Picnic Benches? Who's
5 here from the Picnic Benches? Do we have anyone
6 here from the Picnic Benches? Is there is a
7 representative from the Picnic Benches, I would
8 like you to --

9 MR. PINTO: Sorry. That's me. My
10 name is Hector Pinto, first name Hector,
11 H-E-C-T-O-R, last name Pinto, P-I-N-T-O.

12 CHAIRPERSON ANDERSON: And who else is
13 with you there, Mr. Pinto?

14 SPEAKER: (Inaudible response).

15 CHAIRPERSON ANDERSON: All right. So
16 what about the group of six, who's representing
17 the group of six?

18 MS. BUDJEVAC: That's me. My name is
19 Jelena, J-E-L-E-N-A, surname Budjevac, B-U-D-J-E-
20 V-A-C.

21 CHAIRPERSON ANDERSON: Good morning.
22 So all the parties have been identified for the
23 record this morning.

24 Good morning again, everyone. This
25 matter comes before the Board as a protest on the

1 application for a new license filed by YFE, Inc.,
2 trade name Eighteenth Street Lounge, Retailer
3 Class CT, License #ABRA118846, located at 1230
4 9th Street NW.

5 By way of background, the Board record
6 reflects the following. The license application
7 was placarded on August 6, 2021. ANC 2F,
8 represented by Chairperson John Guggenmos, filed
9 a protest on October 11, 2021.

10 A second protest was filed by the
11 Blagden Alley Naylor Court Association on October
12 12, 2021, represented by at the time Robert
13 Goldberg, and it's now being represented by Mr.
14 Ian Thomas who is the attorney representing this
15 group.

16 A third protest was filed by a group
17 of five or more individuals, and this is the
18 Budjavec group led by Jelena Budjevac, on October
19 12, 2021.

20 And finally, a fourth protestant
21 group, the second group of five or more
22 individuals, Picnic Bench Foundation, led by Mr.
23 Hector Pinto, filed their protest on October 12,
24 2021. All four protestant groups were granted
25 standing.

1 This hearing was originally scheduled
2 for January 12, 2022; however, the week leading
3 up to the hearing saw the filing of a number of
4 motions, oppositions and replies, and so the
5 Board thought it was in the best interest of all
6 involved to continue the hearing for one week in
7 order to allow the Board an opportunity to rule
8 on the pre-hearing pleadings and so that parties
9 would have time to prepare for the hearing as a
10 result of the Board's decisions.

11 I bring this up in part to remind the
12 parties that the Board has already made known its
13 position regarding the introduction of evidence
14 that relates to mediation discussions or
15 settlement negotiations and we will not revisit
16 this issue.

17 Again I want to remind all parties
18 that at this hearing we cannot -- it's
19 inappropriate to bring up settlement discussions
20 or mediation discussions. That's confidential,
21 so when we do this hearing I do not want anyone
22 to testify that in mediation this what they
23 agreed to or in the settlement this is what was
24 agreed to. Is that clear to everyone? So we're
25 not going to revisit that issue anymore.

1 All right. So again I just want to be
2 very clear that evidence of that sort will not be
3 admitted in the hearing record.

4 Before I ask are there any other
5 preliminary matters that need to be addressed
6 before the commencement of this hearing, I would
7 like to know how the Protestants are going to
8 conduct this case.

9 I understand that Mr. Thomas was
10 hired, but I would appreciate knowing if they're
11 going to consolidate their arguments and the
12 examination of the witnesses. The Board has the
13 authority under 2544(c) that where there is more
14 than one protestant the Board, in its discretion,
15 may require the protestants to designate one
16 person to conduct the protestants' hearing. I'll
17 get to the answer to the question later on.

18 Which brings me to my second point.
19 Although the Board will give everyone a
20 reasonable amount of time to present their case
21 in chief, we're hopeful that we will not be here
22 for a long day and therefore would appreciate
23 your efforts to keep your case in chief on a
24 reasonable pace. Please do not put one witness
25 on after another who provides redundant or

1 repetitive testimony. Under 2544(c), the Board
2 may exclude any irrelevant or unduly repetitive
3 evidence or testimony and we won't hesitate to do
4 so.

5 Before the hearing gets underway, I
6 want it to be perfectly understood that this
7 hearing will be conducted fairly and with an open
8 mind. It is the Board's expectation that the
9 parties will also conduct themselves accordingly.

10 Mr. Thomas, are there any other
11 preliminary matters? So Mr. Thomas, you
12 represent -- I'm sorry -- who, again, do you
13 represent, Mr. Thomas?

14 MR. THOMAS: Good morning. Yes, I
15 represent the Blagden Alley Naylor Court
16 Association, along with my colleague, Ms. Buck.

17 CHAIRPERSON ANDERSON: So you and Ms.
18 Buck represent. So the other two groups, I know
19 we have the ANC and we have the other two groups,
20 you do not represent them. Is that correct?

21 MR. THOMAS: That is correct.

22 CHAIRPERSON ANDERSON: Now, in
23 reviewing -- I read the case report that was done
24 by our investigator, and I see that the issues
25 that were raised by all the Protestants are --

1 they appear to be identical. I'm sorry. Who is
2 speaking?

3 MR. THOMAS: That was me. I don't
4 necessarily disagree with you, is what my point
5 was going to be. I also -- in the interest of
6 moving expeditiously, I've spoken with some of
7 the other groups. I spoke with the ANC, my
8 understanding is that the ANC would like to make
9 its own presentation.

10 I don't think that their presentation
11 is going to be -- I'll let them speak for
12 themselves, but I don't think that their
13 presentation is going to be exceedingly long, and
14 I don't think they plan on doing much of anything
15 that's duplicative of what our case in chief
16 plans being.

17 As for some of the other -- as for the
18 other Protestants, I think there's going to be a
19 substantial overlap, and I believe that the
20 consensus is that my client -- I'm going to refer
21 to them as BANCA just as an acronym -- but BANCA
22 would take the lead on the protest hearing.

23 CHAIRPERSON ANDERSON: Thank you for
24 that presentation, sir. One of the things I will
25 do, if the other parties if they want to do an

1 opening statement, I'll allow them to do an
2 opening statement and I'll also allow them to do
3 a closing statement if they want to do that to
4 say what they want, but I think that because the
5 issues are so -- at least to me anyway, just in
6 reviewing the report that was the case report,
7 the issues overlap, so I think that we'll just
8 have Mr. Thomas and his associate doing the
9 cross-examination of witnesses, because if we
10 don't do that, this is going to last all day.

11 Now, one thing that I also had in
12 our -- at the status hearing I informed all
13 parties that they had an hour to present their
14 case, and they had five witnesses and we'll have
15 some flexibility, but however, I see the
16 Applicant listed 14 witnesses. Now, do we plan
17 to call 14 witnesses today, Mr. Kline?

18 MR. KLINE: No, Mr. Chairman. You
19 know me better than that. We listed them in an
20 overabundance of caution. It looks like we'll be
21 calling seven, but we will keep them brief and be
22 efficient in calling them. There are a number of
23 issues raised, and as the Board has already
24 pointed out, a number of parties, so we think
25 that the Board will want to hear from them.

1 I would also note, just to make sure
2 the record is clear on the other point, the other
3 Protestants, to my knowledge, did not file PIFs,
4 so I don't know what they would put on anyway,
5 just for your record.

6 CHAIRPERSON ANDERSON: Well, I'm
7 aware, at least in reviewing the documents for
8 this case hadn't filed a PIF but they in
9 theory -- the Protestants themselves could
10 testify, although there's no PIF. They can call
11 witnesses, other witnesses outside of themselves
12 as a Protestant, but thanks for bringing that to
13 our attention.

14 Now, so Mr. Thomas, how many witnesses
15 do you plan to call today, sir?

16 MR. THOMAS: At this juncture I would
17 probably say, barring any rebuttal, five
18 potential witnesses.

19 CHAIRPERSON ANDERSON: All right,
20 that's fine.

21 MR. THOMAS: And one point of
22 procedure and process, if I may. One of our
23 witnesses is a representative of the MPD. He
24 obviously has other serious obligations that he
25 needs to tend to. If I could have a brief

1 warning before I can get in touch with him to get
2 him on so that he can testify, that would be very
3 much appreciated. He's obviously out there
4 protecting the city right now but wants to be
5 here because what he has to say is important to
6 the issues in this case. So I would ask that the
7 Board provide us with a brief 10- to 15-minute
8 notice before so we can get him on the line to
9 offer testimony.

10 CHAIRPERSON ANDERSON: Well, the way
11 the case will proceed this morning, Mr. Thomas,
12 is that the Board will present its witness, which
13 is our investigator, and our investigator has
14 also the case report, and when the investigator
15 goes through the case report, the Board will have
16 direct examination of its witness. Once the
17 Board has had direct examination of its witness,
18 then the Applicant will have the opportunity to
19 ask questions of that witness and then you will
20 also have questions of that witness.

21 Once the Board has presented its case,
22 the Applicant will present his case, and so the
23 Applicant said that he has seven witnesses
24 they're going to call, well, we're going to get
25 to your witnesses in a very long time so you will

1 have an idea where we are based on the
2 presentation of the case.

3 As a preliminary matter, this is what
4 I'm going to do. I'm going to try to take a
5 scheduled break every two hours, and probably
6 every two hours I will take what I will consider
7 maybe a ten-minute bathroom break.

8 We need to be cognizant that this is
9 virtual and I know that I have to be on screen
10 and the attorneys have to be on screen, the other
11 witnesses they can do whatever they need to do,
12 but we can't leave the screen, so I will try to
13 maybe every two hours have a scheduled break for
14 a couple of minutes so folks can rest, and so I
15 will try to keep that in my mind.

16 And because we have a court reporter,
17 I'm informing everyone that we have a court
18 reporter there, who is one of the reasons why
19 when people are speaking you need to identify
20 yourselves for the record, because all of this is
21 being transcribed for us to have a public record.

22 So before we get started, are there
23 any other preliminary matters that need to be
24 addressed today?

25 MR. KLINE: The Applicant has none.

1 Thank you,

2 CHAIRPERSON ANDERSON: Thank you, Mr.
3 Kline.

4 The ANC and its group, are there any
5 other issues that need to be addressed?

6 MR. THOMAS: None from BANCA.

7 MR. GUGGENMOS: Mr. Chairman, in the
8 way you were laying out the case, the ANC would
9 waive an opening statement, we do have a
10 statement that we'd like to put in the record,
11 and would also like to cross-examine just a few
12 witnesses and make a closing statement if
13 possible.

14 CHAIRPERSON ANDERSON: Now, you
15 definitely will have an opportunity for closing
16 statement, and the ANC -- I'll give some
17 deference to the ANC, I'll give some deference to
18 the ANC, but I need to know who is it that you
19 want to cross-examine, so I want to have some
20 idea as we present the witnesses, but I will give
21 some deference to the ANC.

22 MR. GUGGENMOS: And also -- I'm sorry.

23 CHAIRPERSON ANDERSON: What, sir?

24 MR. GUGGENMOS: It's most likely that
25 ANC's officer report.

1 CHAIRPERSON ANDERSON: I'm sorry.
2 You're talking about the Board's.

3 MR. GUGGENMOS: Yes, the Board's.

4 CHAIRPERSON ANDERSON: Okay, that's
5 fine.

6 MR. THOMAS: I apologize --

7 CHAIRPERSON ANDERSON: Hold on, hold
8 on one minute. Every time when someone speaks I
9 need you to identify yourself for the record
10 before you speak. I recognize you, but please
11 identify yourself for the record.

12 Mr. THOMAS: My apologies.

13 One thing that got brought to my
14 attention that I just want to correct for the
15 record, Mr. Kline had mentioned that the other
16 Protestants had not filed PIFs is actually not
17 accurate. They joined in the PIF that was filed
18 by BANCA, so all Protestants separately -- the
19 ANC filed their own, but the group of five and
20 the Picnic Bench all joined in BANCA's PIF, so
21 PIFs have been filed for them as well.

22 CHAIRPERSON ANDERSON: That's fine,
23 sir, that's fine to clarify the record.

24 All right. And again before we start,
25 you have one hour. I would ask folks not to

1 spend the majority of your time cross-examining
2 witnesses, because that counts against your time.
3 So I need you to spend most of your time doing
4 direct examination.

5 Mr. Kline, Mr. Thomas, Ms. Yohannes,
6 you're attorneys, I enjoy working with attorneys
7 because I would hope that by working with
8 attorneys, attorneys will raise objections.

9 This is not a court, a federal court,
10 this is an administrative hearing, so we're
11 somewhat flexible with the rules of evidence, but
12 I do expect the parties to raise objections if
13 there are objections and argue and make them, and
14 I expect because you are attorneys you will
15 conduct this appropriately and we will move
16 expeditiously through this hearing today because
17 I believe it's going to take all day.

18 So Mr. Thomas, especially for the
19 Protestants, it is now 10:30. I would alert you
20 to tell your witnesses that it's unlikely that
21 they will be called within the next hour or so,
22 so you can alert your witnesses that they'll be
23 called in the afternoon.

24 I don't want people now to say my
25 witness has an emergency because they were online

1 at ten o'clock this morning and it's now five
2 o'clock -- I'm hoping we're not here until five
3 o'clock -- and they haven't testified.

4 But as I stated before, the Board is
5 going to present its case, the Applicant is going
6 to present its case, so therefore, the Protestant
7 will not present its case until after the Board
8 and the Applicant has presented its case, so that
9 tells you the Protestant's witnesses will not be
10 testifying until later on this afternoon.

11 So you can let your witnesses know
12 that if they have something to do here in the
13 morning, they can do it, because they're not
14 going to be called until at least after one
15 o'clock. I'll just say it that way. At least
16 they will know, they'll have some sense of time
17 line in the sense that there should be no
18 expectations that they will be called within the
19 next hour or two.

20 Is that clear to everyone?

21 So now we're going to do opening
22 statements and so we can start with the -- one
23 minute, please.

24 Does the Applicant wish to make an
25 opening statement?

1 OPENING STATEMENT - APPLICANT

2 MR. KLINE: Yes, Mr. Chairman.

3 Good morning. I'm Andrew Kline. I'm
4 counsel for the Applicant.

5 We are here this morning to discuss an
6 application for a CT license for premises located
7 at 1230 9th Street, NW. The evidence will show
8 that this location is directly across from the
9 convention center and located on a busy
10 commercial thoroughfare, 9th Street. It does
11 back up to Blagden Alley, but the evidence will
12 show that the Applicant intends to concentrate
13 the bulk of its activities on 9th Street, not on
14 Blagden Alley.

15 The evidence will also show that the
16 principal of the Applicant, Mr. Farid Nouri, who
17 will testify, is a longstanding operator, has
18 operated this venue in a larger format in another
19 location for 25 years and that he has a long
20 positive track record at the other location.
21 There will be testimony from witnesses who are
22 leaders in the other neighborhood and can attest
23 to Mr. Nouri's attentiveness and the way that he
24 runs his establishment.

25 The Applicant, the evidence will show,

1 has been thoughtful about attempting to address
2 issues and concerns that have been raised by the
3 community, specifically issues related to noise
4 and trash and the other protest issues.

5 There is a lot in the protest
6 information form concerning historic preservation
7 and other issues that we don't believe are before
8 this Board, and this case, from the Applicant's
9 standpoint, would be about the Applicant's
10 ability to meet the appropriateness standards
11 related to peace, order and quiet, vehicular
12 safety and real estate values.

13 And we believe at the conclusion of
14 the case the Board will be convinced that this
15 license should be approved with the condition
16 that it's limited to what's been applied in the
17 initial application.

18 Thank you, Mr. Chairman.

19 CHAIRPERSON ANDERSON: Thank you, Mr.
20 Kline.

21 Mr. Thomas.

22 OPENING STATEMENT - PROTESTANTS

23 Mr. THOMAS: Yes. Good morning, Mr.
24 Chairman.

25 This case is about a nightclub that's

1 attempting to move from a commercial location to
2 a more residential location for the purpose of,
3 in its own words, to make a lot of noise. Those
4 aren't my words; those are Mr. Nouri's words in a
5 moment of candor on a podcast.

6 The fact of the matter is this is a
7 nightclub that is applying for an alcohol
8 license, not a nightclub license. You don't have
9 to believe BANCA on this point. Far from that,
10 you can look at the Applicant's proposed
11 operations, which include DJs, multiple live
12 acts, music till 3:00 a.m., dancing, cover
13 charge, or even the Applicant's own website,
14 which holds itself out as a longstanding
15 nightclub in the District of Columbia.

16 By the Applicant's own words, it is a
17 nightclub masquerading as a bar that's moving
18 into a residential area intentionally to make a
19 lot of noise. And this amount of noise matters,
20 because as Mr. Kline pointed out, the back of
21 this proposed premises goes out toward Blagden
22 Alley and it is a property that is surrounded on
23 three sides by residences.

24 The proposed establishment will have
25 a rooftop bar, and you'll hear testimony that it

1 will have speakers on the rooftop bar, that the
2 rooftop bar will not be adequately soundproofed,
3 and that the Applicant intends to operate live
4 music on the rooftop bar until 3:00 a.m., as the
5 surrounding neighbors attempt to sleep.

6 This will also -- you'll also hear
7 evidence about other noise, not just music, but
8 from the patrons of this establishment. The
9 establishment has 265 people for its occupancy,
10 which it intends to fully use, and you will hear
11 about the adverse effects from both the MPD and
12 from the neighbors that this noise and sound
13 pollution will have on the residents of Blagden
14 Alley, about how you can speak on one end of the
15 alley and hear what someone is saying on the
16 other, and how 200-some-odd people, some of whom
17 are inebriated, being let out into the community
18 at two o'clock in the morning will cause serious
19 sound and noise pollution issues and disturb the
20 quality of life for the residents of the Blagden
21 Alley community.

22 You're also going to hear concerns
23 about crime. You're going to hear from MPD about
24 crime issues that already exist in Blagden Alley
25 and that already stem from another liquor

1 licensed establishment that is within the same
2 property that the Applicant looks to occupy.

3 You will hear that adding 260
4 potentially drunk individuals to Blagden Alley
5 late at night will not alleviate any of these
6 crime issues but in fact exacerbate them greatly.
7 You'll hear about the concern that the residents
8 have of these issues, and you'll hear from
9 stories from them about witnessing public
10 urination, prostitution, drug use, all of which
11 will not be made any better by the Applicant's
12 proposed use of operating a live nightclub until
13 the late hours -- or excuse me -- the early hours
14 of the morning.

15 You're also going to hear about other
16 quality of life issues that exist in the alley as
17 they exist now, issues with pests and rodents
18 circulating around the alley, issues with traffic
19 in which these small narrow alley corridors are
20 often blocked or preoccupied by deliveries
21 unloading and loading into the various
22 establishments, and by rideshares from the
23 various patrons. All of these will also affect
24 the traffic issues and are a reason for denial of
25 the license in its entirety.

1 You're also going to hear from Mr.
2 Nouri about his "positive track record" because
3 the evidence will show that it is not in fact so
4 positive.

5 As Mr. Kline pointed out, the
6 Eighteenth Street Lounge was operating in its
7 prior location, a prior location that was
8 primarily commercial and had no residential homes
9 in its direct vicinity.

10 You will hear about assaults with a
11 deadly weapon that took place at the former
12 Eighteenth Street Lounge location. You will also
13 hear about the former Eighteenth Street Lounge
14 was right before the pandemic fined by this very
15 Board for failing to comply with alcohol
16 regulations, for misleading investigators and for
17 obstructing investigation. So far from a
18 positive track record, you will hear about the
19 exact opposite.

20 At bottom this hearing is going to
21 make it abundantly clear that the Applicant would
22 adversely impact the peace, order and quiet and
23 the traffic in Blagden Alley.

24 You'll hear about how the Applicant
25 will adversely affect the lives of the residents

1 who abut this establishment on the north, south
2 and west sides, and you'll hear about how the
3 proposed use for this property by the Applicant
4 is inconsistent with how other establishments
5 operate within this area.

6 At the end of the Protestants' case,
7 it will be abundantly clear that this application
8 should be denied in its entirety.

9 Thank you.

10 CHAIRPERSON ANDERSON: Thank you, Mr.
11 Thomas.

12 I know the ANC said they do not want
13 to have an opening statement. Do any of the
14 other two protest groups do they wish to make an
15 opening statement?

16 MS. BUDJEVAC: This is Jelena Budjevac
17 for the Protestant group of six, and I can say we
18 are in line with the statements that Mr. Thomas
19 has made on behalf of BANCA. Thank you.

20 CHAIRPERSON ANDERSON: Thank you.

21 Does the other group want to make a
22 statement?

23 MR. PINTO: This is Hector Pinto. I'm
24 in line with that too.

25 CHAIRPERSON ANDERSON: All right.

1 Thank you.

2 All right. With that said, the Board
3 then will call its first witness, and we call Mr.
4 Kevin Puente.

5 Mr. Puente, can you raise your right
6 hand, please?

7 Do you swear or affirm to tell the
8 truth and nothing but the truth?

9 INVESTIGATOR PUENTE: Yes, sir.

10 DIRECT EXAMINATION

11 CHAIRPERSON ANDERSON: Mr. Puente, can
12 you please state your name for the record,
13 please, again?

14 INVESTIGATOR PUENTE: Kevin Puente,
15 K-E-V-I-N, P-U-E-N-T-E.

16 CHAIRPERSON ANDERSON: And where are
17 you currently employed, sir?

18 INVESTIGATOR PUENTE: The Alcoholic
19 Beverage Regulation Administration.

20 CHAIRPERSON ANDERSON: And how long
21 have you been employed by this agency?

22 INVESTIGATOR PUENTE: Approximately at
23 least seven years.

24 CHAIRPERSON ANDERSON: And what are
25 your duties and responsibilities, sir?

1 INVESTIGATOR PUENTE: I conduct
2 inspections and investigations of licensed ABC
3 establishments throughout the District of
4 Columbia.

5 CHAIRPERSON ANDERSON: And are you
6 familiar with this -- the subject of this protest
7 today, the Eighteenth Street Lounge?

8 INVESTIGATOR PUENTE: Yes, sir.

9 CHAIRPERSON ANDERSON: And how are you
10 familiar with this establishment, sir?

11 INVESTIGATOR PUENTE: I conducted a
12 protest investigation.

13 CHAIRPERSON ANDERSON: And did you --
14 did you draft a report for this?

15 INVESTIGATOR PUENTE: Yes, sir.

16 CHAIRPERSON ANDERSON: All right. Do
17 you -- well, I wanted to -- Ms. Fashbaugh, can
18 you give Mr. Puente the ability to share his
19 screen, please.

20 MS. FASHBAUGH: This has been
21 accomplished.

22 CHAIRPERSON ANDERSON: Thank you.

23 All right. Mr. Puente, can you please
24 bring your report up, sir? And Mr. Puente, the
25 document, can you please identify the document

1 that you are sharing with the audience, please?

2 INVESTIGATOR PUENTE: Yes. This is
3 the protest report that I authored.

4 CHAIRPERSON ANDERSON: And when was
5 this report authored, sir?

6 INVESTIGATOR PUENTE: January 20,
7 2022.

8 CHAIRPERSON ANDERSON: All right.
9 Now, Mr. Puente, in authoring this report did you
10 get an opportunity to speak to the Protestants?

11 INVESTIGATOR PUENTE: Yes.

12 CHAIRPERSON ANDERSON: And who are the
13 Protestants you spoke to, sir?

14 INVESTIGATOR PUENTE: I spoke to ANC
15 2F, being represented by John Guggenmos; Blagden
16 Alley Naylor Court Association, known as BANCA,
17 being represented by Robert Goldberg; a group of
18 twelve, known as Picnic Benchers, being
19 represented by Hector Pinto and Vincent Easley;
20 and a group of six, being represented by Jelena
21 Budjevac.

22 CHAIRPERSON ANDERSON: So what
23 information were you able to gather in speaking
24 to the ANC?

25 INVESTIGATOR PUENTE: Yes, sir. So

1 all the Protestants submitted letters to ABRA
2 protesting this license on the basis of peace,
3 order and quiet, diverse impact of the
4 establishment on real property values, and the
5 effect of the residential parking needs and
6 vehicle and pedestrian safety.

7 On Thursday, December 16, 2021, I
8 spoke with ANC 2F Commissioner John Guggenmos
9 regarding Eighteenth Street Lounge. Mr.
10 Guggenmos stated that the biggest disagreement
11 between the parties is the hours of operation for
12 the summer garden. The establishment wants to
13 have full hours of operation. Mr. Guggenmos
14 stated that the owner of the establishment was
15 having conversations with a sound engineer for
16 possible mitigation strategies.

17 Mr. Guggenmos stated that another
18 concern of the neighborhood was the use of the
19 rear alley door. Mr. Guggenmos advised me that
20 the owner had agreed to eliminate the use of the
21 rear door, only for emergencies only.

22 Mr. Guggenmos stated that another
23 concern of the community was delivery trucks in
24 the alley, delivery trucks blocking the traffic
25 during the day. Mr. Guggenmos stated that he had

1 spoken to DDOT about making a loading zone on 9th
2 Street. Mr. Guggenmos advised me that they are
3 looking at different ways to possibly make
4 Blagden Alley NW one way to vehicle traffic.

5 Mr. Guggenmos stated that another
6 issue for the community is the trash. Mr.
7 Guggenmos stated that he is encouraging Mr. --
8 the owner, as well as the abutting property,
9 which will be below Eighteenth Street Lounge,
10 Never Looked Better, to possibly split the trash
11 company, that way it will eliminate extra
12 dumpsters in the alley.

13 On Tuesday, December 28, 2021, I met
14 with Mr. Robert Goldberg of the BANCA at the
15 establishment. Mr. Goldberg walked me around the
16 neighborhood and Blagden Alley. Mr. Goldberg
17 pointed out that right directly in front of the
18 establishment there was not much room for
19 pedestrians to be lined up as well as pedestrians
20 walking by the establishment.

21 Mr. Goldberg advised me that abutting
22 the establishment is a dog boarding daycare
23 business. Mr. Goldberg stated the owners are
24 concerned that they could lose business because
25 of the noise or the issues from the establishment

1 possibly.

2 Mr. Goldberg advised me that the
3 community is very concerned about another
4 nightclub coming to the area with an occupancy of
5 200 patrons. He stated that it would add a
6 burden to the community on the parking needs and
7 the peace, order and quiet.

8 Mr. Goldberg stated that the noise
9 travels through the alley when it's quiet, the
10 residents can hear people lined up at neighboring
11 establishments. Mr. Goldberg, who lives nearby
12 the establishments, stated that sometimes the
13 noise can travel to his house, which is
14 approximately a block and a half away.

15 Mr. Goldberg stated that another big
16 concern for BANCA is delivery trucks in the
17 alley, and the trash. Mr. Goldberg stated that
18 delivery trucks tend to block the alley when
19 they're making deliveries, makes it hard for
20 people to get out of their garages, as well as
21 possibly a fire truck or ambulance wouldn't be
22 able to get through.

23 Mr. Goldberg stated that some
24 establishments have trash bins placed in the
25 alley that are not allowed, and he fears that

1 Eighteenth Street Lounge would add to it. Mr.
2 Goldberg stated that he attempted to communicate
3 with the owner of the Eighteenth Street Lounge,
4 but the owner refused to talk with him or any of
5 the other Protestants.

6 Mr. Goldberg stated that the community
7 is very concerned about the summer garden
8 operating until 3:00 in the morning and how it
9 will have a huge effect on the peace, order and
10 quiet. A lot for residents are sleeping at that
11 time, so they will be waken up in the early
12 morning hours.

13 On Friday, December 31, 2021, I
14 telephonically spoke with Ms. Jelena Budjevac.
15 Ms. Budjevac stated that she lives near the alley
16 and can overlook the alley from her house. Ms.
17 Budjevac stated that all of 10th Street NW is
18 residential. Ms. Budjevac stated that many of
19 the residents enjoy the area around Blagden Alley
20 because of its historical context and the nature
21 of the community.

22 Ms. Budjevac, who stated she has been
23 living there a long time, approximately six years
24 ago the alley never had any issues with sound or
25 trash because there wasn't much alcohol

1 establishments in that area. Ms. Budjevac states
2 that Blagden Alley is much different, with more
3 businesses and increased foot traffic.

4 Ms. Budjevac stated that she walks
5 through the alley on most mornings on her way to
6 work and observes the different kinds of trash,
7 litter and other things on the ground. Ms.
8 Budjevac stated that she sees firsthand the
9 delivery trucks block the alley while making
10 deliveries, making it impossible for residents to
11 leave their homes or garages.

12 Ms. Budjevac stated that many of the
13 neighbors do not want to be the face of the
14 community because of threats and concerns that
15 they may have received. Ms. Budjevac stated that
16 she's very concerned about the increase in crime
17 in the area. Ms. Budjevac stated that having an
18 ABC establishment operate a summer garden till
19 3:00 in the morning will affect the way of life
20 of so many residents.

21 Ms. Budjevac also advised me that an
22 establishment bringing 200 people to the area
23 will put a burden on the parking that's already
24 there. Ms. Budjevac stated that several times
25 she spent almost an hour looking for parking and

1 had to park a few blocks away in high-crime
2 areas.

3 On Wednesday, January 5, 2022, I
4 received a statement from the Applicant's
5 counsel, Ms. Sidon Yohannes. Ms. Yohannes
6 advised me that this protest of a new retailer CT
7 license, Eighteenth Street Lounge intends to
8 operate the establishment beginning early
9 evenings with a concept that's more intimate.

10 The establishment will offer food; the
11 Applicant has applied for an entertainment
12 endorsement, dancing and cover charges.

13 Eighteenth Street Lounge intends to maximize and
14 expand its happy hour business with professionals
15 and expand its daytime activities on the
16 weekends. Due to the location, Eighteenth Street
17 Lounge hopes to host various banquets and
18 corporate events.

19 The proposed hours of operation,
20 sales, service, consumption and entertainment
21 inside and outside would be Sunday from 2:00 p.m.
22 to 2:00 a.m., Monday through Thursday 4:00 p.m.
23 to 2:00 a.m., Friday 4:00 p.m. to 3:00 a.m.,
24 Saturday 2:00 p.m. to 3:00 a.m.

25 Ms. Yohannes also advised that the

1 ANC's concerns is really to the summer garden
2 hours of operation on the rooftop as well as the
3 noise mitigation on the rooftop.

4 The parties are currently working to
5 address the issue. The Applicant has hired a
6 noise consultant that is working to address the
7 concerns of the neighborhood. The owner of the
8 establishment, Farid Nouri, is committed to
9 addressing noise concerns and to continue to work
10 with his architects, design team and sound
11 consultants to ensure that the establishment's
12 operations do not negatively impact the
13 residents.

14 Eighteenth Street Lounge is located in
15 a mixed use 4 zone according to the GIS. An MU4
16 zone is intended to provide for mixed use
17 developments that permit a broad range of
18 commercial, institutional and multiple dwelling
19 unit residential developments at varying
20 densities. The MU4 zone is a mixed use zone that
21 is intended to be applied throughout the city
22 consistently with the density designation of the
23 comprehensive plan.

24 According to the GIS map, there are 31
25 licensed ABC establishments operating within

1 1,200 feet of Eighteenth Street Lounge. Seven of
2 those are a Class CT tavern, eight of those
3 establishments have summer garden endorsements,
4 14 of the establishments have entertainment
5 endorsements. According to the District of
6 Columbia GIS, there are no schools or public
7 libraries within 400 feet of the establishment.

8 Eighteenth Street Lounge is a medium
9 size, two-floor establishment located in between
10 two commercial businesses. Eighteenth Street
11 Lounge has one main entrance located in the front
12 of the establishment on 9th Street, and it has a
13 rear exit located in Blagden Alley NW.

14 Eighteenth Street Lounge is currently
15 under renovation and has a proposed seating
16 capacity of 150 with a total occupant load of
17 250, with a summer garden with 85 seats. The
18 license will include an entertainment endorsement
19 for both inside and outside the premises, dancing
20 and cover charge.

21 ABRA investigators monitored the
22 establishment 12 times from December 10 to
23 January 4, 2022. During those times there was no
24 ABRA violations observed, no trash or litter or
25 loitering was observed. Parking was very limited

1 on 9th Street on most occasions.

2 There is one Metro bus stop near the
3 establishment located at 9th Street NW and N
4 Street NW, the bus line service, the G8 line,
5 which goes up the 9th Street NW corridor. There
6 is one Metro subway stop near the establishment
7 at the Mount Vernon Square 7th Street Convention
8 Center in the 1200 block of 7th Street NW.

9 Eighteenth Street Lounge is located at
10 1230 9th Street NW, which is a heavily traveled
11 road. 9th Street NW spanning from the 1100 block
12 through the 1200 block offers on-street parking
13 for two hours.

14 ABRA investigators are not qualified
15 to address the issues of real property values,
16 and at the time of publication of the report, I
17 did not hear back from Office of Unified
18 Communications about calls for service to the
19 address.

20 And that's it, sir.

21 CHAIRPERSON ANDERSON: Now, do you
22 have exhibits attached to your report and can
23 you identify the exhibits, please?

24 INVESTIGATOR PUENTE: Yes, sir.

25 So Exhibit 1 is going to be the letter

1 from ANC 2F.

2 Exhibit 2 is going to be the letter
3 from the group of twelve known as the Picnic
4 Benchers.

5 Exhibit 3 is going to be the letter
6 from the Blagden Alley Naylor Court Association.

7 Exhibit 4 is going to be the letter
8 from the group -- letter from ANC -- from the
9 letter -- excuse me, sir -- from the group of
10 five or more.

11 Exhibit 5 is a letter from Citadel
12 which is working with the establishment on sound
13 mitigation.

14 Exhibit 6 is a letter from the
15 architect who is also working with the
16 establishment.

17 Exhibit 9 is the GIS map of the zoning
18 for 1230 9th Street NW.

19 Exhibit 8 is the map of 1200 feet of
20 the establishments near Eighteenth Street Lounge.

21 CHAIRPERSON ANDERSON: I'm sorry, Mr.
22 Puente, I think you said 9, so can you repeat
23 what is Exhibit 7, please, sir?

24 INVESTIGATOR PUENTE: Yes, sir. So
25 Exhibit 7 is the GIS zoning for 1230 9th Street

1 NW.

2 CHAIRPERSON ANDERSON: Okay. Go
3 ahead.

4 INVESTIGATOR PUENTE: Exhibit 8 is the
5 GIS map 1200 feet from the establishment of the
6 nearby ABC establishments.

7 Exhibit 9 is the GIS map 400 feet from
8 the establishment showing no daycares or schools.

9 Exhibit 10 is a photograph of the
10 front of the establishment.

11 Exhibit 11 is a closer up photo of the
12 establishment which is this blue building in the
13 center.

14 Exhibit 12 is the rear of the
15 establishment. This is the rear door, the black
16 doors in the middle.

17 CHAIRPERSON ANDERSON: I'm sorry, Mr.
18 Puente. So where is the exhibit -- where is the
19 rear -- what street is the rear of the
20 establishment on?

21 INVESTIGATOR PUENTE: It's on Blagden
22 Alley NW.

23 CHAIRPERSON ANDERSON: Before you move
24 forward, have you -- I'm sorry -- let me ask this
25 question while you're here. Can you describe --

1 have you had a chance to walk through this alley?

2 INVESTIGATOR PUENTE: Yes, sir.

3 CHAIRPERSON ANDERSON: Can you just
4 describe this alley for us, please?

5 INVESTIGATOR PUENTE: Yeah. It's not
6 big. It's enough for two cars to get by and
7 maybe for a car to park against the building.
8 There's neighboring establishments that have
9 entrances and exits in this alley to the left and
10 right of the establishment. There's a streatory
11 in the alley as well, and then further back in
12 the alley there's another ABC establishment.

13 CHAIRPERSON ANDERSON: Okay, fine. Go
14 ahead, sir.

15 INVESTIGATOR PUENTE: Exhibit 13 is
16 another photograph of the rear of the
17 establishment.

18 Exhibit 14 is a photograph of the
19 front of the establishment.

20 Exhibit 15 is the curb right in front
21 of Eighteenth Street Lounge. These are the steps
22 leading up to the front door of the
23 establishment.

24 Exhibit 16 is a photograph of Blagden
25 Alley coming off 9th Street NW. You'll turn

1 right into this long driveway.

2 Exhibit 17 is the back of the alley on
3 Blagden Alley NW. To the right would be
4 Eighteenth Street Lounge and these are
5 neighboring establishments back here.

6 CHAIRPERSON ANDERSON: Let me ask you
7 about that, Mr. Puente. I'm sorry again. In 17,
8 so are these establishments whose entrance are
9 actually in the alley?

10 INVESTIGATOR PUENTE: Yes. There's
11 one right next door that has an entrance --
12 there's actually two next door that have
13 entrances in the alley.

14 CHAIRPERSON ANDERSON: Okay. Go
15 ahead, sir.

16 INVESTIGATOR PUENTE: Exhibit 18 is
17 another photograph of Blagden Alley NW going
18 further up the alley.

19 Exhibit 19 is another photograph of
20 Blagden Alley NW with the streatery in the
21 middle.

22 Exhibit 20 is the photograph of the
23 Metro bus stop at the corner of 9th and N Street
24 NW.

25 Exhibit 21 is the subway stop the

1 Metro Mount Vernon Square 7th Street Convention
2 Center station on 7th Street NW.

3 Exhibit 18 is a photograph of the
4 parking on 9th Street NW.

5 Exhibit 23 is a photograph of the
6 parking on 9th Street NW.

7 Exhibit 24 is another photograph of
8 the parking on 9th Street NW.

9 Exhibit 25 is a photograph of the --
10 there's a small parking lot on the corner of 9th
11 Street and Blagden Alley NW, this is the sign for
12 the parking.

13 Exhibit 26 is a photograph of that
14 parking lot right next to the entrance of Blagden
15 Alley NW and at 9th Street NW.

16 And that's it, sir.

17 (Whereupon, the above-referred to
18 documents were marked as Board Exhibits No. 1
19 through 26 for identification and received in
20 evidence.)

21 CHAIRPERSON ANDERSON: Thank you. You
22 can close your screen, sir. I just want to ask
23 you some questions about you stated -- you
24 testified there are approximately 31 licensed
25 establishments in the vicinity. Is that correct?

1 INVESTIGATOR PUENTE: Yes, sir.

2 CHAIRPERSON ANDERSON: And you said
3 that there are 14 establishments with an
4 entertainment endorsement. What are those 14
5 establishments with an entertainment endorsement?

6 INVESTIGATOR PUENTE: Yes, sir. The
7 14 are Never Looked Better, Convivial, Cambria
8 Suites, Maxwell, Nina May, The Capitol Burger,
9 Kinship, Morris American Bar, Marriott Marquis,
10 The Courtyard by Marriott, Baby Whale, The
11 Dabney, Torino Restaurant, and Tiger Fork.

12 CHAIRPERSON ANDERSON: Now, out of the
13 31 establishments, what other establishments
14 there are Class CT?

15 INVESTIGATOR PUENTE: There are seven,
16 sir.

17 CHAIRPERSON ANDERSON: What are those
18 seven, please?

19 INVESTIGATOR PUENTE: They are Tiger
20 Fork, Lost and Found, Columbia Room, Never Looked
21 Better, Maxwell, Morris American Bar, TG
22 Cigars -- and TG Cigars, sir.

23 CHAIRPERSON ANDERSON: So what -- how
24 many of the establishments have a summer garden?

25 INVESTIGATOR PUENTE: Eight

1 establishments have summer gardens.

2 CHAIRPERSON ANDERSON: And what are
3 the eight establishments with summer gardens?

4 INVESTIGATOR PUENTE: They are Calico,
5 The Dabney, Columbia Room, TG Cigars, Courtyard
6 by Marriott, Marriott Marquis, Maxwell, and
7 Cambria Suites Hotel.

8 CHAIRPERSON ANDERSON: Now, what
9 establishments have both an entertainment
10 endorsement and a summer garden?

11 INVESTIGATOR PUENTE: One second, sir.
12 So these five establishments have a summer garden
13 and entertainment sir: The Dabney, Maxwell,
14 Cambria Suites, Marriott Marquis, Courtyard by
15 Marriott.

16 CHAIRPERSON ANDERSON: Now, can you
17 tell us what are the hours -- if you're aware,
18 what are the hours for, say, The Dabney; the
19 hours for the establishment itself and what's
20 allowed on the summer garden. That's what I'm
21 trying to find out for the establishments that
22 are already there.

23 INVESTIGATOR PUENTE: Okay, sir. The
24 Dabney, which has entertainment and a summer
25 garden, it's located at 1222 9th Street NW. The

1 hours of operation sales and service is Sunday to
2 Saturday 8:00 a.m. to 1:00 a.m. The hours of
3 entertainment are Sunday to Saturday 8:00 a.m. to
4 1:00 a.m. The summer garden hours are Sunday to
5 Thursday 8:00 a.m. to 11:00 p.m., Friday and
6 Saturday 8:00 a.m. to 12:00 a.m. The Dabney, in
7 their SA, there's a section that say no
8 entertainment in the summer garden and all doors
9 and windows shall remain closed during
10 entertainment inside the establishment.

11 CHAIRPERSON ANDERSON: I'm sorry.
12 You're saying that The Dabney has a settlement
13 agreement. And what does the settlement
14 agreement talk about entertainment -- I'm
15 sorry -- on the summer garden?

16 INVESTIGATOR PUENTE: It says no
17 entertainment will be allowed on the summer
18 garden and all doors and windows shall remain
19 closed for entertainment that's inside the
20 establishment.

21 CHAIRPERSON ANDERSON: Okay. What
22 about the Courtyard by Marriott?

23 INVESTIGATOR PUENTE: Yeah. So the
24 Courtyard by Marriott has entertainment and a
25 summer garden. It's located 901 L Street NW.

1 The hours of operation are 24/7. The hours of
2 sales and service for alcohol is Sunday to
3 Thursday 8:00 a.m. to 2:00 a.m., Friday and
4 Saturday 8:00 a.m. to 3:00 a.m., and hours of
5 summer garden is Sunday to Saturday 8:00 a.m. to
6 1:00 a.m.

7 CHAIRPERSON ANDERSON: Okay. So the
8 entertainment -- I'm sorry -- summer garden is
9 when?

10 INVESTIGATOR PUENTE: Sunday to
11 Saturday 8:00 a.m. to 1:00 a.m.

12 CHAIRPERSON ANDERSON: Do you know,
13 can they have entertainment on their summer
14 garden? Are you aware of that?

15 INVESTIGATOR PUENTE: Yes, they're
16 allowed, and the hours of entertainment for the
17 establishment, sir, is Sunday to Thursday 8:00
18 a.m. to 2:00 a.m and Friday and Saturday 8:00
19 a.m. to 3:00 a.m.

20 CHAIRPERSON ANDERSON: Talk about the
21 Marriott Marquis.

22 INVESTIGATOR PUENTE: The Marriott
23 Marquis has summer garden and entertainment
24 endorsement. It's located at 901 Massachusetts
25 Avenue NW. The hours of operation is 24/7. The

1 hours of sale and service for alcohol is Sunday
2 to Thursday 8:00 a.m. to 2:00 a.m., Friday and
3 Saturday 8:00 a.m. to 3:00 a.m. Hours of the
4 summer garden is Sunday to Thursday 8:00 a.m. to
5 11:00 p.m., Friday and Saturday 8:00 a.m. to
6 12:00 a.m. The hours of entertainment is Sunday
7 to Thursday 8:00 a.m. to 2:00 a.m., and Friday
8 and Saturday 8:00 a.m. to 3:00 a.m.

9 CHAIRPERSON ANDERSON: I'm sorry.
10 Let's go back over the entertainment for the
11 Marriott Marquis one more time, please.

12 INVESTIGATOR PUENTE: The hours of
13 entertainment are Sunday to Thursday 8:00 a.m. to
14 2:00 a.m. --

15 CHAIRPERSON ANDERSON: No, I'm sorry.
16 The entertainment on the summer garden if that's
17 allowed.

18 INVESTIGATOR PUENTE: Yes,
19 entertainment is allowed on the summer garden.

20 CHAIRPERSON ANDERSON: And what's the
21 time for that?

22 INVESTIGATOR PUENTE: There is no time
23 restriction on it.

24 CHAIRPERSON ANDERSON: Let's do --
25 let's see -- Maxwell.

1 INVESTIGATOR PUENTE: Yes. The
2 Maxwell is located at 1336 9th Street NW. The
3 hours of operation sales and service is Sunday to
4 Thursday 9:00 a.m. to 1:30 a.m., Friday and
5 Saturday 9:00 a.m. to 2:30 a.m. The hours of
6 entertainment is Sunday to Thursday 6:00 p.m. to
7 1:30 a.m., Friday and Saturday 6:00 p.m. to 2:30
8 a.m. The hours of the summer garden is Sunday to
9 Thursday 9:00 a.m. to 11:00 p.m., and Friday and
10 Saturday 9:00 a.m. to 12:00 a.m. And per their
11 SA they're not allowed to have outside speakers
12 on their summer garden.

13 CHAIRPERSON ANDERSON: And what about
14 Cambria Suites?

15 INVESTIGATOR PUENTE: Yes. Cambria
16 Suites is located at 899 O Street NW. The hours
17 of operation are Sunday to Saturday 24/7. The
18 hours of sales and service for alcohol is Sunday
19 to Thursday 8:00 a.m. to 2:00 a.m., Friday and
20 Saturday 8:00 a.m. to 3:00 a.m. The hours of
21 entertainment are Sunday to Thursday 8:00 a.m. to
22 2:00 a.m., Friday and Saturday 8:00 a.m. to 3:00
23 a.m., and the hours for the summer garden is
24 Sunday to Saturday 8:00 to 11:00 p.m.

25 CHAIRPERSON ANDERSON: Can they have

1 entertainment on their summer garden, are you
2 aware?

3 INVESTIGATOR PUENTE: Yes, they can,
4 sir.

5 CHAIRPERSON ANDERSON: And so that's
6 till 11:00 p.m.?

7 INVESTIGATOR PUENTE: Yes, that's the
8 hours of operation for the summer garden.

9 CHAIRPERSON ANDERSON: And that's
10 every day?

11 INVESTIGATOR PUENTE: Yes, Sunday to
12 Saturday.

13 CHAIRPERSON ANDERSON: Okay. Now, how
14 far is -- I know the Cambria Suites, this is a
15 hotel. Is that correct?

16 INVESTIGATOR PUENTE: Yes, sir.

17 CHAIRPERSON ANDERSON: And how far is
18 this from -- how far is this from the Eighteenth
19 Street Lounge, if you're aware?

20 INVESTIGATOR PUENTE: It's about a
21 block and a half.

22 CHAIRPERSON ANDERSON: Do you know
23 whether or not this location abuts in any way
24 Blagden Alley?

25 INVESTIGATOR PUENTE: No, sir.

1 CHAIRPERSON ANDERSON: What -- let me
2 ask, we did The Dabney, Courtyard by Marriott,
3 Marriott Marquis, Maxwell and Cambria Suites. Do
4 any of these establishments abut Blagden Alley,
5 if you're aware?

6 INVESTIGATOR PUENTE: No, sir. The
7 Dabney is on 9th Street NW, but their rear exit
8 is on Blagden Alley NW.

9 CHAIRPERSON ANDERSON: So the
10 Dabney -- the Dabney, its exit is on Blagden
11 Alley, it's rear exit is on Blagden Alley?

12 INVESTIGATOR PUENTE: Yes. They use
13 that as an entrance and exit at times.

14 CHAIRPERSON ANDERSON: Okay. I don't
15 have any other questions.

16 Do any other Board members have any
17 questions for Mr. Puente?

18 MEMBER SHORT: Yes, Mr. Chair, this is
19 Mr. Short. I'd like to ask some questions.

20 CHAIRPERSON ANDERSON: Go ahead, Mr.
21 Short.

22 MEMBER SHORT: Good afternoon -- or
23 no, it's not afternoon yet -- good morning,
24 Investigator Puente.

25 INVESTIGATOR PUENTE: Good morning,

1 sir.

2 MEMBER SHORT: Okay. You mentioned
3 several hotels in the vicinity of the
4 applicant's -- for this license, this new
5 license, and you mentioned several of those,
6 especially I think it was the one you mentioned
7 there, the Gabrielle -- or some hotels you also
8 mentioned they have rooftops, but how tall are
9 these hotels with the rooftop entertainment?

10 INVESTIGATOR PUENTE: They're pretty
11 tall, sir, it's tall.

12 MEMBER SHORT: Okay. Well, so and do
13 any of those abut residences?

14 INVESTIGATOR PUENTE: I believe the
15 Courtyard by Marriott abuts residences.

16 MEMBER SHORT: And that's about eight
17 stories -- is that approximately six to eight
18 stories high?

19 INVESTIGATOR PUENTE: Yeah, about six
20 to eight, yes.

21 MEMBER SHORT: And so basically on
22 their rooftop it doesn't -- do they abut any
23 residence?

24 INVESTIGATOR PUENTE: The rooftop I
25 believe does not, no.

1 MEMBER SHORT: Okay. And so I guess
2 I would ask for all those high rises that you
3 mentioned for the hotels, they don't actually
4 abut residential -- or residences. Is that
5 correct?

6 INVESTIGATOR PUENTE: No, sir. I
7 believe Cambria Suites abuts apartments.

8 MEMBER SHORT: Okay. But Cambria
9 Suites is the one that has the parking lot
10 directly across from the new Giant. Correct?

11 INVESTIGATOR PUENTE: Yes, and they
12 have a garage below them as well.

13 MEMBER SHORT: Correct. So they don't
14 have any parking problems because they have -- I
15 think there are three layers of parking lot. So
16 peace, order and quiet as far as parking is
17 concerned is really kind of not a factor because
18 of the parking lot. Correct?

19 INVESTIGATOR PUENTE: Yes. There's
20 that parking garage. I believe if you or me
21 wanted to go park there, we have to pay a fee.

22 MEMBER SHORT: Understand, unless
23 you're shopping at the Giant, but that's another
24 story.

25 What I wanted to ask you -- and I

1 understand that this applicant still has ongoing
2 construction?

3 INVESTIGATOR PUENTE: Yes, sir.

4 MEMBER SHORT: Have any of the
5 plans -- or have you seen any of the plans, the
6 drawings?

7 INVESTIGATOR PUENTE: No, sir.

8 MEMBER SHORT: So you wouldn't have
9 any knowledge of whether they have been approved
10 or they're still just somewhere in DCRA going
11 through the process. Is that correct?

12 INVESTIGATOR PUENTE: I spoke to a
13 DCRA program manager back at the beginning of
14 January. He advised me that the establishment
15 has all their permits up to date. There was a
16 stop-work order issued back in October for a
17 retaining wall, they put the stop-work order on,
18 but he said the stop-work order has been lifted
19 as of now, so they're allowed to do construction.

20 MEMBER SHORT: Okay. How often do you
21 get to 9th Street let's say during the hours of
22 between eleven, one, two, or three o'clock in the
23 morning?

24 INVESTIGATOR PUENTE: Quite a bit,
25 sir.

1 MEMBER SHORT: Can you describe to the
2 Board and describe what are the conditions in the
3 1200, 1300, 1400 block of 9th Street?

4 INVESTIGATOR PUENTE: There is a
5 streatory right on the Convention side of 9th
6 Street, Unconventional Diner, which is licensed
7 through Events DC, so they're usually open, as
8 well as another establishment called Tall Boy
9 which is licensed by Events DC.

10 Then for ABRA establishments there's
11 quite a few ABRA establishments that are open
12 that late at night, up to 3:00 in the morning.
13 There's usually -- some nights there could be
14 heavy pedestrian traffic, parking can be
15 sometimes difficult depending on the weather, if
16 it's warm, cold. Especially in the summer months
17 I tend to see it be more busy in that area.

18 MEMBER SHORT: Okay. And your
19 testimony is that 9th Street is a main
20 thoroughfare. How many lanes is 9th Street, do
21 you know, or can you comment on that?

22 INVESTIGATOR PUENTE: It's four lanes,
23 sir, plus two parking on each side.

24 MEMBER SHORT: And is it directional
25 one way or the other?

1 INVESTIGATOR PUENTE: It's a two-way
2 street up to the convention center, then it goes
3 one-way.

4 MEMBER SHORT: Okay. And when it goes
5 one-way, does this Applicant fall within that
6 range?

7 INVESTIGATOR PUENTE: No. He's back
8 when it's still two directional street.

9 MEMBER SHORT: Two directional. Okay.
10 Yeah, okay.

11 All right. Also on Exhibit Number 23,
12 can you bring it up for us?

13 INVESTIGATOR PUENTE: Yes, sir.

14 MEMBER SHORT: Thank you. Okay.
15 Thank you very much. So this is the sidewalk in
16 front of the Applicant's location?

17 INVESTIGATOR PUENTE: Uh, yes. His
18 establishment is up here where those cones are --
19 this cone.

20 MEMBER SHORT: Okay. So that's quite
21 narrow.

22 INVESTIGATOR PUENTE: Yes, sir.

23 MEMBER SHORT: So when you visit up
24 and down 9th Street on weekends or late at night,
25 early in the morning, how are those sidewalks?

1 INVESTIGATOR PUENTE: Most recently
2 it's kind of crowded right near the establishment
3 because of the abutting establishment that's
4 below it, Never Looked Better, so there's people
5 standing outside. If people are walking by, they
6 have to kind of say "Excuse me" or kind of move
7 out of the way.

8 MEMBER SHORT: Yeah, I noticed it's
9 not in your report, but so if the fire alarm
10 happened to have to go off and people had to come
11 out and the streets are crowded, have they made
12 provisions for that or has anybody thought about
13 that?

14 INVESTIGATOR PUENTE: I don't think --
15 no one has mentioned that to me, sir.

16 MEMBER SHORT: Okay. Not a problem.
17 Also, I'd like to ask you pretty much
18 regarding to peace, order and quiet, especially
19 on weekend nights in that same block, what have
20 you -- have you been there on weekends, point
21 number one, and if you've been there, point
22 number two, how are these sidewalks, let's say
23 between eleven, one, two, three o'clock in the
24 morning.

25 INVESTIGATOR PUENTE: Yes, sir, I've

1 been there on the weekends. Fortunately during
2 my protest period it was during the holiday
3 season between Christmas and New Year's, so I
4 monitored both weekends when I was working. It
5 was quiet, it was raining as well on one of the
6 weekends so it wasn't a lot of foot traffic
7 outside. On New Year's Eve night I monitored the
8 establishment. There was a few people standing
9 outside, but it was quiet because it was cold as
10 well and still raining.

11 MEMBER SHORT: Okay. Now, I don't
12 know if you had the -- at the time in the rear
13 with the alley behind this establishment for this
14 Applicant, how is that alley, let's say between
15 11:00 p.m. and one or two o'clock, three o'clock
16 in the morning?

17 INVESTIGATOR PUENTE: Yes, I've been
18 back there during that time. Most of the time
19 there's Ubers and Lyfts dropping people off, and
20 there's people waiting, sometimes there's cars
21 blocking the alley waiting for people, so at
22 times it can be congested if there's rideshares
23 back there blocking traffic.

24 MEMBER SHORT: During your
25 investigation was that issue ever brought up or

1 did anyone ever discuss the alley being blocked?

2 INVESTIGATOR PUENTE: Uh, yes, the
3 Protestants did many times.

4 MEMBER SHORT: So in the rear of that
5 alley how close are residents directly in that
6 alley or attached to that alley, residential
7 properties?

8 INVESTIGATOR PUENTE: Yes. I have a
9 picture actually I can show you. So right back
10 here at the back of the alley, these are some
11 commercial businesses, but there's also
12 residential units back here as well. These are
13 residential as well as apartments, these are
14 garages right here on the bottom of the alley.
15 Then back here as well there's more houses in the
16 back of the alley and more condos and apartments.

17 MEMBER SHORT: So the rooftop for this
18 applicant would be on the same level as the
19 residences -- is that correct? -- or is that what
20 the picture looks like to me?

21 INVESTIGATOR PUENTE: Yes. So this
22 would be the rooftop right here right above this
23 black door, so this is where the rooftop would
24 be.

25 MEMBER SHORT: Okay. Now, the tall

1 building right behind the picture you've taken,
2 the tallest building in that picture, what is
3 that, or do you know?

4 INVESTIGATOR PUENTE: That's another
5 ABC establishment.

6 MEMBER SHORT: Okay. And do they have
7 a rooftop?

8 INVESTIGATOR PUENTE: Yes.

9 MEMBER SHORT: And so they are several
10 stories taller than one or two that we see on
11 your picture of the alley.

12 INVESTIGATOR PUENTE: Yes, sir.

13 MEMBER SHORT: So would that noise be
14 a little less burdensome on residences than
15 directly across the alley on that same level?

16 INVESTIGATOR PUENTE: Yes, sir.

17 MEMBER SHORT: Okay. So the rear exit
18 to the establishment, is that in that picture
19 that you're showing now for the Applicant?

20 INVESTIGATOR PUENTE: Yes. It's right
21 here, this black door, and to the right this gray
22 door is the abutting ABC establishment, Never
23 Looked Better.

24 MEMBER SHORT: Okay. So does that
25 door go up, the large door go up?

1 INVESTIGATOR PUENTE: Yes. It pushes
2 out towards the alley.

3 MEMBER SHORT: Okay. Wow, that's
4 interesting. So all right, so that's the main
5 floor of the establishment of the Applicant?

6 INVESTIGATOR PUENTE: Yes. In my past
7 experience I have been inside this building when
8 it was another ABC establishment. You walk in,
9 there's a hallway, then there's a kitchen to the
10 left, then there's a main bar area, then there's
11 a set of stairs in the front and in the back that
12 takes you to the second floor.

13 MEMBER SHORT: Okay. Now, I notice
14 that the space is tight back there, but looking
15 at your picture, do any of these establishments
16 that you go to anywhere in town have a dumpster
17 right next to the exit, rear exit or rear
18 entrance?

19 INVESTIGATOR PUENTE: Yes. I've been
20 to a few where there's dumpsters literally right
21 next to the back door.

22 MEMBER SHORT: And it hadn't created
23 a problem at all?

24 INVESTIGATOR PUENTE: Not as far as I
25 know. I know there's been times when I've been

1 with the fire marshal and he told people to move
2 it because it was close as well because they had
3 other stuff next to it.

4 MEMBER SHORT: So when was this that
5 the fire marshal advised them of that that you
6 know of?

7 INVESTIGATOR PUENTE: It wasn't this
8 establishment, sir; this was a different
9 establishment.

10 MEMBER SHORT: I understand, but I'm
11 still saying.

12 INVESTIGATOR PUENTE: I understand.

13 MEMBER SHORT: The establishment that
14 had locations similar to the one we're looking at
15 in the picture with a dumpster that close, the
16 fire marshal had them to move it to another
17 location. Is that what you're saying?

18 INVESTIGATOR PUENTE: Yes, because in
19 case anything happened it would be blocking
20 pedestrians or EMS or fire if they had to get
21 back there.

22 MEMBER SHORT: So in your estimation,
23 could a fire truck get back there very easily
24 with the Ubers and the other things that are
25 going on back there right now, I mean, before

1 this establishment is considered?

2 INVESTIGATOR PUENTE: No. If there's
3 a car blocking this alley right here, like this
4 van right here, it would be hard because it's a
5 sharp turn to go down that stretch of alley right
6 there to 9th Street, so it would make it
7 impossible for a fire truck to make a turn into
8 this alley.

9 MEMBER SHORT: Thank you for your
10 testimony. And I guess what I want to say, the
11 alley is shared by the residences and the
12 businesses?

13 INVESTIGATOR PUENTE: Yes, sir.

14 MEMBER SHORT: And again, can you show
15 where the residential area is on the photograph
16 you're showing right now?

17 INVESTIGATOR PUENTE: Okay. So --

18 MEMBER SHORT: Go ahead.

19 INVESTIGATOR PUENTE: In this
20 photograph these are apartments right here that
21 abut the alley. Then in this photograph these
22 are housing condos that abut the alley. Then in
23 this photograph --

24 CHAIRPERSON ANDERSON: Mr. Puente,
25 just identify the photograph that you're talking

1 about.

2 INVESTIGATOR PUENTE: Yes, sir. So
3 Exhibit 18 shows an apartment building that abuts
4 the alley. Exhibit 17 shows houses that abut the
5 alley, as well as condos that abut the alley, and
6 some have garages back there as well. Exhibit
7 19, in the back of the alley there's a few
8 commercial businesses, and to the right there's
9 housing back there with garages for residences.

10 MEMBER SHORT: So would it be fair to
11 say that most of the establishments that have low
12 exterior permits to use the rooftops, do they
13 have a little more stringent privileges for using
14 their rooftops than those in the high rises? Are
15 they different?

16 INVESTIGATOR PUENTE: Can you repeat
17 that, sir? You were cutting in and out.

18 MEMBER SHORT: Please forgive me.

19 On the rooftop of the low rises or one
20 or two story buildings that have -- well, how
21 many establishments on the one- and two-story
22 buildings have summer rooftop entertainment?

23 INVESTIGATOR PUENTE: Um, the
24 establishment that abuts the -- the ABC
25 establishment that abuts Eighteenth Street Lounge

1 has a rooftop but they don't have entertainment
2 on it.

3 MEMBER SHORT: Okay. The occupancy,
4 can you break it down by floors how they're going
5 to get -- I think you said 265 occupants in. By
6 floors can you give what they've applied for?

7 INVESTIGATOR PUENTE: Yes, sir. So
8 they applied for -- so they currently applied for
9 a seating capacity of 150 with a total occupant
10 load of 250, with a summer garden with 85 seats.
11 At the time there's on CFO issued right now for
12 the occupant loads on each floor.

13 MEMBER SHORT: So that's going to be
14 done later?

15 INVESTIGATOR PUENTE: Uh, yes, sir.

16 MEMBER SHORT: How much later? When
17 will this Board know about those numbers, or when
18 will ABRA know about those numbers?

19 INVESTIGATOR PUENTE: I'm unsure, sir.
20 You'll have to ask the Applicant that.

21 MEMBER SHORT: Okay. All right.
22 Thank you very much. Your testimony has been
23 compelling, and thank you very much for your
24 excellent report. Thank you for your service.

25 INVESTIGATOR PUENTE: Thank you, sir.

1 MEMBER SHORT: That's all I have, Mr.
2 Chair.

3 CHAIRPERSON ANDERSON: Thank you, Mr.
4 Short.

5 Are there any other questions by
6 any -- close your screen, please, Mr. Puente.

7 MEMBER HANSEN: I do have questions.

8 CHAIRPERSON ANDERSON: Are there any
9 other -- go ahead, Ms. Hansen.

10 MEMBER HANSEN: Investigator Puente,
11 do you have an aerial view -- you may have said
12 that, but do you have an aerial view of the
13 establishment?

14 INVESTIGATOR PUENTE: I do not, ma'am,
15 no.

16 MEMBER HANSEN: You don't. Okay.

17 And I apologize if you've already
18 answered this also. Are there any establishments
19 with summer gardens with rooftops of the same
20 size, do you know? You said they do have summer
21 gardens, but are they the same size as that
22 location?

23 INVESTIGATOR PUENTE: I believe The
24 Dabney will be about the same size, but they
25 don't have entertainment.

1 MEMBER HANSEN: That's all. Thank
2 you.

3 CHAIRPERSON ANDERSON: Any other
4 questions by any other Board members?

5 MEMBER GRANDIS: Mr. Chairman?

6 CHAIRPERSON ANDERSON: Mr. Grandis.

7 MEMBER GRANDIS: Yes. Investigator
8 Puente, we want to thank you for your
9 presentation and for your report. Thank you very
10 much.

11 You are familiar also with CNs as well
12 as CTs. Correct?

13 INVESTIGATOR PUENTE: Yes, sir.

14 MEMBER GRANDIS: Could you just for
15 the record refresh my memory on if a CN wants a
16 dance floor for dancing what are the restrictions
17 or limitations on that for a CN?

18 INVESTIGATOR PUENTE: So, yes, sir.
19 A nightclub is a CN license that permits beer,
20 wine and spirits, it also comes with a full
21 license, entertainment, music and dancing and a
22 cover charge.

23 A tavern, which is different, operates
24 on a limited schedule, it can serve food and
25 alcoholic beverages, it can provide entertainment

1 as well as have a dance floor and cover charge
2 but they would have to apply for endorsements.

3 MEMBER GRANDIS: Is there a size
4 limitation for a CT regarding a dance floor,
5 measuring what size that they're allowed to have
6 under a CT?

7 INVESTIGATOR PUENTE: Yes, sir. It's
8 not to exceed 140 square feet.

9 MEMBER GRANDIS: And help me know what
10 140 square feet look like.

11 INVESTIGATOR PUENTE: Oh --

12 MEMBER GRANDIS: Is that like a 10 by
13 14?

14 INVESTIGATOR PUENTE: Yes, just about.

15 MEMBER GRANDIS: Okay. I noticed in
16 several of your pictures, the exhibits, you
17 showed the front of the establishment including
18 the sidewalk. If you could pull up number 11,
19 possibly. Are you able to still do that for us?

20 INVESTIGATOR PUENTE: Yes, sir.

21 MEMBER GRANDIS: Exhibit 11.

22 INVESTIGATOR PUENTE: Exhibit 11, sir.

23 MEMBER GRANDIS: Okay. And then you
24 had another exhibit that showed a side view of
25 how wide the sidewalk is in front of the

1 building.

2 INVESTIGATOR PUENTE: Yes, sir.

3 Exhibit 13 -- no -- Exhibit 15.

4 MEMBER GRANDIS: Is that directly in
5 front of this townhouse that is the Applicant's
6 request?

7 INVESTIGATOR PUENTE: Yes. So these
8 black stairs lead right up to the front door of
9 the establishment.

10 MEMBER GRANDIS: And do you have any
11 knowledge on that black stair at the bottom level
12 to the curb on what the distance is
13 approximately?

14 INVESTIGATOR PUENTE: Yeah. I'd say
15 when I walked it, it took me two steps to get
16 from the black steps to the curb.

17 MEMBER GRANDIS: Would that roughly be
18 what?

19 INVESTIGATOR PUENTE: Probably about
20 a foot or maybe two feet at most.

21 MEMBER GRANDIS: It's my understanding
22 that this applicant is seeking a cover charge
23 endorsement. Is that correct?

24 INVESTIGATOR PUENTE: Yes, sir.

25 MEMBER GRANDIS: Okay. Therefore, it

1 is possible that they would have a stanchion or a
2 line of people waiting to get in. If that were
3 the case, how about other pedestrians, would they
4 be able to walk directly in that area or would
5 they be sort of forced into the street to get by
6 if there's a line of patrons wanting to get in?

7 INVESTIGATOR PUENTE: Yes, sir. So if
8 there was a line, depending on how big the size
9 of the line, how many people, yes, pedestrians
10 would be forced to either walk in the street or
11 try to fight the crowd to get through.

12 MEMBER GRANDIS: Is that a safe
13 situation from your experience as an
14 investigator?

15 INVESTIGATOR PUENTE: No, sir.
16 Actually, just a few weeks ago we had a similar
17 incident on U Street with an establishment just
18 like this scenario, and the fire marshal was
19 called and he made the establishment move its
20 line down to create a walkway for the
21 pedestrians.

22 MEMBER GRANDIS: So if the fire
23 marshal saw the line, had it moved down in this
24 situation, is there -- from your knowledge, is
25 there a place the line could move down to allow

1 other pedestrians to walk by safely?

2 INVESTIGATOR PUENTE: Yes. It can
3 move down either down this way down 9th Street or
4 back towards N Street, but then you run into
5 running into some blocking the stairwells to
6 neighboring businesses.

7 MEMBER GRANDIS: Is that allowed to
8 block entrances to neighboring businesses --

9 INVESTIGATOR PUENTE: No, sir.

10 MEMBER GRANDIS: -- as an inspector?

11 INVESTIGATOR PUENTE: No, sir.

12 MEMBER GRANDIS: So if you were doing
13 your job and happened to see a line that had been
14 moved down so other pedestrians could cross in
15 front of this townhouse but that line was
16 blocking another entrance, what would be expected
17 of an investigator?

18 INVESTIGATOR PUENTE: I would go
19 advise the establishment, the ABC owner, that
20 he's possibly blocking the stairwells or
21 entrances and exits to other establishments; he
22 should try to remedy the situation. If not, then
23 I would phone call the fire marshal.

24 MEMBER GRANDIS: Are you -- in your
25 investigation did you determine that BZA had

1 already approved the rooftop to be used for food
2 and entertainment?

3 INVESTIGATOR PUENTE: No, I have not,
4 sir.

5 MEMBER GRANDIS: Okay. Thank you.

6 Mr. Chairman, that's all. Thank you.

7 CHAIRPERSON ANDERSON: Thank you, Mr.
8 Grandis.

9 Any other questions by any other Board
10 members?

11 (No response.)

12 CHAIRPERSON ANDERSON: Close your
13 screen, please, Mr. Puente.

14 Any other questions by any other Board
15 members?

16 (No response.)

17 CHAIRPERSON ANDERSON: I just want to
18 ask one follow-up question, Mr. Puente. Mr.
19 Puente, do you know whether or not how close --
20 say for -- not for the ANC, the protest groups,
21 do you know approximately how far any of the
22 Protestants live to the establishment? If you
23 don't know just --

24 INVESTIGATOR PUENTE: Yes, sir. So
25 one of the Protestants, Ms. Budjevac, she lives

1 directly in the rear of that alley back there
2 along 10th Street NW. Then Mr. Goldberg, he
3 lives maybe about a block and a half away from
4 the establishment.

5 CHAIRPERSON ANDERSON: All right.

6 Thank you.

7 Any questions, Mr. Kline?

8 MR. KLINE: Yes, Mr. Chairman. Thank
9 you.

10 CROSS-EXAMINATION

11 BY MR. KLINE:

12 Q Investigator Puente, when we talk
13 about the alley, it's actually several alleys,
14 isn't it?

15 A Yes, it's long, it's like streets,
16 like L-shaped somewhat.

17 Q All right. Can we pull up Exhibit 9,
18 please. If we could enlarge that.

19 All right. So we don't have an aerial
20 view, which you were asked by one Board member,
21 but we do have this. Correct?

22 A Yes, sir.

23 Q And so there is kind of an H. Can you
24 delineate all the parts of Blagden Alley that are
25 referred to as Blagden Alley?

1 A Yes, sir.

2 Q For us with your cursor?

3 A Yes. So right here is 9th Street NW,
4 this will be the front of Blagden Alley NW.
5 Right here will be the little parking lot. So
6 you come all the way up and you make a right, a
7 sharp right, then there will be more alleyway.

8 If you go this way and turn left, it
9 dead ends into behind an ABC establishment right
10 here, there's several houses. If you come back
11 this way -- if you this way you go right to N
12 Street NW.

13 Q And that's also considered Blagden
14 Alley. Correct?

15 A Yes, sir.

16 Q Okay.

17 A And if you come back here, it's
18 considered Blagden Alley as well. There's some
19 commercial business right here, then over here
20 several residences. Then back this way, if you
21 go this way there's another ABC establishment and
22 you can either go left or right back down Blagden
23 Alley and go this way to take you to M Street NW,
24 or you can go this way and come up to 10th Street
25 NW>

1 Q All right. So really it should be
2 called Blagden Alleys, shouldn't it?

3 A Yes, sir.

4 Q Okay. Now, so when someone says that
5 they overlook Blagden Alley, then they might
6 overlook any one of these legs of the alley.
7 Would that be correct?

8 A Yes, sir.

9 Q And there's quite a bit of commercial
10 activity in the alley, isn't there?

11 A Yes.

12 Q What's back there? What's -- we
13 talked about it some, but let's be clear in terms
14 of the commercial activity that currently exists
15 back there.

16 A Yes. So there's another ABC
17 establishment, Calico, right here, which has a
18 summer garden. Then on the back side over here
19 there's several art studios, I believe, and maybe
20 an architect firm. Then over here there's
21 another art studio that can be used for events.

22 Then over here there's a coffee shop,
23 then there's another ABC establishment and
24 there's a pending ABC establishment coming. Then
25 over here is several more art studios, I believe,

1 then right here there's two ABC establishments,
2 there's an architect firm, a dog business and
3 another ABC establishment.

4 Q Okay. But to your knowledge, this
5 establishment does not extend to Blagden Alley,
6 does it?

7 A No. It's, I've been told, strictly on
8 9th Street NW.

9 Q Okay. So you'll come in and you'll go
10 out on 9th Street.

11 A Yes, sir.

12 Q All right. So when you were asked by
13 Board Member Short about exiting that door, it's
14 your understanding that, unless in the event of
15 an emergency, no one would be exiting that door.
16 Correct?

17 A Yes.

18 Q And so there's a number of ABC
19 establishments that are directly in the alley,
20 and people come and go into these establishments
21 from the alley?

22 A Yes, sir.

23 Q Okay. And those are located where,
24 just so we're all clear?

25 A Directly underneath Eighteenth Street

1 Lounge would be Never Looked Better, which shares
2 the building. That entrance is right here on the
3 alley. Then over here The Dabney and Columbia
4 Room, they have entrances and exits in the alley.

5 Then Lost and Found has a streatory
6 back here in the alley. Then right here is
7 another ABC establishment restaurant which has
8 its entrance there. And Calico right back here
9 has its entrance and exit in the alley.

10 Q Okay. And you said that there's
11 one -- an ABC establishment pending?

12 A Yes. Right next to the coffee shop
13 and the other ABC establishment right here on the
14 corner.

15 Q Has that one been approved by the ABC
16 Board yet, do you know?

17 A Yes. I believe it's still pending.

18 Q Do still pending -- has it been
19 approved by the Board, have they been through the
20 protest process?

21 A They've been approved but waiting on
22 several stuff to get done such as the CFO and the
23 BBLs and all that.

24 Q Okay. Do you know what their hours
25 are?

1 A I do not, sir, no.

2 Q Now looking at -- if you could bring
3 up Exhibit 13, please.

4 All right. So in looking at Exhibit
5 13, you previously testified that the taller
6 building to the right as we're facing the rear of
7 Eighteenth Street Lounge is an ABC establishment.
8 Correct?

9 A Yes, sir.

10 Q And which one is that?

11 A It's either the -- I believe it's the
12 Columbia Room, sir.

13 Q Okay. And in the middle up and down
14 towards the right there's sort of a fence on the
15 roof area there.

16 A Yes, right here.

17 Q Yeah. Isn't that indeed where the
18 summer garden is, the outside seating is?

19 A For the Columbia Room?

20 Q Yes.

21 A I'm not sure, I can't answer that.

22 Q Okay. But if it is there, then that
23 is no more than a couple of feet, if that, above
24 the level of the intended space for Eighteenth
25 Street Lounge for summer garden seating, isn't

1 it?

2 A Yes.

3 Q Okay. So just to be clear, the summer
4 garden seating for Columbia Room is not on top of
5 that taller structure, is it?

6 A No, sir.

7 Q Okay. So it's somewhere behind that
8 towards the alley.

9 A Yes, sir.

10 Q Okay. Now, there was testimony
11 previously about rideshares and other traffic
12 blocking the alley?

13 A Yes, sir.

14 Q In your estimation, do you anticipate
15 that being an issue with respect to this proposed
16 establishment?

17 A From my understanding, all the
18 entrance -- with the entrance and exit being on
19 the 9th Street NW side, that's where all the
20 rideshares would be picking up from.

21 Q You also mentioned a couple of
22 establishments that serve alcohol that are not
23 licensed by the ABC Board. Is that correct?

24 A Yes, sir.

25 Q And that's Tall Boy and Unconventional

1 Diner?

2 A Yes, sir.

3 Q And why aren't they licensed by the
4 ABC Board?

5 A They're licensed by Events DC so they
6 fall under their jurisdiction because it's
7 convention center property.

8 Q Okay. And the convention center, just
9 to be clear and make sure that everyone is
10 oriented, is directly across 9th Street from this
11 proposed establishment. Correct?

12 A Yes, sir.

13 Q And the hours -- these two
14 establishments have full hours, don't they?

15 A Yes, sir. Usually when I'm working I
16 see people in there up to 2:00 or 3:00 in the
17 morning on the weekends.

18 Q And they have outside space.

19 A Yes.

20 Q And how late does the outside space
21 go, if you know?

22 A I do not know the answer to that, no.

23 Q Now, you mentioned that The Dabney has
24 no entertainment in the summer garden. Correct?

25 A No. The Dabney does have

1 entertainment in the summer garden.

2 Q They have entertainment in the summer
3 garden?

4 A Per their SA says no entertainment on
5 the summer garden.

6 Q Okay. But that wouldn't include
7 recorded music, would it?

8 A No. As I understand, background
9 recorded music can be played.

10 Q Let's talk about the convention
11 center. Do you know what the capacity of the
12 convention center is?

13 A I do not know.

14 Q Do you know does the convention center
15 provide parking on a regular basis?

16 A Yes, I believe there is a parking
17 garage there.

18 Q Okay. But do you know whether that's
19 available for attendees to the convention center?

20 A I do not, sir, no.

21 Q Did you know what the hours of the
22 events at the convention center are?

23 A It varies on what kind of events being
24 there, as far as I know.

25 Q Although you don't know the precise

1 capacity of the convention center, is it fair to
2 say that it numbers over 10,000?

3 A Yes, I could say that.

4 Q Okay. Now, we talked bout Metro and
5 you said where it is, but where is it -- how far
6 is Metro from this establishment?

7 A There is the Metro bus stop, which at
8 the corner maybe less than half a block away for
9 the bus. Then the convention center has an
10 entrance on 7th Street right there.

11 Q So what, about two blocks from this
12 establishment?

13 A Yes, just about.

14 Q Are you familiar with the operation of
15 Eighteenth Street Lounge as it operated at the
16 location on 18th Street?

17 A Yes, I've been there a few times.

18 Q Okay. And what was your impression
19 about the way it was run?

20 A The times I've been there it was
21 interesting because one floor would possibly have
22 a DJ, the second floor would have a jazz player
23 playing a saxophone and singing, so it was a very
24 mature older crowd at times, I noticed.

25 Q Okay. Now, it's been suggested that

1 that location is completely commercial. Are
2 there residences adjacent to the location where
3 Eighteenth Street Lounge previously operated?

4 A Between Eighteenth Street Lounge
5 there's an alley, and within that alley there's
6 residential housing.

7 Q In fact, it's just directly across the
8 alley, isn't it?

9 A Yes.

10 Q And that would be the Jefferson Row
11 Condominiums?

12 A Yes, that's it.

13 Q All right. And there's some other
14 residences there as well?

15 A Yes.

16 Q So to suggest that that location is
17 completely commercial would be incorrect. Is
18 that right?

19 A Yes, sir.

20 Q Now, did you have occasion -- did you
21 look at the investigative history of the prior
22 operation of Eighteenth Street Lounge?

23 A Yes, sir, I did.

24 Q And what did you find when you looked
25 at it?

1 A According to its investigative
2 history, they had -- there was 15 violations from
3 2012 up until June 2, 2019.

4 Q Okay. I'm sorry. There were how many
5 violations?

6 A We had 15 listed on the history.

7 Q But those weren't violations; those
8 were incidents. Correct?

9 A My apologies. Yes, incidences.

10 Q Okay. So in fact, during that history
11 there was only one violation, wasn't there?

12 A Yes, on June 2, 2019.

13 Q Okay. And that was over a period of
14 what, nine years?

15 A Yes, sir.

16 Q And do you know if there were any
17 violations prior to that?

18 A Uh, no, sir. There was either several
19 MPD instances that were found to be no further
20 action.

21 Q So as far as you know and as far as
22 the records of ABRA reflect, if this
23 establishment opened in 1995, there was only one
24 violation of record during the roughly 25-year
25 period it operated. Is that correct?

1 A Uh, yes, but on July 12, 2019 there
2 was no ABC manager on duty, which he paid a fine
3 for 250.

4 Q Okay, all right. No ABC manager on
5 duty is one of the more common lapses of ABC-
6 licensed establishments, isn't it?

7 A Yes --

8 MR. THOMAS: Objection.

9 MR. KLINE: I'm sorry. Yes?

10 MR. THOMAS: Objection. Calls for
11 speculation.

12 MR. KLINE: I'll withdraw it.

13 CHAIRPERSON ANDERSON: All right. Go
14 ahead.

15 BY MR. KLINE:

16 Q Now, prior to -- if you know -- this
17 application and prior to the efforts to open
18 Eighteenth Street Lounge at this location, there
19 was an ABC-licensed establishment in this
20 location, wasn't there?

21 A Yes, sir, there was.

22 Q Okay. In your memory, to your
23 knowledge, how long had an ABC-licensed
24 establishment operated at that location?

25 A Uh, I remember it very well. It was

1 there for probably no longer than six months.

2 Q Okay. Was there any before that one?

3 A I do not know, sir, no.

4 Q You don't know. Okay, so you don't
5 know whether it was an ABC-licensed establishment
6 for a number of years or not.

7 Beg the Board's indulgence.

8 It was suggested in questioning of you
9 earlier that this proposed location abuts
10 residences. Does this proposed location abut
11 residences?

12 A No, sir. To the left and right is
13 commercial businesses.

14 Q Okay. And then what about across the
15 alley that runs -- the one alley, I don't mean
16 all of Blagden Alley, the H and all its feeders
17 and everything else; I mean the one alley
18 directly behind it, is there any residences
19 directly across that alley?

20 A Not directly behind it, no.

21 Q Okay. So it's fair to say it does not
22 abut residences.

23 A Yes, sir.

24 MR. KLINE: All right. I have no more
25 questions of the witness at this time.

1 Thank you, Investigator Puente, for
2 you report and your testimony.

3 INVESTIGATOR PUENTE: You're welcome.

4 CHAIRPERSON ANDERSON: Mr. Thomas?

5 MR. THOMAS: Thank you.

6 CROSS-EXAMINATION

7 BY MR. THOMAS:

8 Q Investigator Puente, I first wanted to
9 talk about your time you went and walked around
10 the alley for your report. You mentioned that it
11 was raining, correct, at the times you went and
12 visited the establishment in Blagden Alley?

13 A Yes. Some days when I was monitoring
14 it, it was raining.

15 Q And it was the holidays. Correct?

16 A Yes, sir.

17 Q It was also in the middle of the
18 Omicron surge. Is that correct?

19 A Yes, sir.

20 Q In your experience, has that limited
21 the -- do those factors limit how many people
22 come to certain ABC establishments?

23 A Uh, yes.

24 Q Um, are you aware of, uh, any active
25 nightclubs in the vicinity of the proposed

1 establishment?

2 A No, I'm not, sir, no.

3 Q So there's no, uh, no nightclub -- no
4 nightclub licensed establishments in the area.

5 A No.

6 Q Okay. Um, you mentioned The Dabney as
7 a, um, particular establishment that has both a
8 summer garden and an entertainment license. Is
9 that correct?

10 A Yes.

11 Q And you mentioned that The Dabney, um,
12 is not allowed to have entertainment on the
13 exterior, just background music. Is that
14 correct?

15 A Yes.

16 Q What type of establishment is The
17 Dabney?

18 A Uh, it's an upscale cocktail bar.
19 I've been there off duty, and it was an older
20 crowd.

21 Q Would it be fair to say that it's a
22 Michelin star restaurant?

23 A Yes, sir.

24 Q Okay. So they don't have DJs playing
25 there, do they?

1 A No.

2 Q Do they have live music with drums and
3 bass?

4 A No.

5 Q Okay. Do they have multiple music
6 acts playing at once?

7 A No.

8 Q Um, and the hours at The Dabney are
9 less than the hours that are being sought by the
10 Applicant. Is that correct?

11 A Yes.

12 Q In fact, do any of the other
13 entertainment endorsed establishments in the area
14 have similar hours to the hours sought by the
15 Applicant?

16 A Uh, no, sir, no.

17 Q Um, and the other entertainment --
18 excuse me -- the other summer gardens in the
19 direct vicinity -- and I just want to make sure I
20 understand your testimony -- we have The Dabney
21 and then we have Columbia Room. Is that correct?

22 A Yes, sir.

23 Q They're both within about a block
24 radius. Is that right?

25 A Yes.

1 Q Okay. Um, both of their summer
2 gardens close at, um, I believe midnight. Is
3 that accurate?

4 A Uh, yes. For The Dabney, Sunday to
5 Thursday it's 11:00 p.m. and Friday and Saturday
6 it's midnight, and for Columbia Room it's Sunday
7 to Thursday to 12:30 a.m. and Friday and Saturday
8 1:30 a.m.

9 Q And can you remind me when, um, the
10 Applicant is seeking to have their summer garden
11 open to?

12 A Uh, Sunday to Thursday to 2:00 a.m.
13 and Friday and Saturday 3:00 a.m.

14 Q Okay. So use is not consistent
15 between what the Applicant is looking to use
16 their summer garden for versus what these other
17 ABC establishments are looking to use their
18 summer garden for. Correct?

19 A Yes.

20 Q Um, I want to talk about their
21 entertainment licenses as well. Um, so The
22 Dabney has an entertainment license?

23 A Yes, sir.

24 Q They're not allowed to charge cover
25 though, are they?

1 A No. They don't have a cover charge
2 endorsement.

3 Q Are they allowed to have dancing?

4 A No. They don't have a dancing
5 endorsement.

6 Q Okay. So their entertainment license
7 is not similar to the, um, entertainment
8 endorsement that the Applicant is seeking.
9 Correct?

10 A Yes.

11 Q Um, let's talk about the Columbia
12 Room. Does the Columbia Room have, um, an
13 entertainment endorsement?

14 A Uh, no, sir.

15 Q Okay. What about Lost and Found, is
16 Lost and Found in the area of this -- um, of the
17 Applicant?

18 A Yes. It's a few establishments down
19 from it.

20 Q Okay. And Lost and Found has an
21 entertainment endorsement. Correct?

22 A Yes.

23 Q Are they allowed to have dancing?

24 A No. They didn't apply for it.

25 Q Are they allowed to have cover charge?

1 A No, just entertainment.

2 Q When does their entertainment license
3 cut out?

4 A If you can indulge me for one second,
5 sir.

6 Q Absolutely. Please take your time.

7 A So their entertainment is licensed --
8 give me one second, wrong thing -- they have an
9 SA that restricts their entertainment
10 endorsement.

11 Q Do all of these have SAs?

12 A Some do and some don't.

13 Q Okay. Columbia Room has an SA.
14 Right? And for the record, SA we're talking
15 about settlement agreement.

16 A Yes, sir, settlement agreement. Yes,
17 Columbia Room does have a settlement agreement.

18 Q Okay. Um, so Lost and Found's
19 entertainment endorsement, um, cuts off at 12:00
20 Sunday through Thursday. Is that right?

21 A Uh, that's what I'm looking at, sir.

22 Q Okay. 1:00 a.m. on Friday and
23 Saturday?

24 A Yes, sir.

25 Q They can't charge cover, can they?

1 A No, sir.

2 Q Um, doors must be closed during
3 entertainment. Correct?

4 A Yes, sir.

5 Q Okay. Um, what about Never Looked
6 Better, are you familiar with that establishment?

7 A Uh, yes, sir.

8 Q Where is Never Looked Better located?

9 A It is directly underneath where
10 Eighteenth Street Lounge would be.

11 Q Okay. So same exact building. Right?

12 A Yes.

13 Q Um, if you pull up I believe it was
14 Exhibit 11 of your report, but I apologize if I'm
15 mixing it up. I have -- sorry, go back, 12.

16 A Twelve, yep.

17 Q So Never Looked Better -- can you show
18 me where the entrance to Never Looked Better is
19 on that picture?

20 A It's right here, this gray door with
21 stickers on it.

22 Q Okay. So Never Looked Better is
23 essentially located directly below where the
24 Applicant is looking to open up. Correct?

25 A Yes.

1 Q Um, are you aware of any complaints
2 about Never Looked Better?

3 A Uh, I've been -- I responded to a few.

4 MR. KLINE: Objection as to relevance.

5 MR. THOMAS: I'm happy to make a
6 proffer; I'm not sure.

7 CHAIRPERSON ANDERSON: I'm going to
8 overrule the objection. Go ahead.

9 BY MR. THOMAS:

10 Q You can answer, Investigator Puente.

11 A Yes, it's directly below, and yes,
12 I've been there for several complaints.

13 Q Okay. What type of complaints?

14 A I responded once to noise, to underage
15 minors getting into the establishment.

16 Q Okay. Um, any others?

17 A I did an investigation on the owners
18 on a social media post.

19 Q Okay. What type of investigation was
20 that?

21 A About him posting videos on TikTok
22 encouraging underage behavior.

23 Q Okay. Um, anything else?

24 A That's all.

25 CHAIRPERSON ANDERSON: Mr. Thomas, I

1 overruled the objection, but where are we going
2 here, sir?

3 MR. THOMAS: I'm just trying to point
4 out that putting a nightclub on top of an
5 establishment that already has a poor track
6 record of operating is not beneficial for the
7 area and is going to exacerbate problems with
8 peace, order and quiet in the area, and that's --
9 I've made my point, I believe.

10 CHAIRPERSON ANDERSON: Okay. Let's
11 move on, let's move on, please.

12 BY MR. THOMAS:

13 Q Do you know what the occupancy of
14 Never Looked Better is?

15 A Uh, top of my head I believe it's no
16 more than 100.

17 Q Okay. Um, Never Looked Better has an
18 entertainment license -- entertainment
19 endorsement too. Correct?

20 A Yes, sir.

21 Q Do you recall what Never Looked
22 Better's entertainment endorsement says?

23 A Uh, from my recall -- give me one
24 second, sir --

25 Q It's a settlement agreement too.

1 Correct?

2 A Uh, yes, they do have a settlement
3 agreement. So their entertainment is Sunday to
4 Thursday from 11:00 a.m. to 1:00 a.m. -- my
5 apologies -- Sunday to Thursday 11:00 a.m. to
6 12:00 a.m. and on Friday and Saturday 11:00 a.m.
7 to 1:00 a.m.

8 Q Okay. Um, and they are not permitted
9 to seek a cover charge?

10 A Uh, no. They didn't apply for it
11 though.

12 Q Their settlement doesn't allow for it
13 though. Correct?

14 A Yes, sir.

15 Q Okay. And um, they are not allowed to
16 have dancing. Correct?

17 A No, sir.

18 Q Okay. Um, and they have noise
19 restrictions on their entertainment endorsement
20 that prevents it from being audible to the
21 sidewalk or the alley. Is that correct?

22 A Uh, yes, sir.

23 Q Board's indulgence for a moment.

24 So it would be safe to say that, um,
25 the Applicant is seeking a license that is

1 inconsistent with any of the other ABC-licensed
2 establishments in the area. Correct?

3 MR. KLINE: Objection.

4 CHAIRPERSON ANDERSON: Mister --

5 MR. THOMAS: I can narrow -- I
6 withdraw the question, I'll narrow it.

7 CHAIRPERSON ANDERSON: All right. Go
8 ahead.

9 BY MR. THOMAS:

10 Q Um, it would be fair to say that the
11 Applicant is seeking an ABC license that has
12 hours that are longer than any of the other
13 establishments we've discussed today. Correct?

14 A Yes, sir.

15 Q It would safe to say that the
16 Applicant is seeking an entertainment endorsement
17 that is inconsistent with any of the other
18 entertainment endorsements that we've discussed
19 today. Correct?

20 A Yes.

21 Q I want to talk about the Applicant's
22 former location, and then I think I'm done. The
23 Applicant was formerly located on 18th Street
24 around Dupont Circle. Is that correct?

25 A Yes, sir.

1 Q I believe it was 1212 18th Street was
2 the location?

3 A Yes, sounds about right.

4 Q Would you characterize that as a
5 residential area?

6 A Uh, so 18th and Connecticut is very
7 commercial; we have a lot of ABC establishments
8 over there.

9 Q How many would you approximate?

10 A Just from Dupont Circle down to K
11 Street I would estimate probably around 30 to 50,
12 approximately.

13 Q Okay. Um, would you characterize
14 that area as more residential than the Blagden
15 Alley area?

16 A Uh, I would say less residential.

17 Q Okay. Um, now we talked about prior
18 incidents, and I want to just quickly flag, um, a
19 couple more recent ones. Um, I know Mr. Kline
20 talked about going back to 1995. I'm not going
21 to take us that far down memory lane, I just want
22 to talk about perhaps the past five years.

23 Um, starting with 2019, um, on
24 February 12, 2020 there was a show cause hearing
25 scheduled for the Eighteenth Street Lounge.

1 Correct?

2 A Yes, sir.

3 Q Okay. Um, and the charges that were
4 for Eighteenth Street Lounge -- and I'm quoting
5 from a public document -- are interfered with an
6 investigation, provided false or misleading
7 information, and failed to follow a security
8 plan. Um, is that accurate?

9 A Yes, that's what I'm looking at too.

10 Q Okay. And the disposition of those
11 fines -- the disposition of those charges were
12 they resulted in two fines and a warning. Is
13 that correct?

14 A Uh, yes, sir.

15 Q Okay. Um, and so that was roughly two
16 years ago. Correct?

17 A Yes.

18 Q Um, on May 2, 2018, um, there was a
19 fact-finding hearing about Eighteenth Street
20 Lounge. Correct?

21 A Yes.

22 Q Um, and that fact-finding hearing was
23 in regards to assault with a deadly weapon -- or
24 dangerous weapon -- excuse me.

25 A Yes.

1 Q Do you have any information about that
2 particular incident?

3 A I --

4 MR. KLINE: Mr. Chairman, I'm going to
5 object. The Board knows that fact-finding
6 hearings and case reports are part of the Board's
7 duties and business. They're reviewed, they're
8 prepared by investigators, and ultimately the ABC
9 Board makes a decision as to whether something
10 further is to be done or whether the case is to
11 be NFA'd, meaning no further action, which the
12 Board knows means that the Board found that there
13 was not any basis to proceed with anything
14 further.

15 MR. THOMAS: I would just in
16 response --

17 CHAIRPERSON ANDERSON: I'm going to
18 overrule the objection, Mr. Kline. You went --
19 you brought it up, you stated that this
20 establishment was open for 19 years and they had
21 no issues.

22 So go ahead, Mr. Thomas.

23 MR. KLINE: Mr. Chairman, if I may.
24 I stated that there was only one -- two
25 violations that the investigator testified to.

1 Clearly there are cases; we didn't say there were
2 no cases, but if we're going to go down this
3 road, then that means in protest hearings we're
4 going to re-litigate what the Board has already
5 decided, and the Board already decided with
6 respect to 13 of the 15 items listed on this
7 investigative history that no further action was
8 to be taken.

9 CHAIRPERSON ANDERSON: Hold on, Mr.
10 Kline. The Board will take administrative notice
11 of its decision; however, this is a separate case
12 and you opened the door, so he is welcome to ask
13 questions. But the Board will take
14 administrative notice of whatever decision was
15 made and that's on the record. But he can ask
16 the questions, the investigator can answer the
17 questions if he saw, but let's move on.

18 MR. THOMAS: Thank you, Mr. Chairman.

19 BY MR. THOMAS:

20 Q So Investigator Puente, this 2018
21 fact-finding hearing, can you tell me what the
22 facts of that were?

23 A I do not know off the top of my head.
24 I didn't author that so I would have to go dig
25 through ABRA's case reports and look for that

1 particular one.

2 Q Fair enough. Maybe I have a simpler
3 question. Would it be fair to say that assault
4 with a dangerous weapon is something that would
5 probably interfere with peace, order and quiet of
6 the surrounding community?

7 A Yes, because --

8 MR. THOMAS: Objection. There's been
9 no finding that there was an assault with a
10 dangerous weapon. What we have is a report and
11 there's been no finding, so I renew my objection,
12 and my initial objection is because I knew this
13 was where we would end up.

14 CHAIRPERSON ANDERSON: All right. I
15 would like to hear this; however, Mr. Thomas, the
16 Board -- it's a fact-finding hearing, if you're
17 not aware, the Board made a determination so the
18 Board is going to take administrative notice of
19 its decision, so I'm not quite sure -- yes, you
20 can ask the question, but I'm not sure if it's
21 helpful for the Board, because we already made a
22 decision based on what was presented to us.

23 MR. THOMAS: Understood, Mr. Chairman.
24 That's my final question. I just want to
25 highlight the fact that there are these issues

1 here, and you know, they're concerns of my
2 client.

3 If I have the Board's indulgence for
4 one moment.

5 BY MR. THOMAS:

6 Q Oh, I do have -- I'm sorry, I
7 apologize. I have one more quick line of
8 questioning.

9 Investigator Puente, did the Applicant
10 explain to you how they intended to use the
11 rooftop of their establishment?

12 A Uh, no, sir.

13 Q Okay. Did they explain to you at all
14 how they intended to construct or build out the
15 rooftop of their establishment?

16 A Uh, no, sir.

17 Q Did they explain to you any noise
18 mitigation techniques that they were planning on
19 using for their establishment?

20 A Uh, no, just that they were working
21 with two companies on sound mitigation
22 strategies.

23 Q But they didn't explain what those
24 sound mitigation strategies were?

25 A Uh, no.

1 MR. THOMAS: Okay. That's all I have.
2 Thank you.

3 CHAIRPERSON ANDERSON: Thank you.

4 Mr. Guggenmos, you had mentioned that
5 you want to ask some questions, so I'll give
6 you -- you can ask some brief questions, sir.

7 MR. GUGGENMOS: Well, the benefit of
8 going last is they've all been asked, so no
9 questions from us.

10 CHAIRPERSON ANDERSON: All right.
11 Thank you.

12 All right. I'm not going to have the
13 Board ask other questions, because if the Board
14 asks other questions then that's going to lead to
15 another line of questions, so that's where we're
16 going to end this portion of the case.

17 Thank you very much, Mr. Puente, for
18 your testimony this morning. So the Board rests
19 its case.

20 INVESTIGATOR PUENTE: Thank you, sir.

21 CHAIRPERSON ANDERSON: All right. So
22 what we're going to do now, pursuant to my
23 previous order, we're going to take a ten-minute
24 break and when we come back -- it's now 12:09, so
25 12:20.

1 Please do not sign off but you can
2 mute your camera -- you can turn your camera off,
3 you can mute your telephone, but it's now 12:09,
4 we will come back on the record at 12:20 for the
5 Applicant to present its case. Okay?

6 All right. Thank you.

7 (Whereupon, at 12:09 p.m., a brief
8 recess was taken.)

9 CHAIRPERSON ANDERSON: All right,
10 everyone. It's 12:20, we're back on the record.
11 I need everyone to reappear.

12 All right. Mr. Kline, do you have a
13 witness you wish to call?

14 Mr. KLINE: Yes, but Mr. Chairman,
15 before I do that, we would ask that the Board
16 take administrative notice of the hours of
17 licenses in the surrounding area.

18 I know there's been testimony by the
19 investigator on this already. We did prepare a
20 spreadsheet which we think the Board and the
21 parties would find very helpful in terms of
22 capturing the information regarding interior and
23 exterior hours and entertainment endorsements.

24 And at this point we would like to
25 tender that and ask that the Board take

1 administrative notice of these various licenses.
2 And Ms. Yohannes has it and can share it and
3 email it to the parties.

4 MR. THOMAS: I would object to that in
5 so much as we didn't have advance notice of it,
6 we didn't have copies in advance, I haven't had a
7 chance to vet the information.

8 The information is readily available
9 to the Board, I don't think that we need any sort
10 of compilation. If there was going to be one, it
11 should have been included in the PIF. It wasn't.

12 You know, we have testimony to
13 establish the relevant hours, the relevant hours
14 of a lot of places set forth in the
15 investigator's report, so we would object to the
16 inclusion of this compilation by the Applicant.

17 CHAIRPERSON ANDERSON: I'm going to
18 sustain the objection; however, Mr. Kline, if you
19 have a witness that can present this information.

20 MR. KLINE: Then what I would
21 request -- I mean, the Board can do it any way
22 and routinely does it, is we can pull off the
23 cover sheet and just submit the licenses. It's
24 part of the Board's official records, the Board
25 routinely takes these.

1 CHAIRPERSON ANDERSON: The Board will
2 take administrative notice of its records, but
3 because the document -- the compilation was not
4 provided as a formal disclosure, counsel has
5 objected, so I'm not going to allow -- I'm not
6 going to move that document into evidence.

7 However, as I stated before, if you
8 have a witness who can testify about it, you can
9 ask questions and if they know they can testify,
10 you can get it in the record and that's it, as I
11 said, if you so choose. But I'm not going to
12 allow the document in as presented.

13 MR. KLINE: All right. I would call
14 Mike Silverstein as a witness.

15 CHAIRPERSON ANDERSON: Mr.
16 Silverstein, can you raise your right hand,
17 please?

18 Do you swear or affirm to tell the
19 truth and nothing but the truth?

20 THE WITNESS: I do.

21 Chairperson ANDERSON: Thank you.
22 Your witness, Mr. Kline.

23 MR. KLINE: Thank you.

24 DIRECT EXAMINATION

25 BY MR. KLINE:

1 Q Good morning, Mr. Silverstein. Where
2 do you reside?

3 A I reside at 1301 20th Street NW,
4 Apartment 705; that's the corner of 20th and N.

5 Q And you were previously an ABC Board
6 member. Correct?

7 A I served 2-1/2 terms, yes.

8 Q All right. So that was what, about
9 ten years?

10 A About ten years, yes, sir.

11 Q And you also are an ANC commissioner?

12 A I've been an ANC commissioner since
13 2003.

14 MR. THOMAS: I'm sorry. I don't mean
15 to interrupt, but I'm going to object to this
16 witness as well who is not on the PIF for the
17 Applicant.

18 CHAIRPERSON ANDERSON: Mr. Silverstein
19 is on what PIF? I saw when I reviewed the PIF, I
20 thought I saw him on the PIF, but --

21 (Simultaneous speaking.)

22 MR. THOMAS: I think I'm missing
23 something and if I am, I apologize, but I'm
24 looking at the PIF right now and I don't see his
25 name on the Applicant's PIF.

1 CHAIRPERSON ANDERSON: I believe I
2 did, but you can please take a moment and review,
3 but I believe I saw his name when I reviewed the
4 PIF.

5 And I should have stated this before.
6 I knew I saw Mr. Silverstein's name because
7 [audio skip] I would say that as a member of the
8 Board for the past six years, Mr. Silverstein was
9 a member of the ABC Board while I was chair, but
10 he served during my chairmanship and I believe
11 that although we have worked together, his
12 testimony will in no way -- I will not give his
13 testimony any more weight than I would give any
14 other witness who has appeared before me. So
15 that's one of the reasons why I'm positive I saw
16 his name on a PIF, because I saw that.

17 MR. THOMAS: With all due respect, Mr.
18 Chairman, I just don't -- I'm looking right now
19 and I don't see it. If someone can point me to
20 it, I'll withdraw my objection.

21 MR. KLINE: Mr. Chairman, not only is
22 he on the Applicant's PIF, he's clumsily added to
23 the Protestants' PIF as Mark Silverstein in an
24 email where the Protestants sought to identify
25 the individuals, because we objected when they

1 just listed representatives, and he was listed as
2 Mark Silverstein. So the Protestants are well
3 aware of Mr. Silverstein's potential as a
4 witness.

5 MR. THOMAS: Again, if Mr. Kline can
6 point me to where it is, I'm happy to -- again,
7 I'm happy to withdraw my objection.

8 I'm literally looking at it right now
9 and I don't see it. I'm not going to claim I'm
10 not crazy and that I haven't missed things
11 before, but I just don't see it.

12 CHAIRPERSON ANDERSON: All right.

13 MR. KLINE: On page 2 of the
14 Applicant's PIF, the last witness listed is Mike
15 Silverstein.

16 MR. THOMAS: I have the last witness
17 listed on the Applicant's PIF as any witness
18 listed in the Protestants' PIF and above that I
19 have Amir Bestian [phonetic], the landlord.
20 Those are the last two I have listed on the PIF
21 that I was provided.

22 MR. KLINE: I'm not sure what you're
23 looking at. I think he may be looking at an
24 earlier version; I'm not sure, I don't know.

25 CHAIRPERSON ANDERSON: Hold on. All

1 right. I have Applicant's Supplemental PIF, the
2 document that was presented to me, the document
3 is -- the document is identified as Applicant's
4 Supplemental PIF. Do you have it? That's the
5 document that I saw that at least was disclosed
6 to the Board, and on Applicant's Supplemental
7 PIF, Mr. Silverstein was listed as a witness.

8 Do you have that document, sir?

9 MR. THOMAS: I'm not looking at that
10 document; I'm unaware of the supplemental.

11 CHAIRPERSON ANDERSON: That's the
12 document I'm looking at that I saw his name on.

13 MR. THOMAS: I apologize. If it's on
14 there, I withdraw my objection. I got into the
15 case over the weekend, so I apologize for that
16 confusion.

17 CHAIRPERSON ANDERSON: I mean, that's
18 fine, Mr. Thomas, but I just want to make sure
19 the record is clear and so therefore that you are
20 aware where it's at, but his name is on that
21 document. Okay?

22 MR. THOMAS: All right. Thank you.

23 MEMBER SHORT: Mr. Chairman?

24 CHAIRPERSON ANDERSON: Yes, Mr. Short.

25 MEMBER SHORT: Like yourself, I've

1 served during two previous Boards before this one
2 and on both of those Boards and the last that
3 Mike Silverstein served on, I got to know Mike as
4 a Board member, and like yourself, that will have
5 no bearing on my decision-making in this
6 particular case.

7 Thank you.

8 CHAIRPERSON ANDERSON: All right.
9 Thank you, Mr. Silverstein -- I'm sorry -- Mr.
10 Short.

11 Go ahead, Mr. Kline.

12 MR. KLINE: And for the record, the
13 Applicant respects that and wouldn't expect
14 anything other than that.

15 Mr. Silverstein is tendered because
16 he's an important factual witness, not because of
17 any previous relationship with the Board -- the
18 Applicant. Just so we're clear.

19 MR. THOMAS: Thank you.

20 MR. KLINE: Thank you.

21 BY MR. KLINE:

22 Q Mr. Silverstein, you were talking
23 about your service as an ANC commissioner.
24 Correct?

25 A Primarily, yes.

1 Q Yeah. And your single-member district
2 encompasses what area?

3 A It is encompasses Dupont West and the
4 Golden Triangle, largely, and it encompasses the
5 area, certainly the block in which the Eighteenth
6 Street Lounge was located for, I believe, 25
7 years.

8 Q Okay. Now, during your service on the
9 ABC Board you understandably stayed out of ABC
10 matters related to ANC business. Correct?

11 A Yep. We got one bite at the apple,
12 and in that case it was on the ABC Board and so I
13 recused myself from all matters on the ANC.
14 That's not at all uncommon, that's done always by
15 commissioners.

16 Q All right. But prior to that time you
17 certainly had involvement with Eighteenth Street
18 Lounge. Correct?

19 A Yeah. And actually, my first
20 involvement with them -- which I was reminded of
21 by Investigator Puente's testimony -- was a
22 matter of trash. I don't know if you remember
23 this or anyone involved in it, but there was a
24 terrible situation where you had a half dozen
25 establishments on 18th Street and they all put

1 their trash in a very small alcove behind one of
2 the buildings in the alley directly behind there,
3 and there wasn't anywhere near enough space for
4 the trash, and it was a regular occurrence that
5 they would drag giant bags of trash a block away
6 and dump them into somebody else's trash bin.

7 And we worked with the Eighteenth
8 Street Lounge and all of the other places there
9 to get them all to join in getting a trash
10 compactor, which they then all used the single
11 trash compactor, paid to do so, and that was the
12 very beginning of the city's trash compactor
13 rebate program, something that was used
14 everywhere in the city now as a trash mitigation
15 and rat mitigation thing.

16 And it was ESL, and it actually
17 wasn't your law firm at that time, but it was
18 Michael Fonseca who made sure that all the others
19 were involved in it, but it was ESL that was the
20 starter of that program.

21 Q So in other words, ESL was not just a
22 participant; they had a larger role?

23 A They pretty much -- they were the ones
24 who were herding the cats, yeah, because getting
25 a half a dozen establishments to all agree to

1 something like this and how much it's going to
2 cost, how much each of them is going to pay and
3 all that. It wasn't easy, it took six months to
4 do it. I was the commissioner and I worked with
5 them and with Michael.

6 Q All right. Now, it's been suggested
7 that the previous location where ESL operated is
8 a commercial location. Do you have an opinion as
9 to the character of that portion of the district?

10 A It is certainly club central. There's
11 no greater concentration of nightlife than there.
12 However, in that same square, in that same block,
13 Jefferson Row has, I believe, 42 or 44
14 condominiums in there. A block away and in clear
15 earshot of that is the Palladium, which was
16 really bedeviled by noise and problems, and you
17 also have on N Street on that corner in the 1700
18 block of N Street dozens more new condominiums in
19 what used to be -- what was the name -- Blender's
20 place. This was the block where the Tavern Inn
21 is and where the Iron Gate is. So there's a good
22 number of residential places there, and believe
23 me, I hear from them.

24 Q Now, what was your experience, other
25 than you've mentioned the work on the trash

1 compactor, in dealing with Eighteenth Street
2 Lounge with respect to issues that may have
3 arisen?

4 A Okay. First of all, do they make
5 noise, did they make noise? Sure. Did the
6 neighbors like the noise? The neighbors
7 basically said that the noise came from other
8 places much worse than theirs. And as far as --
9 how can I put it? -- they had a really cool
10 record over the years.

11 Whenever there were any problems, Mr.
12 Nouri came to us more often than we came to him,
13 and what I mean by that is there were one or two
14 cases where there might have been some fire
15 issues, and he came to us -- they were not
16 involving his place but involving things in the
17 neighborhood -- and said, I want to give you a
18 heads up.

19 If there were any other problems we
20 had, that's a neighborhood where with this
21 proliferation you have of nightlife, the MPD had
22 a CAT action team, Call to Action Team, the CAT
23 team was down there, they also had RDOs down
24 there, and he was always -- as one of the people
25 put it from the bid, he was one of the good guys.

1 He worked to try to mitigate the
2 problems. A lot of the things that may have
3 shown up on the investigative reports happened
4 out front, and it turned out that it was NFA
5 because it happened out front; it wasn't theirs.

6 You see these types of things, my
7 history on that, my understanding of that is
8 there's one place in the city that had 200-and-
9 some police calls, and it turned out that they
10 didn't have 200-and-some police calls; they were
11 the nearest address to a Metro stop. It's like,
12 oh, so any time anybody got sick on the Metro.
13 And this was the situation with some of these
14 things here.

15 Did they have problems on occasion?
16 Sure. People drink liquor and do stupid things.
17 The question is -- or sometimes somebody might
18 take something, go into a place, have a drink and
19 konk out. You can't always control that, but the
20 thing that was really most important was did they
21 do their best to keep trouble away, sure. And
22 when trouble occurred -- this is the most
23 important part -- they did cooperate.

24 Q Now, are you aware of their role in
25 coordinating a rideshare program?

1 A No, I am not.

2 Q Okay. So you don't have knowledge of
3 that.

4 Okay. Is there anything that would
5 give you pause about a license being issued to
6 this operator and this establishment?

7 A I cannot speak and will not even dare
8 to speak about what's on the ground on 9th Street
9 or where they are or how many feet away from
10 whatever, and I'm not going to -- you know,
11 that's not my field of expertise.

12 I would say that Mr. Nouri is an
13 experienced and trusted operator and that right
14 now we're faced with a lot of places that are
15 closing and a lot of new people coming in, and
16 we've had problems with some of the people who've
17 applied, and I'll take the words of folks who say
18 he's a good guy.

19 I mean, this is the kind of place that
20 was iconic. We voted to name that block where
21 they were in honor of a wonderful African
22 American DJ there, Sam Burns; we want to call it
23 Sam the Man Way, because of the good vibes that
24 happened there and some of the things that
25 happened there as part of DC's nightlife culture.

1 Q And did you find that Farid was
2 willing to engage with the community readily on
3 issues that might arise?

4 A Better than some of the people,
5 certainly better than the guy across the street
6 who ended up using a Samurai sword in a
7 disagreement. I mean, we have some pretty
8 amazing things happen in that area, and Mr.
9 Nouri, as I said -- you know, 80 percent of the
10 people that are licensed for something you never
11 hear from them one way or another.

12 There's that 3 to 5 percent who cause
13 90 percent of your problems, and then maybe 10
14 percent or so who are the good guys, and he tried
15 to interface and reached out to the neighbors and
16 reached out to everyone. He was not -- I'm
17 speaking to Mr. Nouri; I'm not speaking to
18 anything that's going on on 9th Street or
19 anything like that, but if you need somebody to
20 work with, he was one of the good guys.

21 MR. KLINE: All right. Thank you. I
22 have no further questions at this time. Thanks
23 for your testimony.

24 CHAIRPERSON ANDERSON: Mr. Thomas?

25 MR. THOMAS: Thank you, Mr. Chairman.

1 CROSS-EXAMINATION

2 BY MR. THOMAS:

3 Q Um, I just want to be clear, Mr.
4 Silverstein. You're not commenting at all on the
5 9th Street area, the proposed location, any
6 effect that this establishment may have on that
7 proposed location. Correct?

8 A Correct.

9 Q Okay. Uh, the former location was
10 surrounded by nightclubs, though. Correct?

11 A Yes, it was.

12 Q Do you recall how many nightclub
13 licenses were issued in that particular vicinity?

14 A Um, a hell of a lot. I do not know.
15 I mean, it was like -- on M Street that entire
16 block, I think we've got one place -- one or two
17 sandwich shops and half a dozen nightclubs or
18 community bars.

19 Q Right.

20 A And on that part of 18th Street where
21 they were we had half a dozen, and some of them
22 were really loud, they weren't.

23 Q It was a high concentration of
24 nightclubs in that particular area, the highest
25 in the city potentially. Correct?

1 A Yeah.

2 Q Okay. And there were noise issues
3 there. Right?

4 A In the area? Oh, yeah.

5 Q So much so that DC Nightlife Noise
6 Coalition has registered complaints. Are you
7 familiar with that?

8 A I most certainly am.

9 Q Okay. Can you tell me a little bit
10 about that?

11 A Well, I guess I could start by saying
12 the person who headed it -- well, you know, I
13 don't want to start with a gratuitous comment.

14 Q Well, what was --

15 A Let me just -- you asked a question.

16 Q Sure.

17 A They were primarily -- their lives
18 were really impacted negatively by noise,
19 including things like tea dances on Sunday
20 afternoons and things like that, on the upstairs
21 levels of the places on the other side of
22 Connecticut Avenue, the 1200 block of Connecticut
23 Avenue was driving them crazy because that was
24 much closer to them. These were folks in the
25 Palladium primarily, which is on 18th Street.

1 And the other place that basically was
2 causing them great problems was Sauf Haus, which
3 is above -- which is above Shake Shack.

4 Q Right next door to where the old
5 Eighteenth Street Lounge used to be. Right?

6 A Right. And they have, you know, huge
7 sound system issues on weekends, and these were
8 done before the sound -- before the noise thing
9 went into effect because they were in the
10 afternoon.

11 The problems that they had were not
12 really with ESL any more than they were with
13 Camelot or anything like that. I mean, it was
14 pretty clear where the problems were, and they
15 were bad.

16 And I would finally add, and I think
17 this is fair to say, that the person who was the
18 head of that organization, the day that she
19 left -- that she moved with her family to Chicago
20 signed on a protest. She left Friday. And there
21 were people in the Palladium who spent thousands
22 of dollars double-paning their windows. So there
23 was a negative quality of life issue there, but
24 you certainly couldn't pin it on ESL.

25 Q Would you -- and ESL, just so the

1 record is clear, is Eighteenth Street Lounge, the
2 Applicant?

3 A Yes.

4 Q Would you consider Eighteenth Street
5 Lounge one of the anchor nightclubs of that area
6 during its time in that particular location?

7 A Yes, it was.

8 Q Okay. Um, and would you say that it
9 attracted more people to the area than if it
10 wasn't there?

11 A Sure.

12 Q Do you recall what its occupancy was
13 at the old location?

14 A Uh, I think it was 300-and-something,
15 it may have been a little more than that.

16 Q Okay. Um, what did --

17 A You know, one of the real problems
18 that they had were safety problems involved with
19 the actual location and so it was a very long and
20 narrow stairway, and a number of the issues
21 involved in that case people having to wait
22 outside, which wasn't particularly an issue, but
23 when others came down the stairway there were a
24 number of people who fell. We see some of these
25 things about person taken to hospital, a lot of

1 it was simply that type of thing, or somebody who
2 pushed somebody in the stairwell and that type of
3 thing.

4 Q Got it. So just so I'm clear, so one
5 of the issues they had was they had to have
6 people waiting outside of the location. Is that
7 correct?

8 A Until somebody came down the steps,
9 and then they could go up. Sure.

10 Q Did they have lines coming out of the
11 location?

12 A I think they did at times. Let me say
13 this again: I don't want to extrapolate on what
14 I think because, you know, I don't do the social
15 ramble; I'm not out there at two o'clock in the
16 morning wanting to party.

17 Q (Laughter). Fair enough.

18 Let me ask you then something that has
19 nothing to do with going out to nightclubs at all
20 but just simply, I guess, a geographic
21 observational question. How wide is the sidewalk
22 in front of where the old Eighteenth Street
23 Lounge used to be?

24 A Um, I think it's 12 to 14 feet or
25 something like that, it wouldn't be much -- and

1 when I say that, I think there are -- there may
2 be a tree box or something out there, I don't
3 have it in front of me.

4 I do know the sidewalks in that block,
5 there is not a uniform width in any block because
6 you have certain buildings that jut out farther,
7 you have tree boxes and things like that.

8 Q Would you be able to line people up
9 outside of ESL and still have pedestrians walk by
10 without any sort of obstruction and with ease?

11 A You have to have them lined up in a
12 very narrow place, but yeah.

13 Q Okay. In terms of, um, the owners, am
14 I correct that Eighteenth Street Lounge used to
15 be owned by someone else? Right?

16 A I can't say. I know that Mr. Nouri
17 has been there for a long time. I don't have
18 that information in front of me. I'm sure it was
19 at one time or another. I'm not sure that he
20 owned it for 25 years. I know that it had been
21 there 25 years, and I know that as an
22 establishment for 25 years, it was, as you say,
23 Mr. Thomas, an anchor.

24 Q Okay. Um, an anchor to the nightclub
25 area.

1 A Yeah.

2 Q Okay. So the other thing I want to
3 ask about is sort of the cooperation you
4 mentioned because you talked about a couple of
5 instances in which Eighteenth Street Lounge was
6 cooperative with -- I guess with the ANC in
7 dealing with issues.

8 Are you aware of recent fines that
9 Eighteenth Street Lounge received at their old
10 location for misleading investigators and failing
11 to comply with a security plan?

12 A I saw that. That was the June 2,
13 2019?

14 Q Right.

15 A It occurred -- the case began when I
16 was on the Board, but my term expired before it
17 was adjudicated, so sort of I know something
18 about it, which is basically that it happened,
19 and I don't know anything else about it other
20 than that they took an offer in compromise, which
21 is not -- you know, which is like a plea deal.

22 Q Okay. But so it's fair to say that
23 they haven't always necessarily been extremely
24 cooperative; there's been charges brought against
25 them that they hadn't been cooperative. Right?

1 A That's what that record shows, but
2 again, I'm speaking only to my experience, and my
3 experience with them over 17 years was really
4 exemplary.

5 Q And do you know -- I know you said
6 that you're not super familiar with this
7 particular incident, but do you know what Mr.
8 Nouri's involvement was with at all by any
9 chance?

10 A Not at all.

11 MR. THOMAS: Okay, okay. Um, I think
12 that's all my questions.

13 CHAIRPERSON ANDERSON: All right.

14 MR. THOMAS: Thank you very much, Mr.
15 Silverstein.

16 CHAIRPERSON ANDERSON: All right. Do
17 we have any questions by the Board members?

18 (No response.)

19 CHAIRPERSON ANDERSON: All right. Do
20 you have any redirect, Mr. Kline?

21 MR. KLINE: Yes, just a couple.

22 CHAIRPERSON ANDERSON: Okay.

23 REDIRECT EXAMINATION

24 By MR. KLINE:

25 Q Mr. Silverstein, who is the person

1 that you referred to that headed up the DC
2 Nightlife Noise Coalition who moved away?

3 A Uh, Abigail Nichols.

4 Q Abigail Nichols.

5 Okay. And then in terms of ownership,
6 has Mr. Nouri been there and been involved as
7 long as you can remember?

8 A He's been involved as long as I
9 remember. You know, when I go into a place as an
10 ANC commissioner, I'm not looking to see who 90
11 percent or 10 percent or 20 percent of the
12 property, you know, of the license. It's who's
13 the face of the place, who do you deal with.

14 Q And your testimony today relates to
15 your experience with Mr. Nouri?

16 A Yes, sir.

17 MR. KLINE: Okay. Thank you. I have
18 nothing further.

19 CHAIRPERSON ANDERSON: Thank you, Mr.
20 Silverstein, for your testimony today. Have a
21 great day. You can leave or you can stay, but
22 you will be muted.

23 MR. KLINE: Thank you, Mr.
24 Silverstein.

25 (Whereupon, the witness was excused.)

1 CHAIRPERSON ANDERSON: Do you have
2 another witness, Mr. Kline?

3 MR. KLINE: I do. Calling Farid Nouri
4 to the stand, please.

5 CHAIRPERSON ANDERSON: Mr. Nouri, can
6 you please raise your right hand, please.

7 Do you swear or affirm to tell the
8 truth and nothing but the truth?

9 THE WITNESS: Yes, I do.

10 CHAIRPERSON ANDERSON: All right.
11 Your witness, Mr. Kline.

12 MR. KLINE: All right.

13 DIRECT EXAMINATION

14 By MR. KLINE:

15 Q Good afternoon, Mr. Nouri.

16 A Good afternoon, Mr. Kline.

17 Q What's your relationship to this
18 application?

19 A I'm the owner/operator.

20 Q Okay. And were you the owner and
21 operator of what we will call ESL, Eighteenth
22 Street Lounge, at the previous location?

23 A Yes, I was, yes. I opened the place
24 in '95.

25 Q All right. You had other partners

1 involved?

2 A Yes, I did, and we had a buyout in
3 2008, so I've been the sole owner ever since.

4 Q So tell us a little bit about the
5 concept of ESL. What is it?

6 A Sure.

7 Q What do you intend to do there?

8 A Sure.

9 Q What did you do at the old place and
10 then we'll talk about what you would do with the
11 new place.

12 A Okay. ESL was established in 1995 at
13 1212 18th Street NW Dupont Circle. We occupied
14 three stories of a four-story rowhouse, about
15 6,000 square feet initially.

16 The concept was an intimate lounge
17 with elevated drinks and service. Mainly we
18 focused on providing a comfortable environment,
19 almost a homelike environment as opposed to a
20 commercial looking vibe.

21 We also focused on providing
22 critically acclaimed music in forms of DJs and
23 bands. We also had a huge focus on happy hour
24 and the corporate and private events world in
25 that part of town with all the law firms, world

1 banks, and all the other professional work
2 environment, so that was a bit input of our
3 business.

4 Um, Eighteenth Street Lounge also
5 nurtured a lot of local musicians in terms of DJs
6 and bands, a few of them made it to the top as
7 far as maybe touring the world and putting DC on
8 the map, Thievery Corporation, Fort Knox Five.
9 Our DJ passed way, Sam Burns, rest in peace. So
10 we've been an incubator for talent, for the local
11 talent for all these years. And within our time
12 at that location we expanded from the 6,000
13 square feet to almost about maybe 10,000 square
14 feet towards the end.

15 And as the years went on, business
16 kind of dropped around 2013-14 with the expansion
17 of the city eastward. U Street picked up, A
18 Street, and then eventually The Wharf, which was
19 great for the city, impacted us negatively
20 business-wise, and we lost the early crowd, the
21 early evening crowd.

22 So you know, then as the pandemic hit
23 us, I was negotiating a lease with my landlord to
24 extend one more term. You know, as I saw the
25 existing trend and the pattern of my business, I

1 realized that maybe with the pandemic and the
2 post-pandemic market, might not be the best idea
3 to continue in that location.

4 Q Okay. I'm going to stop you now,
5 because I want to go back to that location, and
6 then we're going to turn to the new location. So
7 at the end you had 10,000 square feet. Is that
8 correct?

9 A That's correct, yes.

10 Q And what was the occupancy?

11 A The occupancy at the end was like 520,
12 I believe.

13 Q And did you have outside space?

14 A We did, yes.

15 Q Did you have neighbors in proximity?

16 A We had neighbors in the back right
17 behind the deck, the patio.

18 Q Right behind the outside space.

19 A That's right.

20 Q Okay. And those would be residents of
21 the Jefferson Row Condominiums that we heard
22 about previously?

23 A Yes, that's correct.

24 Q Now, over the years was there ever a
25 time anybody complained about music from your

1 establishment or noise or what-have-you?

2 A Sure. So around 2013 or '14 there
3 were some ongoing issues in the neighborhood
4 regarding the newer establishments that were
5 opening their roof deck patios, which emit more
6 sound than the back roof -- I guess balconies you
7 call them.

8 So there was a neighbor behind us at
9 Jefferson Row that was impacted by our sound and
10 I went in there, he reached out to us through the
11 group of the people who were actually leading the
12 noise issue.

13 So we went inside with my audio tech
14 inside the rear property, realized that yes, they
15 were right; there was a good amount of noise
16 coming through to their location, interior and
17 also on the balcony.

18 So we went ahead and did some research
19 regarding how to fix it. Some of the items we
20 had to do was isolating the speakers from the
21 floor and from the wall; also, we positioned them
22 so it doesn't face outside.

23 But the main thing that we actually
24 ended up doing was we noticed and realized with
25 the research that there was a specific bass

1 frequency that was carrying all the way to that
2 location that was traveling pretty far, so we
3 ended up isolating that and almost taking it down
4 to the point of it not being heard at the
5 neighbor's property or anywhere outside of our
6 property. So that was fixed.

7 It was about a month, a month and a
8 half of communication with the neighbors, a lot
9 of back and forth, and we did a couple of tests
10 and it worked fine, they were happy, so we went
11 our other ways after that.

12 Q Did you hear any complaints about that
13 again?

14 A No, no.

15 Q Who is it that you worked with with
16 respect to this issue?

17 A The audio technician was Jeff Turner.

18 Q No. I mean from the neighborhood.

19 A Oh, Abigail Nichols was the person
20 that relayed the information to us, but the
21 neighbor wasn't her.

22 Q Okay. But Abigail was involved in
23 terms of facilitating a solution?

24 A Exactly, yes. At least putting us im
25 touch.

1 Q Okay. And did you ever hear any other
2 complaints from Abigail Nichols or the DC
3 Nightlife Noise Coalition which it's been
4 referenced?

5 A No. At first we kind of were all --
6 they kind of put us all in the same basket, but
7 then once they realized that, okay, top floors
8 make more sound than lower floors, and they
9 realized we were in the back, we'd also taken all
10 these measures at the time which I just
11 mentioned, so we weren't on their radar at that
12 point.

13 Q Okay. So at that location did you
14 take a number of measures to sound mitigate your
15 establishment?

16 A Yes. For the rooftop, yes, we did.

17 Q And what about for inside?

18 A Inside we didn't have to. The only
19 thing that we needed to do was the windows that
20 were facing 18th Street, so we put a special kind
21 of tint on them to reduce the sound transmission,
22 and also added layers and layers of material in
23 the form of designed curtains to absorb the
24 sound, and also we didn't open the windows, so
25 that really helped the issue.

1 Q All right. So that -- you closed that
2 establishment when?

3 A 2020, March of 2020.

4 Q So after 25 years that had run its
5 course, and you decided to move east. Is that
6 correct?

7 A Well, yeah, I decided to close it. I
8 didn't want to open up in the same location with
9 the same idea and concept wouldn't still work,
10 but when I did close it, I wasn't aware of when
11 and how I'll reopen.

12 Things changed once the vaccine news
13 came out last fall/winter, so I decided to look
14 for a location after that, and I was looking more
15 towards the evening market, mixed use area again,
16 I didn't find the right space, and then I was
17 actually looking, this location came up, it fit
18 all my requirements as far as the size and the
19 rate and the location.

20 Q All right. And what is it -- so tell
21 us what you're going to do here and how it
22 differs from what you did at the other location.

23 A Sure. So as I mentioned, in the
24 previous location throughout the years we did
25 manage to expand, almost double our size, and

1 with that you tend to lose a little bit of the
2 quality control and a lot of the elevated
3 approach that we used to have for our business
4 model. So also realizing the trends and the
5 patterns in the last years regarding hospitality,
6 smaller and intimate is more appealing than large
7 and less intimate.

8 And also, a lot of our audience and
9 clientele have moved east of the city. So being
10 in this location will allow us to be a lot closer
11 to our audience, and also we're going to be able
12 to tap back into the happy hour and early evening
13 kind of clientele which we missed out in the
14 previous location in the past five or six years.

15 Being in front of the convention
16 center, being around all these big hotels is a
17 huge plus for us to be there which will allow us
18 to focus on happy hour, early evening, and also
19 banquets and private events.

20 We're also adding a food element in
21 this location, which we didn't have in the
22 previous location, mainly to cater to a somehow
23 slightly mature audience that will be able to
24 stay up later and also be able to take advantage
25 of private events and banquets with the

1 convention center around us, being able to host
2 catering events and other private events.

3 So those are the added changes besides
4 the fact that we're going back to the basic, how
5 it was before we expanded in the previous
6 location. We're about the same kind of square
7 feet, 5,500 square feet with about 800 square
8 feet outside, so it's more intimate, a lot more
9 quality control, and better in terms of us having
10 an elevated approach to our business model.

11 Q All right. And what about capacity,
12 what do you intend -- what have you applied for
13 and what will the capacity be?

14 A Sure. So we applied -- based on our
15 drawings we are allowed up to 268 capacity
16 maximum. Forty-eight of it will be just for the
17 roof deck, so we only have a maximum of 48 load
18 on the roof deck.

19 The other two floors, we designed them
20 in a way where we can be able to open one and not
21 the other based on the unknown aspect of business
22 these days with the pandemic raging and ever
23 changing aspect of the hospitality world, so we
24 managed to design our interior in a way that
25 there's a flexibility so we can be able to open

1 the top floor and the roof deck and not the first
2 floor, or other way around.

3 We're also planning to concentrate all
4 the entertainment activity on the 9th Street
5 side, which is where most of our space is, and
6 also, these rooms are fairly small. The band
7 room -- the proposed band room on one of the
8 floors is about 800 square feet, and then we have
9 a bar area for about 1,000 square feet, and then
10 another 800 feet for maybe bathrooms and the
11 kitchen.

12 MR. KLINE: All right. So let's take
13 a look at that. If we could have Ms. --

14 CHAIRPERSON ANDERSON: Ms. Fashbaugh,
15 can you allow Mr. Kline to share his screen.

16 MR. KLINE: How about Ms. Yohannes,
17 because she's managing the exhibits for me.
18 We're going to call up Exhibit 2.

19 CHAIRPERSON ANDERSON: Ms. Fashbaugh,
20 can you please allow Ms. Yohannes to share her
21 screen, please?

22 MS. FASHBAUGH: This has been
23 accomplished.

24 CHAIRPERSON ANDERSON: Thank you.
25 You can share your screen, Ms.

1 Yohannes. Okay?

2 All right. Go ahead.

3 MR. KLINE: All right. We're going to
4 hopefully be looking at Exhibit 2.

5 (Whereupon, the above-referred to
6 document was marked as Applicant Exhibit 2 for
7 identification.)

8 BY MR. KLINE:

9 Q All right. While we're doing that,
10 while we're waiting for that, I'll just move on
11 to some other things.

12 So Mr. Nouri, in terms of
13 entertainment, do you -- is it your intent --
14 let's talk about the rooftop for a minute. Well,
15 first of all, where is it located? Is it really
16 on the roof? Where is it?

17 A No. It's an extension of the second
18 floor, so it's pretty much almost a balcony for
19 the second floor, and it's not --

20 Q And is it -- where is it height-wise
21 in relation to Columbia Room's outside space next
22 door?

23 A Same height.

24 Q Same height.

25 A That's correct.

1 Q So theirs is above the first floor and
2 yours is above the first floor. Is that right?

3 A Yes, that's correct.

4 Q Okay. So Exhibit 2, can you tell the
5 Board what this is?

6 A Sure. If somebody can expand it, it
7 would be great; if not, I can try my best. Okay.

8 MR. KLINE: Where did it go? Ms.
9 Yohannes, where did it go? All right. Can we
10 enlarge it?

11 THE WITNESS: If possible, yeah. We
12 can start with the top so that's our first floor.
13 That's fine, I can see it without expanding it.
14 That's fine. Okay. That's fine, I can work with
15 this.

16 So the top drawing is our first floor
17 walking up, as you see the stairs on the right
18 side. You come in, make a quick left, that's by
19 the window on 9th Street where we're planning on
20 having a bandstand.

21 CHAIRPERSON ANDERSON: Hold on. Ms.
22 Yohannes, can someone use a cursor and point to
23 where he's pointing. I mean, I don't know where
24 the first floor is, so can someone just point --
25 use a cursor and just point so at least I can

1 follow along.

2 THE WITNESS: Okay. So maybe we can
3 go back to the same scale as initially, we'll be
4 missing some of the rooms here. There we go.
5 Okay.

6 So the top schematic drawing is the
7 first floor, Mr. Chairman. 9th Street is on the
8 right side; this is the indentation which is our
9 window. Yes, exactly.

10 So that's -- where the cursor is we're
11 planning on having the band over here, maybe
12 four- to five-piece band. And keep in mind these
13 bands are all put together by myself; they're not
14 touring bands or local bands with a huge fan
15 base, they're just good musicians that's the
16 sound that we want in that space.

17 So a bandstand, lounge area, a lot of
18 high seating in the immediate area that faces the
19 band room. Are you following me here, Mr.
20 Chairman?

21 CHAIRPERSON ANDERSON: I'm following
22 you. Go ahead.

23 THE WITNESS: Okay. So as you
24 continue to work to the left you see the
25 barstools here, a lot of high tables.

1 BY MR. KLINE:

2 Q If I can help you. The barstools are
3 center of the top drawing, this is the round
4 circles that are all lined up.

5 A Where the cursor is, yes.

6 CHAIRPERSON ANDERSON: Mr. Kline, let
7 him testify and let -- let him testify and
8 hopefully your associate is able to follow along
9 on the exhibit, sir.

10 (Simultaneous speaking.)

11 MR. KLINE: For the record, Mr.
12 Chairman. Okay.

13 THE WITNESS: The cursor is in the
14 right place. We have a fairly large bar over
15 here with all the seating, as you can see.
16 There's also high top tables behind them, as one
17 can see a row of them.

18 And then as you keep going to the
19 back, all the way to the back in the kitchen area
20 there's some more area for seating, and then
21 right where the cursor is obviously that's the
22 restrooms with a coat check here, and then
23 everything on the left is the kitchen and the
24 fire -- emergency exit.

25 BY MR. KLINE:

1 Q All right. So how many seats on the
2 first floor? Is there a table down in the lower
3 left-hand corner that has a table of occupancy?

4 A There are ledges on these walls on the
5 right side, so there's about -- we have about 20
6 stools in the front area just about -- I can't
7 count the actual stools at the bar, but you can
8 see it's probably about 14 or 15, and we have
9 about seven tables with four seats.

10 Q All right. If I can help you out, the
11 lower left-hand corner is a occupancy chart.
12 Correct?

13 A That's correct, yes.

14 Q All right. And it has 46 seats and
15 114 occupants on the first floor?

16 A That's correct.

17 Q A hundred and eleven plus three?

18 A Correct.

19 Q All right. Does that now wrap up the
20 first floor?

21 A That's about it, yes. We did the
22 bathrooms, the coat check and the kitchen area.

23 Q All right. Let's go to the second
24 floor.

25 A Again we're on the right side here

1 with the stairs coming up, you walk up, make a
2 quick left. The room that's facing 9th Street
3 with the windows, again, we don't know exactly
4 what room we're going to use for what at this
5 point, but based on the drawing we kept the
6 options open so if we use this second floor for
7 our band, then we're going to have the band in
8 the same location as the first floor as well, you
9 know, on the window side overlooking 9th Street.
10 Ledges all the way around with stools. There's
11 going to be some high tables here, but they're
12 not drawn in this drawing yet.

13 So there's a couple of steps coming
14 down when you go left on the drawing. Then if
15 you move the cursor a bit to the right, more
16 right, yeah, a bit more right, if you don't mind,
17 that's the bar area again pretty much above the
18 first floor bar.

19 Again it's a long bar, it's about 18
20 feet long with about 12 or 13 stools. Banquette
21 seating in the back with tables, you can count
22 the stools here. We also have, as you can see,
23 the bathroom area.

24 And then going left that's the doorway
25 to the balcony side which is the open area, about

1 800 square feet. You walk in there's more
2 tables, more seating. These are high tops with
3 stools.

4 This is the covered area, there's a one-
5 person bar, minimum amount of stools for the bar
6 because it's small, and then also more seating.
7 Drink ledge across the bar area with more stools,
8 seating towards the alley side so the customers
9 are facing the building and not the alley.
10 Obviously we have the row of planters that blocks
11 the view looking out.

12 So that's pretty much a general
13 overview.

14 Q Okay. So the back area is the summer
15 garden. Part of that is enclosed with a
16 covering?

17 A Yes. From the where the doorway leads
18 to the outside, we have about 60 feet of roof
19 coverage, then we couldn't continue it longer
20 because of historic aspects, so there's about --
21 after that there's about 26 feet of open space
22 where we have this retainer wall, this railing of
23 42 inches that ends the customer area.

24 MR. KLINE: All right. Ms. Yohannes,
25 can you pull up Sheet A300, which is the next to

1 last -- or no, second to last sheet in Exhibit 2.
2 The next one, I think -- the one before it, A300,
3 the one right before it. There we go.

4 BY MR. KLINE:

5 Q All right. So what do we see here?
6 Do we see in this drawing what you were just
7 describing?

8 A Yeah. So if we start from the left
9 side, which is the Blagden Alley side, there's an
10 eight-foot setback between the edge of the
11 building and where the 42-inch rail starts, so it
12 was supposed to be four, but we added four more
13 just to be on the safe side, just to make sure
14 that the neighbors are not going to be impacted,
15 so we added an additional four feet as a setback.

16 And then this is where the only open
17 roof area is, it's about 26 feet. From then on
18 it's all covered all the way to the building
19 where the doorway starts going into the interior.

20 There are sidewalls, as you can see,
21 from this side and the other side. It's raised
22 all the way to the roof part, that's 26 feet.
23 After that it goes out to 42 inches as well, and
24 this is all per historic codes. If it wasn't for
25 that, we would have it higher all on the side but

1 we can't, but also, we have minimum amount of
2 usage on this side anyway.

3 Q All right. Now, initially you applied
4 for an entertainment endorsement that would cover
5 this outdoor area. Do you intend to have
6 entertainment out there on any sort of regular
7 basis?

8 A Besides background music, I'm not
9 planning on having any entertainment there.

10 Q Okay. So it would be limited to
11 prerecorded background music. Is that what I'm
12 understanding?

13 A That's correct, yes.

14 Q All right. In terms of the building
15 have you taken any steps to mitigate noise such
16 that it won't be heard from the interior of the
17 building by adjacent businesses or neighbors and
18 what-have-you?

19 A Sure. So our mitigation effort is not
20 focused only on the outside. We are undertaking
21 a pretty huge effort to mitigate the impact of
22 the sound from the interior.

23 Now, again, we need to keep in mind
24 that the interior size is pretty small, so the
25 volume won't be loud to begin with, but even

1 considering that, we are taking a pretty
2 ambitious undertaking when it comes to mitigating
3 the sound in the interior.

4 Now, there are three layers of audio
5 mitigation that we are committed to. One is the
6 type of speakers we are using and the amount of
7 them, so as opposed to getting minimum amount of
8 speakers, we are getting a lot more than we need
9 to in order to be able to spread the sound a lot
10 more evenly without having to raise the volume
11 loud. That's one aspect.

12 The other aspect of the kind of
13 speakers is they don't throw far; they're
14 actually made for more intimate spaces so the
15 noise pollution actually covered is minimum.

16 The third aspect of it is the
17 installation process. We are not installing it
18 on the ground or on the walls directly, so
19 there's always going to be a gap between the
20 actual speaker and the wall or the bracket or the
21 floor.

22 Again, this is to minimize vibration,
23 noise pollution, and it worked in the previous
24 location, and this is done -- all these efforts
25 are done in a very professional manner, so I feel

1 really confident about its impact.

2 MR. KLINE: And Ms. Yohannes, could
3 you pull up Exhibit 5, please?

4 (Whereupon, the above-referred to
5 document was marked as Applicant Exhibit 5 for
6 identification.)

7 THE WITNESS: The third layer of audio
8 mitigation, Mr. Chairman, is the use of the
9 materials on the interior as far as a lot of
10 curtains, wood, and soft materials to absorb the
11 sound, and also we'll be using the audio
12 reflecting panels in the interior rooms all the
13 way across.

14 So that's the interior mitigation
15 efforts.

16 BY MR. KLINE:

17 Q Okay. And is some of that reflected
18 on -- what is this exhibit. Can you identify it?

19 A Yes. This is from our audio vendor.
20 It's a thorough explanation of what I just did a
21 quickly rundown. It's the kind of speakers, the
22 application and our install process.

23 So we're spending about 25 to 30
24 percent additional on all these efforts between
25 the sound and the mitigation efforts. You know,

1 I could give you a number, but we're talking
2 about at least \$200,000 just for these efforts,
3 and it could be more.

4 As we deal with supply chain issues
5 and materials, the cost goes up in real time, but
6 we think it's a valuable investment to make to
7 keep a good standing with the neighborhood and
8 also to get people to focus on our business as
9 opposed to possibly dealing with people who seem
10 to be bothered by us.

11 Q Okay. And are you committed to doing
12 what's set forth here on Exhibit 5?

13 A Absolutely, yes.

14 Mr. KLINE: All right. Exhibit 6,
15 please, if you could Ms. Yohannes.

16 (Whereupon, the above-referred to
17 document was marked as Applicant Exhibit 6 for
18 identification.)

19 BY MR. KLINE:

20 Q Can you identify this?

21 A Sure. This is the sound mitigation
22 effort that's incorporated within our design
23 budget by the architecture firm, so this aside
24 from the sound vendor, this is what the
25 architecture firm and the interior design firm

1 suggested.

2 Q And are you committed to making these
3 improvement as well?

4 A Yes, absolutely.

5 CHAIRPERSON ANDERSON: All right. I
6 would move Exhibit 2, Exhibit 5 and Exhibit 6.

7 CHAIRPERSON ANDERSON: Mr. Thomas, any
8 objection?

9 MR. THOMAS: No objection.

10 CHAIRPERSON ANDERSON: So moved.

11 (Whereupon, the above-referred to
12 documents, previously identified as Applicant
13 Exhibits 2, 5 and 6, were received in evidence.)

14 MR. KLINE: All right, Ms. Yohannes,
15 you can take those down.

16 BY MR. KLINE:

17 Q Mr. Nouri, how are you going to manage
18 the line on the narrow sidewalk in front of the
19 establishment?

20 A Sure. So first and foremost, we're
21 not planning on having lines to begin with,
22 merely because we have extended hours and a
23 smaller capacity than our previous location, so
24 we perceive people staggering in throughout the
25 early evening, happy hour, early evening, and

1 staggering out as the night progresses.

2 Now, in case we do have a need to form
3 a line, we've already spoken with the dog
4 grooming place next door, and they're okay for us
5 to use their front sidewalk to line up our
6 customers, and that would work without any issues
7 with them. They're not open at that time, and
8 that's our idea at this point for that.

9 Q Okay. So and the stairwell -- and we
10 saw it, I believe, in the investigator's
11 exhibits -- extends out onto the sidewalk.
12 Correct?

13 A Sure.

14 Q And there's some space there?

15 A So to the left of those stairs is
16 Dogtopia, the dog grooming place, so we can line
17 our customers there, and they can come up the
18 steps one by one, you know, as the flow requires.

19 Q And what about collecting cover, are
20 you going to have people standing out there to
21 collect the cover?

22 A So we are using an app for that and
23 also if people can't use the app, there will be a
24 QR code at the doorway on the top of the stairs
25 when you walk inside, so then it's just a phone

1 tap and you're good to go on that.

2 Q Okay. Now, what about parking? Isn't
3 this establishment going to increase the demands
4 for parking in the neighborhood?

5 A Good question. Part of the move to a
6 different location east of where we were was to
7 try to be closer to our audience and the customer
8 base.

9 A lot of our customers live in ANC 2F,
10 further down to Bloomingdale, Lexington, U
11 Street, so we foresee a lot of walk-ins, a lot of
12 rideshares. We're like a block and a half away
13 from the Metro; there's also a parking lot next
14 door to us, open late night, all night, I think.

15 So I don't foresee any issue with
16 that, which also was under the study before
17 making the move in that area, and I looked around
18 at the options. And for the place being smaller
19 and a lot closer to our audience, I don't foresee
20 a huge amount of people using cars to come in to
21 our business.

22 Q And how do people usually come to
23 your business?

24 A Well, in the previous location it was
25 mostly with rideshares, Metro, but then with the

1 late night hours that limited, then more
2 rideshares, not many cars. You know, years ago
3 before rideshares, yes, I would say, but not in
4 the last five or six years I would say.

5 Q Okay. And over the course of the last
6 few months did you listen to concerns of
7 residents and try to address them?

8 A Yes. So we started our conversation
9 August 18 at the first ABC meeting through ANC
10 2F. We shared the preliminary information we had
11 at the time, which was a lot of the stuff that we
12 shared with the rest of the team, although in the
13 beginning it was hard to have our plans ready at
14 the time, but we had a demo plan, I believe --
15 maybe not, but we had a layout of the spaces or
16 each floor which reflects the actual plans. So
17 we did share that with the neighbors, with ANC
18 2F.

19 You know, unfortunately we didn't get
20 any feedback from the neighbors regarding any of
21 our documents or information we shared. We
22 actually got ridiculed and dismissed our
23 information, so that was the end of that as far
24 as I was concerned.

25 Q If you open up and issues are brought

1 to your attention, are you committed to working
2 through those?

3 A Absolutely, yes.

4 Q Is that something you did on a regular
5 basis at your other location?

6 A The few times that issues came up, I
7 took the lead, you know, mainly because the
8 reason why is being in a neighborhood you have to
9 deal with them eventually, so it's best to do the
10 right thing, communicate, and abide by the
11 existing laws and regulations that govern these
12 establishments.

13 Q Were you involved in development of a
14 rideshare spot at the other location?

15 A Yes. That was the first DC pilot for
16 rideshare pickup spots was actually in front of
17 Eighteenth Street Lounge, the 1200 block of 18th
18 Street.

19 So Golden Triangle and I worked for
20 about six months on this with Natalie Avery from
21 the bid group, so that was the first -- the pilot
22 group that was established, and now I see it all
23 over town, which is great.

24 Q With respect to the balcony or
25 rooftop, the summer garden, the outside space,

1 are you considering noise mitigation out there?

2 A Yes. So the same equipment
3 installation process applies to the outside as
4 well, too, although we only have two speakers and
5 a very small woofer, so they're all going to be
6 isolated. They're facing down away from the
7 buildings or the alley. There's also mitigating
8 efforts as far as the materials we're using for
9 the build-out.

10 Q Have you engaged an acoustical
11 engineer with respect to the outside space?

12 A Yes, we did, we did.

13 Q Who is that?

14 A Martin Beam.

15 Q Okay. We're going to hear from him
16 later.

17 Are you committed to complying with
18 his recommendations and implementing them in the
19 build-out of your space?

20 A That is why we hired him. Sure,
21 absolutely.

22 MR. KLINE: I don't have any further
23 questions of this witness at this time.

24 CHAIRPERSON ANDERSON: Thank you.

25 Mr. Thomas, any questions?

1 MR. THOMAS: Yes, thank you.

2 I plan to use an exhibit, so if I
3 could have my -- I guess it's elevated or
4 whatever so I can use my screen and share my
5 screen.

6 CHAIRPERSON ANDERSON: Ms. Fashbaugh,
7 would you please allow Mr. Thomas to share his
8 screen, please.

9 MS. FASHBAUGH: This has been
10 accomplished.

11 CHAIRPERSON ANDERSON: Thank you.

12 CROSS-EXAMINATION

13 BY MR. THOMAS:

14 Q Mr. Nouri, have you ever been a guest
15 on the Lower Third Podcast?

16 A Lower Third Podcast? Doesn't -- I
17 can't recall but maybe, sure. Can you remind me
18 of the -- okay, yes.

19 Q Do you see my screen?

20 A Yes.

21 Q Is that a picture of you?

22 A Yes. I know Molly, yes.

23 Q And did you give an interview to Ms.
24 Ruland at some point concerning Eighteenth Street
25 Lounge?

1 A Yes. That was about maybe two years,
2 I'd say, a year ago, a year and a half ago.

3 MR. THOMAS: With the Board's
4 indulgence, I'd like to play this very quickly.

5 CHAIRPERSON ANDERSON: All right,
6 sure. We can't hear anything, Mr. Thomas -- at
7 least I can't.

8 MR. THOMAS: I hear it on mine, let me
9 see.

10 CHAIRPERSON ANDERSON: I can't hear
11 anything, so I'm just letting you know that.

12 MR. THOMAS: I appreciate that. Let
13 me see. Can you hear anything now?

14 CHAIRPERSON ANDERSON: If someone is
15 speaking, I don't hear anyone speaking.

16 MS. FASHBAUGH: Perhaps you could play
17 it from your phone. I don't believe that we're
18 going to be able to hear it from your computer.

19 MR. THOMAS: I will have to come back
20 to that.

21 CHAIRPERSON ANDERSON: All right.

22 MS. FASHBAUGH: Just play the audio
23 from your phone while we're looking at the
24 screen.

25 MR. THOMAS: Yeah. See if I can get

1 it on my phone.

2 BY MR. THOMAS:

3 Q Well, while we're doing this, what did
4 you discuss with Ms. Ruland in that podcast?

5 A Mr. Thomas, it's been a while; a lot
6 has happened between then and now, so I don't
7 recall exactly what we spoke. I'm not sure what
8 you're asking for here.

9 MR. THOMAS: Give me one moment, and
10 I apologize. Board's indulgence.

11 Let me move on, and I'll come back to
12 that. No, here we go. I'm going to play this
13 now.

14 (Played audio recording of podcast.)

15 BY MR. THOMAS:

16 Q So is that an accurate recording of
17 your interview, Mr. Nouri?

18 A Yes.

19 Q So it's safe to say that you decided
20 to move to this new location, by your own words,
21 so that you could make a lot of noise.

22 A That's not an accurate explanation of
23 what was just said in that interview, Mr. Thomas.
24 That's called a figure of speech. I'm sure
25 you're used to that. Right? So me saying make a

1 lot of noise it doesn't necessarily mean I'm
2 going to intentionally be outside of my
3 establishment making a lot of noise. That's not
4 how it works. Okay? So that's a figure of
5 speech and you can take it however you want to,
6 but that's what I meant.

7 Q Okay. How would you characterize your
8 establishment? Would you characterize it as a
9 nightclub?

10 A It's an intimate lounge.

11 Q Okay. If I went on your website right
12 now, would it characterize your establishment as
13 a nightclub?

14 A There are nightclub elements to it,
15 meaning like late night activities. There is
16 music, there's bands and DJs, yes, but that's not
17 what it all entails. So it's an all-encompassing
18 business model that some elements of it could be
19 referred to as nightlife related or nightclub
20 related.

21 Q Okay. But that wasn't my question.
22 My question was if I go on the Eighteenth Street
23 Lounge website right now, would it characterize
24 your establishment as a nightclub? Yes or no?

25 A I'm not sure.

1 Q Okay. You don't know what's on your
2 own website?

3 A I'm not sure what you're looking at,
4 so I don't know exactly what you're referring to.

5 Q I'm talking about the Eighteenth
6 Street Lounge website, sir, the website for your
7 business. You don't know what's on your own
8 business website?

9 A What do you -- I'm not -- I mean, I
10 don't remember exactly what's written there for
11 all these years. It's been there for like a long
12 time. That's your question.

13 Q Have you ever characterized your
14 business as a nightclub?

15 A As I said there are nightclub aspects
16 to it, yes.

17 Q Okay.

18 A I think it's nothing new.

19 Q You plan to operate with hours that go
20 until 3:00 a.m. on a weekend. Correct?

21 A That's correct.

22 Q Okay. You plan to operate with hours
23 that allow for -- that go till 3:00 for your
24 summer garden on a weekend. Correct?

25 A Correct.

1 Q You plan to have live music till 3:00
2 a.m. Is that correct?

3 A In the interior? Yes.

4 Q Correct. In the establishment.

5 A Yes.

6 Q Uh, you plan to have DJs. Correct?

7 A Yes.

8 Q Um, will you have multiple music acts
9 at once?

10 A No.

11 Q Will you have dancing?

12 A Yes.

13 Q Tell me about your lights system that
14 you plan to have.

15 A My what?

16 Q Light system. Are you going to have
17 laser lights?

18 A No.

19 Q Strobe lights?

20 A No. Is that a problem with you or the
21 neighbors?

22 Q I'm just asking questions. I'm trying
23 to understand what your business is, sir, because
24 you don't seem to understand what you put on your
25 own website, so I'm just trying to understand

1 what's going on here.

2 MR. KLINE: Objection. Argumentative.

3 CHAIRPERSON ANDERSON: Sustained.

4 Move on, let's move on.

5 BY MR. THOMAS:

6 Q So I want to understand the
7 entertainment that you're going to be having as
8 well. So you said only local bands, but if I
9 recall your testimony correctly, you said that
10 local bands that have a huge fan base. Is that
11 correct?

12 A No. No, you're mischaracterizing.
13 Okay? So it's local musicians, I form the bands,
14 I put the bands together for that particular
15 night with a specific sound or vibe in mind.

16 So we don't book touring bands, we
17 don't book local bands that are actually playing
18 other places. A, because we don't want -- we
19 want to, you know, stand out as far as what we
20 offer when it comes to entertainment, and then
21 also, not every band is going to fit the sound
22 that we want to promote.

23 Q You did testify, though, that several
24 of the bands that you used to have regularly at
25 your formal location went on to be worldwide

1 touring bands. Correct?

2 A Yes.

3 Q Do you anticipate the same type of
4 entertainment acts at the new location?

5 A Those are like world renowned bands at
6 this point, so I don't expect that kind of
7 caliber of band to come and play in a 250-
8 capacity place. That's not going to happen.

9 Q But was it my understanding that you
10 do not intend to do any sort of live music on the
11 balcony? Is that correct?

12 A That's correct.

13 Q No DJ?

14 A That's correct.

15 Q Any dancing?

16 A No dancing. Just background music.

17 Q Is the background music going to be
18 the same as the music that's going on in the
19 interior?

20 A I'm not sure, sir, I'm not sure at
21 this point.

22 Q Now explain to me how one gets to the
23 rooftop deck. Um, can you do that?

24 A Sure. So you walk up the steps from
25 the sidewalk. There's an alcove, you can make a

1 left on the first floor or go straight up more
2 stairs. When you get to the top floor, then
3 looking at the back after the bathroom area
4 that's the back -- that's outside back, which is
5 almost a balcony for us.

6 Q So let's call it -- since you keep
7 characterizing it as a balcony, let's just call
8 it a balcony for the time being so we're on the
9 same page. Does that work?

10 A Works for me, sure.

11 Q Is there any barrier between the
12 interior of the establishment and the balcony?

13 A Doorway, yes.

14 Q What kind of doorway is it?

15 A Metal and glass.

16 Q Okay. Is it soundproof glass?

17 A Not yet.

18 Q Okay. If one needs to get to the
19 balcony they would have to open that door.

20 Correct?

21 A That's correct, yes.

22 Q Sound is going to escape. Correct?

23 A Depends on how the speakers are
24 positioned on the interior.

25 Q So your position is that no sound will

1 escape when people are going in and out from the
2 balcony from the interior.

3 A There's going to be some sound
4 escaping, but the sound that's on the deck itself
5 will just completely muffle it.

6 Q Is the doorway between the balcony and
7 the interior covered in your sound mitigation
8 plan?

9 A That's the plan, yes.

10 Q So let's talk about the balcony too.
11 So you were talking about -- and I just want to
12 understand this correctly -- so you have the far
13 west corner of the balcony is where Blagden Alley
14 is. Right?

15 A Correct, yes.

16 Q And there's going to be no physical
17 barrier there between the balcony and Blagden
18 Alley; there's just going to be plants. Is that
19 correct?

20 A Well, because the building is
21 historic, we can't build a railing on the edge of
22 the building. It has to have a four feet setback
23 in the inverse, so we decided to double that and
24 make it eight feet, and that's where the 42-inch
25 railing will be.

1 That's where the customer space will
2 end, and right in that line of railing that's
3 where we plan on having the tall trees to avoid
4 the view on either side.

5 Q Is it your understanding that the
6 trees are going to have any sort of effect on
7 reducing sound?

8 A They won't.

9 Q Okay. So there's nothing there that's
10 going to actually reduce sound.

11 A They won't because there's no need for
12 it. If you look at the report, there's no need
13 for it.

14 Q Why do you conclude that there's no
15 need for it?

16 A Because based on the design and the
17 sound system layout and the materials we'll be
18 using, if you read the report it says that
19 there's no impact on any of the neighbors based
20 on the proposed plan. So I don't see the need to
21 question why we don't have any mitigating efforts
22 on the edge of the building when there's no need
23 for it.

24 Q So I want to also talk about people on
25 the roof. So is it your understanding that when

1 people converse that creates sound?

2 A Sure.

3 Q What's the occupancy that you're going
4 to have on the balcony?

5 A Forty-eight.

6 Q Forty-eight. Do you intend to always
7 have -- to use the full 48 occupancy if able, if
8 you had enough patrons in there?

9 A You're right, yeah, sure.

10 Q Okay. And in your experience as a
11 nightlife -- a nightclub owner, do people tend to
12 speak louder when they have music playing in the
13 background?

14 A Depends on how loud the music is; it
15 depends on the people's speech pattern too, so I
16 can't guess how loud a person will speak or not.

17 Q Do people tend to speak softer when
18 music is playing in the background or --

19 A I'm not sure. You know, it depends,
20 it really depends. I tend to speak louder and
21 some folks, you know, speak not as loud, so it
22 depends on how close you are with the speaker or
23 not.

24 Q Would you agree that there's a
25 potential for a substantial amount of sound from

1 48 people talking on the balcony at once?

2 A That's also included in the report.
3 Yes, you're right, sure, it could, yeah.

4 Q Okay. Um, I want to turn to sort of
5 the operation of your door, if you will. So you
6 plan on -- you intend to charge cover charge.
7 Correct?

8 A That's correct.

9 Q Okay. And you mentioned that you were
10 going to use an app to limit people lining up at
11 the door and paying cover charge?

12 A So the idea for the app is to speed
13 the process of walking people in, so people can
14 prepay or there's no need to exchange cash. Our
15 remote, you know, card reader so you can just be
16 able to tap your phone on a QR code at the
17 entrance inside the property, so that will
18 prevent big lines for people waiting to come in.

19 Q Will you be accepting cash at the
20 door?

21 A No.

22 Q No cash at all?

23 A No cash at the door.

24 Q So if someone shows up just on a whim
25 and wants to enter into your business, you're

1 going to turn them away?

2 A Well, depends. We probably would give
3 them a break. How about that?

4 Q So just you wouldn't charge them
5 cover?

6 A If they weren't aware of the fact that
7 there's no cash involved, we let them in.

8 Q How about looking at IDs?

9 A Of course we look at IDs. It's part
10 of the existing rules and regulations of ABRA.

11 Q Well, but doesn't that slow down entry
12 into your establishment if you're checking IDs?

13 A It's only one step, it's only one
14 step. When you do a cover charge, it's ID,
15 exchanging the cash or their credit card, you
16 swipe it, give it back, have it signed, so that's
17 four or five steps. We're reducing it to only
18 one step here.

19 Q Okay. You are going to have --

20 A Maximum two.

21 Q You are going to have to monitor IDs
22 of all the patrons that come into your
23 establishment. Correct?

24 A Sure, yes.

25 Q And that could cause a line.

1 A It could.

2 Q What about vaccine cards?

3 A It depends on the rules and
4 regulations at the time we open.

5 Q Are you aware that you now currently
6 have to check vaccine cards before entry into an
7 establishment?

8 A I'm aware, yes.

9 Q Okay. So that's another step that
10 you'd have to add on. Correct?

11 A Sure.

12 Q One that hasn't really been
13 considered. Right?

14 A Because it's not a normal condition.
15 Right?

16 Q It is right now.

17 A Well, we're not sure once we open up
18 if it will be the same either.

19 Q The existence of a line, how would you
20 line people up to get into your establishment?

21 A So it's very easy, Mr. Thomas. Next
22 door to us is a dog grooming place that's not
23 open at nighttime. We've already spoken with
24 them, and they have no issue with us using their
25 front area sidewalk to line up our customers.

1 They can come back, walk up our stairs one by one
2 without any issues. So I don't see a problem
3 with that at all.

4 And as I mentioned in the past, we're
5 not foreseeing huge lines to begin with. It's
6 extended hours, people walk in and out, people
7 stagger in and stagger out. So even in the old
8 location we rarely had a mass exodus or a mass
9 entrance, it rarely happens.

10 Q Okay. I'm going to get to staggering
11 out in a second, but I want to talk to the
12 Dogtopia, which is the next door location.
13 Correct?

14 A Uh-huh.

15 Q So have they -- have you identified
16 them as a witness in this matter?

17 A They're not a witness, but we've
18 already spoken to them when the neighbors concern
19 was first initiated by them back in August 18 at
20 our first ABC meeting, so one of the first things
21 we did is we did reach out to our neighboring
22 business, explained to them what we intend to do
23 as far as operations, and also what we intend --

24 Q Have you received anything in writing
25 from them?

1 A -- to do about lines.

2 CHAIRPERSON ANDERSON: Mr. Thomas,
3 he's not done -- I don't believe he was done
4 answering.

5 MR. THOMAS: My apologies. He broke
6 up on my screen.

7 CHAIRPERSON ANDERSON: There is some
8 type of delay, but that's what I'm saying. There
9 was not --

10 THE WITNESS: I appreciate it, Mr.
11 Chairman.

12 We spoke to them, and they are okay
13 with our operation, with the sound from the
14 inside -- if it even goes next door to begin
15 with -- and also they're not open during the
16 hours that we might have a line, which is late
17 night, and they're okay with us using their front
18 door area for lining up our customers.

19 BY MR. THOMAS:

20 Q Okay. Who did you speak with at
21 Dogtopia that made this representation to you?

22 A So the general manager, who is also a
23 witness here, she spoke -- she took the lead on
24 all of this stuff, so she has all the information
25 about that.

1 Q Okay. So you don't know who actually
2 made that commitment?

3 A I don't personally know, no. It was
4 management and staff that were involved.

5 Q And when you say general manager, you
6 mean the general manager of your location spoke
7 to somebody at Dogtopia?

8 A I believe it was the general manager
9 of Dogtopia or a manager. Yeah.

10 Q Did you -- are you aware that Dogtopia
11 is a dog boarding location as well, so dogs are
12 actually there 24/7?

13 A I'm aware, yes.

14 Q Okay. So the business never actually
15 really closes, does it?

16 A I don't see people walking in and out
17 after eight o'clock, I believe.

18 Q Do you think having a line blocking
19 the entrance of a business that has live animals
20 in it would create a fire hazard?

21 A I'm not sure if it's going to block
22 the entrance. You know, there's a pathway out.

23 Have you been on that block, sir?

24 Q I have, yes.

25 A Have you seen it? Doesn't sound like

1 you do.

2 Q Tough to walk down the sidewalk there.
3 (Simultaneous speaking.)

4 CHAIRPERSON ANDERSON: You're having
5 a conversation. Mr. Thomas, is there a question.
6 Mr. -- we need to have the attorney ask the
7 witness a question, you answer. I don't need the
8 back and forth conversation, sir, please, on both
9 sides.

10 THE WITNESS: All right.

11 BY MR. THOMAS:

12 Q So let's talk about the sidewalk
13 really quickly. If you have a line outside your
14 location, are pedestrians going to be able to
15 walk past or are they going to have, you know,
16 maneuver -- are they going to have to go into the
17 street?

18 A If we have a line, there will be a
19 pathway for pedestrians to easily walk by without
20 any issue.

21 Q You think there will be no issue
22 whatsoever in their ability to walk by?

23 MR. KLINE: Objection. Asked and
24 answered. How many times are we going to go over
25 this.

1 THE WITNESS: I don't think so.

2 CHAIRPERSON ANDERSON: Let's move on.
3 Thank you.

4 BY MR. KLINE:

5 Q Have you set up a rideshare drop for
6 the present location -- for the, um, new
7 location?

8 A There's one right in front of it.

9 Q Right in front of it.

10 A Exactly, yes.

11 Q Okay. And so that's going to bring
12 more cars. Right?

13 A Well, that's the rideshare pickup so
14 it minimizes the rideshare pickups that you might
15 claim to happen in Blagden Alley in the back of a
16 business.

17 Q Well, don't the rideshares have to
18 actually get to the location?

19 A Yeah.

20 Q Isn't it theoretically possible for
21 them to be driving through Blagden Alley to get
22 to the rideshare drop-off?

23 A That's quite ambitious to go into the
24 alley and come back out on 9th Street. I'm not
25 even sure how that's possible or why would they

1 do that.

2 Q Doesn't that increase the amount of
3 cars in the area?

4 A On 9th Street most probably, yes, but
5 there's always rideshare pickups all the time
6 over there, all day long, all night long, as is.

7 Q You mentioned that you did due
8 diligence on the particular property before you
9 signed your lease. What kind of due diligence
10 did you do?

11 A Do I need to respond to this?

12 CHAIRPERSON ANDERSON: If you're able
13 to answer the question, there's no objection. If
14 you can't answer the question, you can't answer
15 the question.

16 THE WITNESS: I looked at the previous
17 license, the CO; I looked at the interior as far
18 as the build-out, the exits, the kitchen, the
19 hood, the system for safety, so I looked at all
20 those matters. Looked at the rooftop, the back,
21 you know, a bunch of other issues that I probably
22 won't be able to share because it's landlord's
23 confidential information.

24 BY MR. THOMAS:

25 Q Did you look into the area itself?

1 A Yeah.

2 Q What did you do -- what kind of
3 research did you do into the area itself?

4 A Um, it's a mixed use neighborhood, so
5 9th Street is a pretty commercially accessible
6 thoroughfare. It's right across from the
7 convention center, so that was a big thing when I
8 came upon that location.

9 Q Did you do any research into crime
10 issues that exist in the area?

11 A Um, I didn't; no, I didn't.

12 Q Okay. Did you do any research into
13 what the other establishments were allowed to do
14 in the area?

15 A Not exactly. But I know them, I've
16 been there before, so it's nothing new to me.

17 Q Okay. Are you aware that your
18 application differs in many different ways from
19 the other establishments that are in the area?

20 MR. KLINE: Objection to the
21 characterization.

22 THE WITNESS: Yeah, I'm not sure --

23 MR. KLINE: Don't answer, Mr. Nouri,
24 until the objection is resolved.

25 CHAIRPERSON ANDERSON: I'm going to

1 sustain your objection.

2 Rephrase the question, Mr. Thomas.

3 MR. THOMAS: Sure, sure. I'll break
4 it down a little; I guess it might have been a
5 little too general.

6 BY MR. THOMAS:

7 Q So you're applying for an
8 entertainment endorsement to your license.
9 Correct?

10 A That's correct.

11 Q Okay. And are you aware of the other
12 establishments in the area that have an
13 entertainment license?

14 A I looked it up. You know, a lot of it
15 kind of also depends on the operation so --

16 Q The question is a yes or no question
17 about whether you're aware of them or not.

18 A Yes, yes, I'm aware of them.

19 Q Okay. And are you aware of any ABC-
20 licensed establishment that has an entertainment
21 endorsement that allows for the hours that you're
22 requesting?

23 A Uh, I believe there are a few in the
24 vicinity.

25 Q On that same block?

1 A On the same block, I'm not sure, but
2 in the vicinity, yes.

3 Q What about the Columbia Room? The
4 Columbia Room is directly adjacent to your
5 proposed --

6 A There's one building in between us.

7 Q Sorry. You're right, you're right.
8 It's very close.

9 A Got it. Okay.

10 Q Did you look into their entertainment
11 endorsement?

12 A I didn't even thing they had one,
13 because it's more of a cocktail bar, so the
14 operations don't match at all.

15 Q Did you look at the summer garden
16 endorsement?

17 A I didn't, no.

18 Q Is your -- okay. Are you aware of
19 them now?

20 A I know they have one, yeah.

21 Q Do you know what their hours are?

22 A They're -- I'm not sure exactly what
23 the hours are but it's not, obviously, what I'm
24 asking for, but I'm not sure why this matters.

25 Q When you say -- you're saying it's not

1 what you're asking for, you admit they're
2 different than what you're asking for.

3 A Yes, of course. Yeah.

4 Q What about Never Looked Better, did
5 you look at their, um --

6 A Yes, I did.

7 Q Okay. Do you know what their hours
8 for their entertainment are?

9 A I believe it's one o'clock. It ends
10 on the weekend at one o'clock, one hour earlier,
11 I believe.

12 Q Okay. So two hours earlier than what
13 you're asking for.

14 A Could be. Okay.

15 Q And they have an entertainment
16 endorsement too. Right?

17 A I think they do, yes.

18 Q This is the same exact building that
19 you're looking to move into. Correct?

20 A Yes.

21 Q Okay. And their entertainment
22 endorsement doesn't allow for cover charges to be
23 charged. Right?

24 A I didn't look at that. I'm not sure.

25 Q Doesn't allow for dancing?

1 MR. KLINE: Mr. Chairman, I'm going to
2 object. We're here to talk about this license,
3 and what other people may or may not have asked
4 for, whatever they may or may not have agreed to
5 restrict -- what we're here to talk about is this
6 application and whether what's been applied for
7 will have an adverse impact on peace, order and
8 quiet and the other rubric under the statute, not
9 what someone else applied for, what they had,
10 whether he looked at what they had. None of that
11 is relevant for what the Board needs to decide
12 with respect to this hearing.

13 CHAIRPERSON ANDERSON: Do you have an
14 response, Mr. Thomas?

15 MR. THOMAS: Yeah, absolutely. So
16 we're looking at the effect that this Applicant
17 is going to have on the peace, order and quiet of
18 the area, and we have to look at what -- how it
19 fits in with the other establishments in the
20 area.

21 This application is far different than
22 any of the other establishments. It's seeking
23 far, far, far wider breadth in their
24 entertainment endorsement, in their hours, in
25 their summer garden endorsement, and so I think

1 it is entirely probative of the effect it's going
2 to have on the area to show that it is
3 inconsistent with all of the other ABC
4 establishments that are in this direct vicinity,
5 including the one that's in the same building as
6 them.

7 So I think it's entirely probative of
8 the effect it's going to have on peace, order and
9 quiet, and I don't understand why that -- why the
10 other establishments in the area that seek --
11 that have similar type of operations and have a
12 similar type of license are not relevant to what
13 Mr. Nouri is trying to do here.

14 CHAIRPERSON ANDERSON: I'm going to
15 overrule the objection, but counsel is correct.
16 We should spend more time on this establishment.
17 You do have some leeway to talk about what's in
18 the area, but we need to be focused on what is it
19 that this licensee is applying for.

20 You can ask the question, but I need
21 you to be more focused, because time is of the
22 essence. Okay?

23 MR. THOMAS: Fair enough. Thank you,
24 Mr. Chairman.

25 BY MR. THOMAS:

1 Q Are you aware of Never Looked Better's
2 entertainment endorsement?

3 A Yes.

4 Q Okay. And you're aware that they
5 don't charge cover?

6 A Yes.

7 Q And they can't have dancing?

8 A Correct.

9 Q So it's different, and dramatically
10 different from what you're seeking. Correct?

11 A Sure, but that's a matter of choice,
12 Mr. Thomas.

13 Q Let's talk about -- you know, I take
14 what the chairman said seriously, so let's talk
15 about your security for your establishment. Why
16 don't you tell me what type of security you're
17 trying to have for your establishment?

18 A What type of security? What does that
19 mean? Can you be more specific?

20 Q Explain to me what the security is
21 going to look like at your establishment when you
22 have 250 people there.

23 MR. KLINE: Objection. Mr. Chairman,
24 this goes beyond the scope of cross. We do have
25 another witness who will be addressing security,

1 so I would suggest in the interest of time,
2 perhaps these questions could be deferred until
3 that other witness testifies.

4 CHAIRPERSON ANDERSON: I mean, I'll
5 allow him to ask some questions about security.
6 I mean, I think that, yes, I know you didn't
7 necessarily ask about security. but it's in the
8 realm of questions that you've asked, so I'll
9 sustain the objection, and knowing that you're
10 saying there's another witness who can testify,
11 so we can also keep that in mind, Mr. Thomas.

12 MR. THOMAS: I'm sorry. Mr. Chairman,
13 you said you were sustaining the objection? Did
14 you mean you were overruling the objection?

15 CHAIRPERSON ANDERSON: I'm
16 overruling -- I apologize. I'm overruling the
17 objection.

18 MR. THOMAS: Thank you.

19 BY MR. THOMAS:

20 Q You can respond, Mr. Nouri.

21 A So the security -- the amount of
22 security in the -- the number of security will
23 all depend on the final capacity and also what
24 ABRA recommends us, but as of now, generally
25 speaking, we shared a security plan with ANC 2F

1 and with the neighbors.

2 We're going to have at least two
3 people at the front door on the weekend nights,
4 or maybe Thursday onward, one at each bar area,
5 and also depending on whether all floors or open
6 or the outside is open, you know, each floor will
7 have at least one person; depending on how busy
8 those floors are, probably two. So all of this
9 depends on what ABRA recommends to us once we
10 have the full capacity placards.

11 Q Um, is any of your plan to provide any
12 security to the alley behind your location?

13 A We are planning on having a camera
14 there for our own security, but as far as
15 providing manned security, I'm not sure that's
16 required or even needed. What's the purpose for
17 that?

18 Q Would you agree that your security
19 obligations extend beyond the sort of four walls
20 of your establishment?

21 A Um, that part I'm not sure about that.
22 You know, I mean, I think we're responsible for
23 the front door area and once people walk out or
24 people walking in with the line as we discussed,
25 making sure that there's access for pedestrians.

1 The back as well, we have a 200-square-foot area
2 that belongs to us, so we're going to oversee the
3 security in that area. Anything beyond that, I'm
4 not sure if we have any responsibility for that.

5 Q Okay. Um, the last thing I want to
6 talk about is your outreach to the community.
7 Um, so you know, you mentioned that you had
8 reached out to the community. Can you tell me
9 specifically who you reached out to to discuss
10 your plans?

11 A So I took the lead to reach out to ANC
12 2F on the day we did -- the first thing we posted
13 our placard, you know, Brian Romanowski, just to
14 explain what we're doing and what the next steps
15 might be.

16 On the ANC 2F website there was some
17 information about generally speaking, very vague
18 about reaching out to the local community, so we
19 did reach out to a few of the people that we knew
20 who live in the community but not necessarily
21 the immediate Blagden Alley area.

22 But that wasn't specified anywhere,
23 and then once we found out, we did try to reach
24 out to some folks who live in the area, but the
25 reach-out that we did initially was based on what

1 we saw on ANC 2F's website.

2 Q Did you speak to any of the membership
3 of my organization, BANCA, before you placarded
4 your building?

5 A No, we didn't.

6 Q Okay. Have you had any conversations
7 with them since?

8 A We tried; nothing came out of it, so.

9 Q And when you say you tried, are you
10 talking about -- I don't -- I take the
11 instruction from the chairman seriously, so I'm
12 talking about everything outside of settlement
13 discussions that have happened in connection with
14 this proceeding.

15 A No.

16 MR. THOMAS: Okay. Um, that's all I
17 have for right now. Oh, and I will say this
18 though, I'd like to reserve my right -- I'm -- I
19 have no further questions based on the proffer
20 from Mr. Kline that he will be introducing
21 another witness to discuss security at this
22 location.

23 If such a witness is not called, I
24 would reserve the right to recall Mr. Nouri to
25 discuss that specific topic.

1 THE WITNESS: Sure.

2 CHAIRPERSON ANDERSON: All right,
3 okay.

4 Mr. Nouri, I just want to get some
5 clarification from you. So based on your
6 presentation today, the total occupancy for
7 the -- the balcony, the rooftop, is that what's
8 considered a summer garden?

9 THE WITNESS: Yes.

10 CHAIRPERSON ANDERSON: All right. So
11 based on your presentation to day, the maximum
12 capacity you're asking for is 48 folks. Is that
13 correct?

14 THE WITNESS: That's correct, yes.

15 CHAIRPERSON ANDERSON: And also, is it
16 also correct that you are not asking for an
17 entertainment endorsement for the balcony because
18 you're only going to have background music,
19 not -- is that correct?

20 THE WITNESS: You're correct, sir.

21 CHAIRPERSON ANDERSON: And just how
22 large -- I'm sorry -- what portion of the
23 balcony/rooftop is uncovered?

24 THE WITNESS: So the smaller portion
25 of the rooftop is uncovered; it's about 26 feet

1 from the edge of the alley, and then another
2 maybe 60 feet that has a rooftop over it.

3 CHAIRPERSON ANDERSON: So the portion
4 that's uncovered, are there going to be people in
5 that section?

6 THE WITNESS: Yes. Seating facing the
7 building, not the alley.

8 CHAIRPERSON ANDERSON: And is this
9 section -- so how do you -- and you might have
10 testified on direct, but how do you plan to
11 mitigate the noise for this uncovered area where
12 people are seated?

13 THE WITNESS: So you know, we don't
14 foresee a lot of noise emitting from that small
15 portion of the balcony roof deck. The bar and
16 the speakers are on the covered part, and it's a
17 lot closer to the actual property line, the wall.

18 This is about 26 feet of open space
19 that we are planning on having seats that are
20 facing the property as opposed to facing out.
21 Obviously because of historic reasons we couldn't
22 be able to cover it, but we're allowed to cover
23 it with umbrellas or non-structural material,
24 which we're planning on doing that as well.

25 CHAIRPERSON ANDERSON: All right.

1 Okay. So you're saying the total capacity for
2 the entire place is 268, so what's the capacity
3 for -- how many floors is the structure and
4 what's the capacity for each floor?

5 THE WITNESS: Two floors. I don't
6 have the drawing with me, but it should be --

7 CHAIRPERSON ANDERSON: Okay. The
8 drawing was the earlier exhibit?

9 THE WITNESS: Yes.

10 CHAIRPERSON ANDERSON: Was this a
11 capacity that you created or is it the capacity
12 that -- do you have a certificate of occupancy
13 currently for this establishment?

14 THE WITNESS: I don't have one yet,
15 but there's one from the previous operator.

16 CHAIRPERSON ANDERSON: All right. So
17 how did you come up with -- how did you come up
18 with -- I think you said the first floor was 114;
19 I think that's what it stated earlier. How did
20 you come up with those numbers?

21 THE WITNESS: So those are -- the
22 numbers are accomplished by the architect team
23 once they do the drawing and we know what the
24 layout is, where the bar goes and the bathrooms.

25 Whatever is remaining there's a

1 formula for it, and based on the amount of space
2 and the formula, we came up with 268. It's not a
3 number that I pick and choose and then it
4 happens; it's based on a formula based on the
5 amount of space you have available and the use of
6 the property. So it's a code issue.

7 CHAIRPERSON ANDERSON: All right,
8 that's fine.

9 Now, just a question, and maybe I kind
10 of missed this earlier. Did you say that you
11 were changing the concept of the Eighteenth
12 Street Lounge, it's a different concept, or were
13 you going back to the old concept? And the
14 reason I'm asking that, why not change the name
15 if you are changing the concept?

16 THE WITNESS: So the change in concept
17 is a change to going back to how it was when we
18 first opened up about 25 years ago, although a
19 new time and a new era.

20 So it's going back to be more
21 intimate, higher elevated approach when it comes
22 to drinks and the service and the food also, and
23 also elevated approach to the entertainment we're
24 going to be offering.

25 So as I said, within the 25 years that

1 we were in this location we ended up expanding.
2 With the expansions we lost a little bit of the
3 quality control in the product itself, so with
4 this move we're going back to what it was. We
5 call it going back to basics.

6 CHAIRPERSON ANDERSON: All right.
7 Now, you said that you're going to serve food?

8 THE WITNESS: Yes.

9 CHAIRPERSON ANDERSON: So just
10 generally, what does the menu consist of?

11 THE WITNESS: So we shared the menu
12 with the neighbors before, so we have three
13 options at this point. Initially we were going
14 to work with a chef and it would have been a chef
15 driven menu, but with the ever-changing business
16 world when it comes to hospitality and the
17 pandemic, we thought to have a bit more
18 flexibility to be able to keep our overhead low
19 as we work through these challenging times.

20 So we have the option to work with
21 that initial chef we discussed with, but also we
22 have options to do outside catering from one of
23 the local restaurants that's in the area where we
24 are, and then also the general manager of
25 operations -- who is also a witness here -- she

1 has experience in the kitchen, and she's also
2 able to put a short menu together for that use.

3 Now, Mr. Chairman, keeping in mind
4 we're not pretending to be a restaurant, we're
5 not claiming to be a restaurant, it's going to be
6 a short menu, 12 to 14 items, to keep people
7 there while they are hungry. So we don't expect
8 people to come and dine. If they do, it would be
9 great, but it's more to keep the people who are
10 there in house.

11 CHAIRPERSON ANDERSON: You know, Mr.
12 Farid, I thank you for stating that you're not
13 pretending to be a restaurant. A lot of times
14 I've had presentations where folks kind of give
15 that impression, so I like the fact that you've
16 stated that you're not pretending to be a
17 restaurant.

18 Now, let me ask you also about the
19 entertainment. So are you -- is it your
20 testimony that most of the entertainment that
21 you're having at the location is towards the
22 front of the building regarding 9th Street

23 THE WITNESS: Yes.

24 CHAIRPERSON ANDERSON: -- rather than
25 towards Blagden Alley? Why did you decide to

1 make that -- this change or this presentation?

2 THE WITNESS: Well, I think mainly
3 because of the existing layout of the space. The
4 back of the first floor is bathroom, storage and
5 the kitchen, so we can't use that, you know.

6 And the way these buildings are
7 actually laid out, they're rectangular and long,
8 so it's quite a challenge to be able to use them
9 in an effective way for the hospitality
10 operation.

11 So the best that we could have come
12 up, also, you know, considering that potentially
13 having any kind of entertainment towards the back
14 of the property would negatively impact the
15 neighbors, so that was two of the reasons why we
16 decided to use the front of the space which
17 overlooks 9th Street for our entertainment
18 purposes.

19 And also keep in mind, Mr. Chairman,
20 that these particular areas that we're planning
21 on having the entertainment are fairly small;
22 they're about probably 800 feet to 900 feet
23 maximum at a time, so they're not huge spaces.
24 But the floor itself is long, so that, yeah.

25 CHAIRPERSON ANDERSON: And another

1 question I have for you, and the reason I'm
2 asking these questions because I'm hearing
3 different information from what was placarded and
4 so that's why I'm just trying to get in my mind
5 some clarifications from you.

6 So for the rooftop, I mean, what hours
7 are you requesting for the rooftop, for the
8 operation of this rooftop hours?

9 THE WITNESS: So I'm asking for full
10 hours for weekdays and weekends, to 1:30 weekdays
11 and 2:30 weekends.

12 CHAIRPERSON ANDERSON: So you're
13 saying -- so what do you call weekdays?

14 THE WITNESS: Sunday to Thursday.

15 CHAIRPERSON ANDERSON: So Sunday
16 through Thursday you're saying 1:30 for the
17 rooftop, and Friday and Saturday you're saying
18 what?

19 THE WITNESS: 2:30.

20 CHAIRPERSON ANDERSON: Thank you, sir.
21 Any questions by any Board members?

22 MEMBER SHORT: Mr. Chairman, I have
23 questions.

24 CHAIRPERSON ANDERSON: Go ahead, Mr.
25 Short.

1 MEMBER SHORT: Good afternoon, Mr.
2 Nouri.

3 THE WITNESS: Good afternoon, sir.

4 MEMBER SHORT: My questions are going
5 to be based on certificates of completion that I
6 had from the National Fire Academy in Emmitsburg,
7 Maryland, and also from the University of
8 Maryland Institute of Fire and Rescue where I
9 received certificates on a subject we're talking
10 about today with your application.

11 THE WITNESS: Sure.

12 MEMBER SHORT: First of all, I saw you
13 submitted some drawings, and I noticed there were
14 no engineer stamps, no stamps of who completed
15 them; it's just a drawing.

16 And normally in public safety and
17 public assembly there has to be a stamp stating
18 this is just not a pie-in-the-sky wish, but this
19 is something that a certified engineer has signed
20 off on.

21 Have you talked to a certified
22 engineer about signing off on the papers?
23 Because I understand DCRA is not going to
24 allow -- accept the papers until they are stamped
25 by a certified engineer.

1 THE WITNESS: Sure. So we've filed
2 the drawings with DCRA about maybe two months
3 ago; it's being reviewed by all the disciplines.

4 MEMBER SHORT: Maybe you didn't hear
5 my question. My question is --

6 THE WITNESS: Yeah, yeah, yeah, I did.

7 MEMBER SHORT: -- DCRA doesn't
8 normally accept plans unless they are stamped by
9 a certified engineer. They can't and wait and
10 get the engineer after they are approved by DCRA.
11 DCRA has engineers in their section and they have
12 to be approved.

13 THE WITNESS: I'm fully aware of this
14 process, sir, so I was going to complete my
15 answer. There is a stamp on the drawing, but
16 it's by the architecture firm, and I have a
17 permit number if you want to -- if we can share
18 that. It's proof of the fact that it's been
19 reviewed by engineers, architects, and it's been
20 filed with DCRA to get reviewed by them.

21 MEMBER SHORT: Thank you for being
22 aware to do that. Will you give stamped plans to
23 ABRA at your earliest convenience?

24 THE WITNESS: So I'm not sure what you
25 mean by stamped. Is it stamped by my architect

1 or by DCRA, because it won't be stamped by DCRA
2 unless it's approved. It's not approved yet;
3 it's in the process. You know what I'm saying?

4 MEMBER SHORT: I'm trying to -- the
5 reason why I gave you my credentials is because
6 of my training, and also as a member of the DC
7 Fire Department in the fire marshal's office for
8 33 years, I know the process and I know the law.

9 THE WITNESS: Okay.

10 MEMBER SHORT: Will you submit to
11 ABRA -- I can't make you do anything; I'm just
12 asking you -- if you have stamped plans for your
13 location that are signed by an engineer, I would
14 like for those to be turned over to ABRA, if you
15 don't mind.

16 THE WITNESS: Sure, sure.

17 MR. KLINE: Chair, if I may step in.
18 We'll turn over whatever we have.

19 THE WITNESS: Yeah.

20 (Simultaneous speaking.)

21 CHAIRPERSON ANDERSON: Hold on, hold
22 on, hold on.

23 MEMBER SHORT: Mr. Kline, I wish I was
24 questioning you, but I'm questioning the owner.

25 But at any rate, I'll move on, Mr.

1 Chair, I'll move on.

2 CHAIRPERSON ANDERSON: All I'm saying,
3 Mr. Short, is that at the end of this hearing I'm
4 going to close the record so nothing -- if it has
5 not been provided, it cannot -- the record will
6 be closed; it cannot be provided for us to look
7 at.

8 MEMBER SHORT: Thanks for reminding
9 me.

10 Okay. Also, I'd like to ask, we were
11 talking about the seating and the numbers. Now,
12 normally with placards -- and anybody can jump in
13 on this if they like -- there is a placard for
14 standing customers in which standing you take all
15 the tables and chairs out. That's what they
16 normally do in nightclubs, so there's a different
17 number when you take all the tables and chairs
18 out, versus a placard that would say for seating.
19 So normally there are two placards, but I just
20 wanted that on the record.

21 And also, I'd just like to ask, the
22 exits from the second floor where you're going to
23 have your summer garden, do those persons on the
24 summer garden have to come back through the
25 building downstairs to the first floor, or is

1 there a separate exit off of the second floor?

2 In case there's a fire in the front of
3 your building and everybody can't get out of the
4 front door or the back door, is there a separate
5 place for the people on the second floor where
6 you're going to have a summer garden -- is there
7 a separate entrance or exit for that on the
8 second floor?

9 THE WITNESS: That's a great question,
10 sir. So the fact that we only have 48 people
11 maximum capacity on the roof deck is exactly why.
12 So there's only one way in and out of that roof
13 deck, which is why we're not allowed more than 48
14 people. And based on the drawing that's filed at
15 DCRA as we speak, the existing exits that we have
16 from the front and in the back will be able to
17 allow us to have only 48 people. We cannot have
18 more than that on that roof deck.

19 MEMBER SHORT: I respect that answer,
20 because if you go over 50 then it's public
21 assembly and you have to have a second means of
22 egress. Correct?

23 THE WITNESS: Exactly. You're right
24 about that, sure.

25 MEMBER SHORT: Thank you for your

1 honest answer.

2 THE WITNESS: Of course.

3 MEMBER SHORT: Mr. Nouri, also I'd
4 just like to ask, you said you met with the
5 neighbors, and what happened when you met with
6 the neighbors?

7 THE WITNESS: So we started the
8 process middle of August; we had our first ABC
9 meeting to meet each other and introduce
10 ourselves. So we tried to share some of the
11 preliminary information we had, keeping in mind
12 that we had just signed a lease in June, and
13 getting professional work between June and August
14 was not a possibility, and these drawings take a
15 long time, there's a lot of efforts that go into
16 them.

17 But we did have a preliminary layout
18 of the floors which reflect the existing plans at
19 this point. We had our security plan, even
20 though it's not required; we had an extermination
21 plan -- contract; we had the initial audio
22 mitigation efforts for the interior and exterior.

23 So we shared all that information with
24 the neighbors, but we haven't had any feedback up
25 to now.

1 MEMBER SHORT: Okay. Two more
2 questions and then that might be it for me.

3 THE WITNESS: Sure.

4 MEMBER SHORT: The first question I
5 have is about when you were on 18th Street you
6 had a trash compactor placed there to take care
7 of and mitigate some of the problems.

8 THE WITNESS: Uh-huh.

9 MEMBER SHORT: Sharing a building with
10 another establishment and your basement.
11 Correct?

12 THE WITNESS: That's correct.

13 MEMBER SHORT: So I see on the
14 Government's Exhibit No. 25, in the rear there's
15 only one dumpster back there, so if there's only
16 one dumpster in the back for that one building,
17 will you consider putting a trash compactor like
18 you did on 18th Street?

19 THE WITNESS: Yes, we are. Yes, we
20 actually are doing that as we speak. Jordan
21 Naber, who is also a witness, she's the general
22 manager, she's taking efforts with Shaw Main
23 Streets to combine all existing businesses on
24 that block and get one fairly large compactor to
25 be used by all the businesses.

1 And this way we would stop using all
2 these loose bins and smaller bins that are like
3 laying around and it doesn't look appealing. The
4 top is always open and different people use them
5 so it's kind of hard to pinpoint who's a problem,
6 who's not.

7 So I think if we go to one medium to
8 large compactor for all the businesses on the
9 block would really help the whole process.

10 MEMBER SHORT: Well, how long do you
11 think that would take?

12 THE WITNESS: Uh, we started the
13 process about right before the holidays a little
14 bit, so we're waiting to hear back. There's
15 supposed to be a grant for this kind of issue, so
16 we're waiting for that response from Shaw Main
17 Streets, and as soon as we hear that, we have all
18 the businesses on board, which is really good
19 news.

20 MEMBER SHORT: That's good news, yes.

21 THE WITNESS: Yes. And we also have
22 the property to use that, so we have two of the
23 three issues taken care of; now it's about the
24 money part.

25 MEMBER SHORT: Okay. Well, I'll just

1 say this, I was on the Board when the trash
2 compactor was put on 18th Street, and we were
3 very pleased about that, so were the neighbors.
4 And I know in your heart you had to be also
5 because of the rat problem.

6 THE WITNESS: Oh, yes. And the
7 compactor happened to be right behind our
8 property, so we were impacted a lot by the rodent
9 issue and the loose bins out there in the back.

10 MEMBER SHORT: Well, do I remember.
11 And thank you for complying to what you said you
12 were going to do, as a Board member. I guess I
13 was probably the only Board member there when
14 that happened, but at any rate, we appreciate
15 that cooperation.

16 THE WITNESS: Of course, sir, sure.

17 MEMBER SHORT: Lastly, on your sound
18 mitigation, is that a sound engineer, do they
19 have credentials, have they been trained, do they
20 have certificates that they are qualified to give
21 sound mitigation? Because a lot of times we've
22 had people to come before the Board before and
23 they might get a friend or somebody down the
24 street -- not saying that you have -- but to me,
25 as a Board member, I would like to see that we

1 have a sound technician or someone with
2 credentials stating that they are a professional
3 at this and what they're submitting to this Board
4 about sound mitigation, and also to the community
5 is solid.

6 THE WITNESS: That's correct, yes.

7 MEMBER SHORT: I hope you can
8 understand and appreciate that.

9 THE WITNESS: Absolutely. And you
10 know, as far as the level of the quality control
11 I have in my operation, I always want to work
12 with the best, so the audio engineer that I
13 worked with as the vendor for Eighteenth Street
14 Lounge, he has a master's in audio engineering,
15 has been in the business for about maybe 30 years
16 at this point. I've worked with him for the past
17 15 years; he's well qualified. I can get his
18 resume for the Board if need be.

19 And I'm also working on this
20 particular project with the outside issue with
21 Martin Beam, who is also very qualified. He has
22 his information in the PIF; as well he's a
23 witness in the hearing.

24 MEMBER SHORT: I do thank you for your
25 answers, sir, and thank you for being forthwith

1 to the Board. Thank you, sir.

2 THE WITNESS: Sure. Appreciate that.

3 MEMBER SHORT: That's all I have, Mr.
4 Chair.

5 CHAIRPERSON ANDERSON: Thank you, Mr.
6 Short.

7 Any other questions by any other Board
8 members?

9 (Simultaneous speaking.)

10 CHAIRPERSON ANDERSON: Are you
11 requesting, Mr. Grandis?

12 MEMBER GRANDIS: I do, but I think
13 Jeni was raising her hand, so I just wanted you
14 to know that.

15 CHAIRPERSON ANDERSON: Ms. Hansen, do
16 you have a question you want to ask?

17 MS. HANSEN: I do. Thank you.

18 So Eighteenth Street Lounge was an
19 institution in Washington. How do you plan to
20 celebrate your 25th anniversary?

21 THE WITNESS: Good question. A couple
22 of years we'll skip between the actual
23 anniversary, and once we hopefully open up, but
24 I'd like to maybe, you know, combine the opening
25 of the new place with the celebration of being in

1 business for 25 years. So that's the idea at
2 this point.

3 MS. HANSEN: And we certainly love
4 businesses in DC and business owners and also
5 neighbors. I think there's a shared space and a
6 shared value there, and I know that you'll have
7 regular patrons, but you'll also have these
8 neighbors -- let's call them concerned neighbors,
9 and your attorney said that you're not -- the
10 abutting properties are not residential, but we
11 do know that in that alley, or as he said,
12 grouping of alleys, there are residents.

13 They can see the property, they can
14 hear, obviously. I really hope that we don't
15 find our way back here to discuss any complaints
16 of safety issues or discouraged residents. But
17 given the back and forth that already exists with
18 neighbors and their concern, do you think that
19 there is any way to avoid conflict?

20 THE WITNESS: I think the main aspect
21 of this will be the fact that we always abide by
22 existing rules and regulations of the District,
23 plus ABRA and MPD, and we're also taking
24 additional measures to address those exact
25 concerns.

1 So not only we are going to be abiding
2 by these rules and regulations of the District
3 that oversee those issues and concerns, we're
4 also going above and beyond at this point, as
5 maybe you can witness with all the efforts we're
6 undertaking and all the investment we're
7 undertaking, to make sure that we don't have any
8 issues or any conflicts with the neighbors, and
9 as long as those efforts and those undertakings
10 are respected or valued or even considered.

11 So that would really help if there's
12 anything specific that might need to be done,
13 we're willing to have an open ear and have
14 conversations with the neighbors, as long as the
15 approach is reasonable and fair and civil.

16 MS. HANSEN: And I'll just give a
17 specific example, because I think we've talked
18 about a number of things that are valid and
19 should be on the table for consideration.

20 I know we're going to hear from
21 someone specifically about security and safety,
22 but that is a congested area, it just is. There
23 are a number of establishments there; there's one
24 that I use regularly for events that's really
25 tricky to get delivery trucks in, out, around,

1 pickups.

2 There can be times when there are
3 conflicts I've addressed there. You can have a
4 wedding going on, for example, or some kind of
5 event where you have a bunch of commotion. It's
6 not -- it's heavily trafficked, and you've got
7 the rideshare thing also.

8 One of my concerns is the wind down
9 that very narrow street. It seems that you have
10 an agreement with the dog daycare next door.
11 That sounds more not as an afterthought but it
12 really does sound like part of the plan.

13 That establishment does not have an
14 agreement to uphold the same, you know, pieces
15 that we're talking about here, so I would really
16 want to know a little bit more about how -- maybe
17 not now, just something to think about -- I mean,
18 the doggie daycare plan, it seems like it's not
19 the backup plan, it is the plan, and they
20 don't -- they're not obligated to clean, they're
21 not obligated to do crowd control.

22 Sorry, you were going to say
23 something?

24 THE WITNESS: No. So are you
25 finished? I'm sorry.

1 MS. HANSEN: I'm finished with that
2 question, that particular question, yes.

3 THE WITNESS: Okay. So you know, one
4 thing I foresee down the road is I think
5 cooperating with the neighbors is really crucial,
6 obviously with our basement neighbor and Dogtopia
7 and Longview Gallery, because I noticed they have
8 a lot of events, they use their back entrance and
9 the front entrance.

10 So you know, we really don't foresee
11 that kind of traffic that Longview might have for
12 weddings or receptions when they haul in chairs
13 and furniture, and you know, huge catering
14 events. So that's a different business model
15 than us.

16 I foresee a lot of walk-in traffic.
17 As I said, a lot of our audience is in that area
18 of town, rideshares might be the other option, or
19 Metro. So using the sidewalk for the line is one
20 of the ways for people to leave access for
21 pedestrians.

22 Now, as I said, you know, with the
23 small size of the property, smaller size, and the
24 extended hours, I really, really don't foresee
25 massive entrance at the same time or a mass

1 exodus at the same time.

2 Now, we should be prepared for it,
3 you're absolutely right, and I think one of the
4 best ways to be prepared for it is what we have
5 in plan right now with Dogtopia but also once we
6 open up we can be able to maybe cooperate with
7 the other neighbors once they have events or
8 bigger undertakings that we should be aware of
9 and work with them as a team.

10 MS. HANSEN: And can you clarify the
11 QR code? I know you said it was for
12 reservations, but can you confirm that it will
13 not be used in any way to verify the age of a
14 guest or vaccination status?

15 THE WITNESS: The QR code won't be
16 reservation. It will be just for the cover
17 charge, the entry charge.

18 MS. HANSEN: Is that how you're
19 planning on doing crowd control by knowing how
20 many people?

21 THE WITNESS: We have a clicker for
22 that so you just click one, two, three, in/out.
23 So we have two door guys, two security at the
24 door, one can click in and one can do the click
25 out, and then you can see how many people are

1 inside at that moment.

2 The QR code would relate to the cover
3 charge and not ID check. ID check has to be done
4 manually, as it's been done all this time.

5 Absolutely, yes.

6 MS. HANSEN: So how far in advance
7 will you be able to make a reservation on the
8 system for the cover charge? Is it like when you
9 know an act is coming and you want to go?

10 THE WITNESS: We're still working on
11 the tech part of that. I'm working with a firm
12 to build the app for some other uses, but it
13 could be also for the cover charge, but I'm
14 working with our POS firm, the point of sales
15 firm, to integrate the cover charge into our
16 sales that will be a different entity than the
17 app that we're going to build, but they could
18 overlap as far as that information is concerned.

19 MS. HANSEN: Because the information
20 you will then have in advance is how many people
21 will be in that concentrated area at a time, and
22 you would potentially be better equipped to get
23 rid of the excess crowd.

24 THE WITNESS: That's a great point,
25 yes. Sure.

1 MS. HANSEN: Given the constraints, I
2 know there's a lot on the table. Do you still
3 feel that this is -- this particular location
4 fits all of the checkmarks that you were looking
5 for in an ideal location?

6 THE WITNESS: I really think it does,
7 and a lot of it has to do with the impacts of the
8 pandemic on the hospitality business, so -- yes,
9 it's a lot smaller than what we had, the sidewalk
10 or the alley, you know.

11 The roof deck is a lot smaller than
12 what we had before, but I'm seeing a down trend
13 in bar and late night activity since pre-pandemic
14 and with the pandemic it's going to exacerbate
15 it, so that's why I picked this location for the
16 size of it.

17 I's manageable and we can keep quality
18 control on the product itself, of the business,
19 and it's pretty close to the audience that likes
20 to frequent Eighteenth Street Lounge, and you
21 know, it's a lot less expense when it comes to my
22 rent, so that's a bit issue as well.

23 MS. HANSEN: No further questions.

24 Thank you.

25 CHAIRPERSON ANDERSON: Thank you, Ms.

1 Hansen.

2 Mr. Grandis.

3 MEMBER GRANDIS: Thank you, Mr.
4 Chairman.

5 I want to thank the Applicant for
6 being here today and giving us a good overview of
7 what you plan to do, so thank you for your
8 presentation and your capable attorney in
9 answering the questions that have been before
10 you.

11 Just for the record, I live off of
12 18th Street and Dupont Circle since the 1970s and
13 I'm very familiar with the Eighteenth Street
14 Lounge as a nice destination in the past.

15 However, as you have said in the
16 application and in the presentation today, you
17 know, even though branding is very important --
18 I'm assuming that's one reason you kept the trade
19 name even though if I was from out of town, I
20 would be confused on why it's Eighteenth Street
21 Lounge on 9th Street.

22 But could you go through each floor of
23 the 18th Street location and give us a sense of
24 how it will be different on each floor in the new
25 location as far as -- because it was always a --

1 sometimes a surprise, and as I say, a destination
2 when we went and I would enjoy the various
3 floors.

4 So could you help me understand the
5 differences between the two locations?

6 THE WITNESS: Sure. So like I said
7 previously earlier, a lot of the usage of each
8 floor might have to change as we get a little
9 closer to opening, and also, once we open up
10 we're not sure how busy we're going to get, how
11 slow it's going to be, what will people gravitate
12 to or what they won't.

13 So generally speaking, at this point
14 the first floor that you walk in is the floor
15 with the kitchen, so that's a change of usage as
16 far as the previous location.

17 There's going to be a fairly large bar
18 on the first floor and a stage area that's a lot
19 smaller than what we had before, a sizable
20 seating area that's kind of comparable to the
21 previous location.

22 The top floor compared to the previous
23 location is almost the same size I'd say. The
24 bathrooms are upstairs as well too. We do have
25 restrooms on the first floor as well. I wanted

1 to make sure we have enough stalls so there's no
2 need to back up or any other issues.

3 The stage on the top floor is also a
4 lot smaller. The bars are larger than the
5 previous location, that's for sure, and the
6 rooftop balcony is probably half the size of what
7 we had before.

8 MEMBER GRANDIS: And at the 18th
9 Street location, were you a CT at that location?

10 THE WITNESS: Yes, we were.

11 MEMBER GRANDIS: Okay. And did you
12 have a dance floor in that location, a designated
13 dance floor?

14 THE WITNESS: We -- yes, we did, on
15 the first floor we had that.

16 MEMBER GRANDIS: And what was -- from
17 your recollection, what was the approximate size
18 of that dance floor?

19 THE WITNESS: Uh, something around 12
20 by 12, maybe, 12 by 14, something along those
21 lines. And it wasn't used all the time; it was
22 just mainly on the weekends it would get, you
23 know, used as a dance floor. Usually the area
24 was used for seating, but then as we got closer
25 to the weekends, they would use it for dancing.

1 MEMBER GRANDIS: And in your new
2 location do you plan to have a dance floor, a
3 designated area for a dance floor?

4 THE WITNESS: Yes, eventually once we
5 know how the customers would flow into the space
6 and what areas might work and which areas might
7 not work, we would be able to define and be able
8 to pinpoint a specific area for dancing. Sure.

9 MEMBER GRANDIS: So you'll follow the
10 current regulations for CT on representation of a
11 dance floor as required by the regulations?

12 THE WITNESS: Absolutely, yes.

13 MEMBER GRANDIS: And your roof deck,
14 have you all applied to the BZA for a variance to
15 allow people and food and beverage on the roof?

16 THE WITNESS: Yes. It's past
17 historic, historic has approved it. We're just
18 waiting for zoning at this point. We don't need
19 a special historical restoration -- HBRB input at
20 this point because we don't have -- the covering
21 won't extend towards the alley, so it will be for
22 HBRB review at this point.

23 MEMBER GRANDIS: But what about zoning
24 review?

25 THE WITNESS: It's being done as we

1 speak. That's our last stage. We have a review
2 with DCRA on the 31st of this month.

3 MEMBER GRANDIS: That's about it. I
4 want to thank you for your presentation.

5 THE WITNESS: Sure.

6 CHAIRPERSON ANDERSON: Thank you, Mr.
7 Chairman.

8 CHAIRPERSON ANDERSON: Thank you, Mr.
9 Grandis.

10 Are there any other questions by any
11 other Board members?

12 (No response.)

13 CHAIRPERSON ANDERSON: All right.
14 Hearing none, Mr. Thomas, any redirect based on
15 the questions that were asked by the Board?

16 MR. THOMAS: No.

17 CHAIRPERSON ANDERSON: Mr. Kline, any
18 redirect based on the questions -- any redirect?

19 MR. KLINE: Yeah, just a couple.

20 REDIRECT EXAMINATION

21 BY MR. KLINE:

22 Q Mr. Nouri, how much are you spending
23 on sound mitigation?

24 A So at this point we're looking at
25 between the interior and exterior, with the kind

1 of speakers we're getting and the install and the
2 mitigation efforts, it's going to be close to
3 \$200,000 at this point. Could be more with the
4 supply chain issues and the ever-changing pricing
5 that is happening in real time nowadays. So
6 we're looking at at least 200K.

7 Q You were asked about noise leaving
8 from the establishment out the doors to the
9 balcony rooftop area. If that becomes a problem,
10 are you committed to addressing any noise issues
11 that might arise that might not have been
12 anticipated?

13 A Yes. There are ways to rectify that,
14 so we can look into that if need be.

15 Q All right. And lastly, you indicated
16 that all the businesses are on board for the
17 compactor program. Is that correct?

18 A That's -- yes. Jordan can be able to
19 give more information on that.

20 MR. KLINE: Okay. Thank you. That's
21 all I have.

22 (Whereupon, the witness was excused.)

23 CHAIRPERSON ANDERSON: All right.
24 Thank you, Mr. Kline.

25 I had stated at the beginning that I

1 want to take a break every two hours, so let me
2 see where we are. So Mr. Kline, how many other
3 witnesses do you have?

4 MR. KLINE: Um, I have five, but they
5 will be a lot quicker than Mr. Nouri.

6 CHAIRPERSON ANDERSON: You have five
7 other witnesses.

8 MR. KLINE: Uh-huh.

9 CHAIRPERSON ANDERSON: And how many
10 witnesses do you have, Mr. Thomas?

11 MR. THOMAS: I've got five slated
12 right now as well.

13 CHAIRPERSON ANDERSON: All right. I'm
14 going to take a 15-minute break because we've
15 been for over two hours, so I'm going to take a
16 15-minute break again so folks can come back.

17 But as I said before, I'll try to take
18 a break, a scheduled break every two hours so
19 folks can sit back because this is going to be a
20 while.

21 But I just want to remind folks I need
22 you to be cognizant of the questions you're
23 asking so we can do this hearing as efficiently
24 as possible.

25 So it's now 2:38, and 15 minutes from

1 2:38 is what? I'll say 2:55 so we'll come back
2 at 2:55 for this hearing. So again, you can stop
3 your video, you can mute your video, mute your
4 microphone, but don't log off. Okay? So 2:55.
5 Okay? Thank you.

6 (Whereupon, at 2:38 p.m., a brief
7 recess was taken.)

8 CHAIRPERSON ANDERSON: All right.
9 We're back on the record.

10 All right. Mr. Kline, do you have
11 another witness, please?

12 MR. THOMAS: Mr. Chairman, I have a
13 point of procedure I'd like to raise before we
14 move forward with Mr. Kline's case.

15 CHAIRPERSON ANDERSON: Yes.

16 MR. THOMAS: Mr. Kline has
17 indicated -- and I apologize, Mr. Kline; I
18 actually tried to give you a call during the
19 break to get in touch with you to raise this with
20 you ahead of time, so I don't mean to spring this
21 on you.

22 Mr. Kline has indicated he has five
23 witnesses, we have five witnesses. Um, I do not
24 see how logistically this is going to get done
25 prior to five or six o'clock.

1 Um, I will add that as a result of
2 sort of the time it's taken to get to this point,
3 our MPD officer has indicated to us that he's
4 likely no longer available today to testify.

5 He was an important material witness
6 in our case, and he was a witness that when we
7 scheduled him, we instructed him that each side
8 was going to have an hour and that, you know,
9 this hearing had been set aside for four hours.

10 So what I would like to raise as, I
11 don't know, an oral motion or -- is to continue
12 this into a second day to allow each side to put
13 on their case. I have serious, serious concerns
14 and reservations that we are going to have
15 sufficient time to put on our case at the rate
16 that this is going.

17 I will add -- and the ANC can weigh in
18 on this -- but there is an alcohol policy meeting
19 for the ANC this evening that needs to be
20 attended by relevant representatives of the ANC.

21 So I mean, I just think time is
22 running out at the moment, and rather than get to
23 the end and be jammed up and Mr. Kline have to
24 rush his case and us to have to rush our case and
25 lose witnesses, I would request that we have a

1 brief continuance of the hearing to allow for the
2 full presentation of each side's case in chief.

3 CHAIRPERSON ANDERSON: Mr. Thomas,
4 before Mr. Kline responds, we don't run out of
5 time at these hearings, sir. The hearing is over
6 when the hearing is over. There is no five
7 o'clock deadline for the hearing to be over, sir.
8 That's one of the reasons why the hearing was
9 scheduled for ten o'clock today, so if it
10 takes -- if we're going to be here till 2:00 a.m.
11 this morning to finish this case, we will finish
12 this case.

13 Now, if you have a witness that has a
14 time constraint, you can make a motion and if
15 the -- if the Applicant agrees, we can take a
16 witness of yours. Say for example, the police
17 official, if he needs to testify and we can take
18 his testimony -- you can make a motion, I'll hear
19 what the licensee has to say, and we can take his
20 testimony out of order.

21 But we can finish this hearing today,
22 because there are no time constraints at least on
23 the Board's perspective because we are
24 prepared -- that's what I've told everyone -- we
25 are prepared to listen to this hearing until the

1 end of it, so there is no five o'clock deadline.
2 So yeah.

3 MR. THOMAS: I appreciate that, Mr.
4 Chairman. Um, what I would say is we've already
5 lost a witness due to the time it's taken to get
6 to this point, and it's not clear that we're
7 going to be able to get him back today at this
8 point. There are -- so that is one of the
9 problems. So our case is already prejudiced by
10 that fact.

11 Um, I would -- which is why I
12 suggested continuing it to another day, even
13 tomorrow if the Board allows, but I want to make
14 sure that my clients are adequately represented,
15 and they raised issues about crime in the area
16 and have designated a witness to testify to that
17 point that's no longer available as we've run
18 over what we had initially planned for.

19 CHAIRPERSON ANDERSON: I, uh -- Mr.
20 Kline, any comments?

21 MR. KLINE: I mean, we're not inclined
22 to continue it; we're prepared to go through. We
23 would have agreed to have the witness taken out
24 of order, would still be agreeable to that if
25 that's possible.

1 CHAIRPERSON ANDERSON: I mean, Mr.
2 Thomas, one of the things I alerted the parties
3 this morning is that, you know, the Protestants
4 will not be able to present their case till this
5 afternoon, so if there was -- if there was an
6 issue with a witness, you should have brought
7 that to our attention, and I would try to -- say
8 for example, a witness had a time constraint, I
9 could have made preparations to take this witness
10 out of order. That's one of the reasons why the
11 hearing was moved to today to start at ten
12 o'clock, because we knew that we had the whole
13 day to do that.

14 But one thing that we can do, I'm
15 going to -- let us -- let the Applicant finish
16 his case today, and at the end of the Applicant's
17 case let's see where we are, let's see where you
18 are with witness availability, and if there -- if
19 we need to reschedule it, the Board would be able
20 to provide a very, very short timeline to
21 complete the case.

22 But so I'll allow Mr. Kline to finish
23 his case. And again remember because it's a new
24 license we are somewhat constrained on granting
25 continuances because by law we have to make a

1 decision within a specific period of time. So
2 that's one of the reasons why I know that
3 initially you had requested a continuance, allow
4 a continuance, but that's not something that we
5 can do unless, um, it's the Applicant.

6 So let's see where the Applicant is,
7 and let's have the Applicant complete his case,
8 and then we will see where you are with your
9 presentation and then we can -- we'll move from
10 there. Okay?

11 MR. THOMAS: Thank you, Mr. Chairman.

12 CHAIRPERSON ANDERSON: You're welcome.

13 All right. Do you have another
14 witness, Mr. Kline?

15 MR. KLINE: Yeah. Next witness is
16 Jordan Naber.

17 CHAIRPERSON ANDERSON: Jordan Naber.
18 There's Mr. Naber. Jordan is Miss. You know,
19 that's one of the reasons why I always ask folks
20 to turn their cameras on.

21 THE WITNESS: I don't mind; it's fine.

22 CHAIRPERSON ANDERSON: So therefore,
23 I will not create this problem -- anyway.

24 Ms. Naber, can you raise your right
25 hand, please?

1 Do you swear or affirm to tell the
2 truth and nothing but the truth?

3 THE WITNESS: I do.

4 CHAIRPERSON ANDERSON: Your witness,
5 Mr. Kline.

6 MR. KLINE: Yes.

7 DIRECT EXAMINATION

8 BY MR. KLINE:

9 Q Good afternoon, Ms. Naber.
10 What is your connection to the
11 Applicant?

12 A I am the director of operations/
13 general manager of Eighteenth Street Lounge.

14 Q Okay. And what will be your duties?

15 A My duties will be coordinating HR,
16 payroll, bookkeeping, hiring and oversight of
17 general operations. And once we're closer to
18 opening, additional managers and shift leaders
19 will be hired under my supervision.

20 Q Is security something that will come
21 under your purview as well?

22 A Yes. However, I will be hiring a
23 security manager, likely someone from the
24 previous location that we have a relationship
25 with and know how they already operate.

1 Q But you've already thought about plans
2 for security for the establishment. Correct?

3 A That is correct.

4 Q All right. What are the plans?

5 A Um, well, first we have to have a
6 minimum of at least one security staff at the
7 entrance, one staff per each bar. The largest
8 bar will likely require two.

9 All of this will change depending on
10 how many bars are open at the time. We can't
11 predict that now because we don't know what our
12 sales are going to be like, but we will keep at
13 last one per each bar and two per the largest bar
14 at all times, with at least one at the door; it
15 will likely be two, though, for weekends or any
16 busier nights.

17 Um, the security staff will be trained
18 both onsite and also required to either be TIPS
19 or TAM certified. They should be looking for
20 aggressive behavior, people wandering into
21 restricted places, one of those being towards the
22 back door and kitchen area, people who should not
23 be served any more, people who might need
24 assistance, overcrowding, things of the such.

25 All security staff hired must have

1 previous security experience in the hospitality
2 industry. We think that is a must. Um, and if
3 they don't have TIPS or TAM certified training
4 but they have another comparable one, we will
5 request that we find verification for that, but
6 if not, then they need to get that training up to
7 date.

8 Training is also given on how to spot
9 false identification. Any incidents or
10 altercations are to be reported in our security
11 log, which we already have set up, and are
12 required to be filled out by the manager on duty
13 at the end of each shift regardless if any
14 incidents to report.

15 There's also going to be security
16 cameras in all common areas of the establishment.
17 Footage will be recorded and kept for 30 days in
18 the case that it's needed for any type of
19 investigation.

20 Q Will you have security presence in the
21 summer garden area?

22 A Yes, we will, because we'll have one
23 at each bar.

24 Q And you've also been involved in
25 outreaching to businesses in the neighborhood, is

1 that correct, your neighbors?

2 A Yes. Um, I spoke to them before our
3 first meeting to figure out what type of issues
4 the neighbors might have in the beginning, and
5 also I've been coordinating with them on trash.

6 At first we were trying to coordinate
7 getting group trash cans together, and then it
8 seemed that the problem is larger than that, so
9 now we're working on getting a compactor in the
10 alley. And right now it's still in the works but
11 we're trying to coordinate getting a grant from
12 Shaw Main Streets.

13 Q And have you taken the lead on behalf
14 of ESL to bring the other business owners
15 together for this common compactor?

16 A Yes, I have.

17 Q Okay. And then in terms of -- there's
18 been lots of talk about line management.

19 A Sure.

20 Q Can you tell us what your thoughts are
21 on the management of the line?

22 A Yeah. Well, first I probably
23 shouldn't say this but I do know it is a strategy
24 of some night establishments to keep a line
25 outside to convince people that it is busy

1 inside.

2 This is not something we're going to
3 be doing at the new location. It's pretty much
4 to signify to people that we're open, we have a
5 bunch of people inside, you want to line up with
6 us too, but normally isn't the actual case. You
7 get inside, it's pretty dead.

8 One, we won't be doing that. Two, we
9 won't have anybody lining up on the stairs. We
10 don't want any incidences of people falling or
11 slipping or just loitering on the stairs.

12 So if we do need to have a line, we'll
13 have them line up at the bottom of the stairs to
14 the right where it's a much larger area. And our
15 security staff is also going to be trained in how
16 to maintain that line.

17 I mean, if our security staff are
18 doing their job, this line shouldn't be an issue.
19 If they refuse to cooperate with our security
20 staff, well, then they're not getting in.

21 Q Okay. And what about checking IDs?
22 There's been some discussion about that, and
23 we've heard some testimony about it. Is there
24 anything you want to add to that?

25 A Um, yeah. All the bars in the area

1 check IDs, and there's never been too much of an
2 issue with the lines. I have seen lines outside
3 of bars in the area; they never cause too much of
4 a fuss.

5 It normally doesn't take that long to
6 check an ID, um, if you have, you know, a trained
7 security person doing it. Also, it will change
8 where we're checking them based on the weather.

9 You know, if it's cold we're not going
10 to force our security staff to stand out in the
11 cold all day; we might be checking them once they
12 enter the building, and if they don't -- if it's
13 a false identification, they're going to have to
14 leave.

15 Um, but they should also be trained in
16 how to deny entry to somebody without escalating
17 the situation. You want to train them more in
18 de-escalation rather than get out of here, make
19 them mad. We want to avoid any type of conflict,
20 and we do take our security personnel like
21 incredibly seriously.

22 Q And then what about collection of
23 cover charge?

24 A Cover charge we're going entirely
25 cashless. A lot of people think that sounds

1 crazy, but I worked at the previous location
2 briefly, and I think it is entirely necessary for
3 the benefit of the business, and most customers
4 don't have cash anyway.

5 It was a huge pain in the butt going
6 to the old Eighteenth Street Lounge having to go
7 to the ATM, as well, down the street. I don't
8 foresee this being an issue at all.

9 Whether we have an app or not, I know
10 our POS system that we've signed on with, they
11 said they will give us hand-helds so people
12 should be able to pay quickly from either their
13 phones or their credit card at the door.

14 Q And are you involved in the
15 development of food offerings at the
16 establishment?

17 A Yes, I am.

18 Q Okay. Tell us about that. What's
19 going to be offered, what's it going to be?

20 A Well, we have a few different options.
21 I've been working with one company who might
22 cater, but we wanted a backup in case we're
23 gearing toward something a little nicer.

24 We want small bites and snacks, pretty
25 much largely catered towards and international

1 crowd. We want a little bit from each type of --
2 or various cultures. I don't know if any of you
3 have ever been to Eighteenth Street Lounge, but
4 it is a fairly international crowd. So that's as
5 much as I can give away right now.

6 MR. KLINE: All right. Thank you.
7 That's all the questions I have of you. Thank
8 you for your testimony. I'll make you available
9 to Mr. Thomas and the Board.

10 THE WITNESS: Sure.

11 CHAIRPERSON ANDERSON: Mr. Thomas, any
12 questions?

13 MR. THOMAS: Yes, just a few brief
14 ones.

15 CROSS-EXAMINATION

16 BY MR. THOMAS:

17 Q Um, starting with the neighbors, my
18 understanding from your testimony is you were
19 involved in the outreach to the neighbors?

20 A Uh, yes, some of them.

21 Q Okay. And I heard you mention
22 neighboring businesses. Did you talk to any
23 individual residential neighbors?

24 A Um, prior to our first, uh, ABC
25 meeting, um, no, it was maybe one. I wasn't

1 really sure what to expect from this meeting, and
2 I thought the meeting was the opportunity to
3 speak with the neighbors, which I attended, I
4 believe, two ANC meetings and also the meeting
5 with BANCA to hear all the concerns of everybody
6 and try and find reasonable solutions.

7 Q Did you speak with any of them outside
8 of those meetings?

9 A Um, yes, I did. I believe in October
10 we had a menu tasting that had a lot of leftover
11 food, and rather than throw it away, I decided to
12 give it away, so I gave it to some people in the
13 alley that I knew.

14 And then I also met with Vincent
15 Easley and some of the people from the Picnic
16 Bench group, just talked generally about
17 Eighteenth Street Lounge and let them have
18 sandwiches.

19 Q And they're protesting your license?

20 A That is correct.

21 Q What about the group of five that are
22 protesting your license, have you spoken to any
23 of them about your operations?

24 A Uh, during all of the meetings, yes.

25 Q Outside of the meetings?

1 A Outside of the meetings, no, I have
2 not.

3 Q Okay. Have you reached out to them
4 directly outside of the meetings?

5 A Uh, no, I have not. Um, I've largely
6 been treated pretty poorly by a lot of these
7 groups of people, so I'd rather keep them to the
8 designated platform.

9 Q Okay. Um, you mentioned that you
10 coordinated with some other residential
11 businesses -- excuse me -- some other businesses
12 that are neighboring the establishment. Right?

13 A Yes, for the trash.

14 Q Yeah. Which trash -- which businesses
15 did you discuss the trash compactor with?

16 A Um, Tiger Fork, Calico, Causa -- which
17 is going to be opening -- Never Looked Better,
18 and I also believe, uh -- what's that last one on
19 the corner? I'm blanking on the name -- um, Lost
20 and Found. Sorry.

21 Q When did you discuss -- when did you
22 have these conversations?

23 A Um, I mean they've been ongoing for a
24 while.

25 Q When did they start?

1 A I don't know off the top of my head.

2 Q When was the last time you talked to
3 them?

4 A Uh, a few weeks ago before Christmas.

5 Q Where do you plan to locate the trash
6 compactor?

7 A On a location owned by, uh, Patrick
8 Welch.

9 Q Where is that?

10 A Uh, it's -- I don't know if I'm
11 allowed to share that information, but I have
12 spoken with the compactor companies. I've had
13 people come out and assess the space, make sure
14 it's feasible, and also figure out what we need
15 to do to the space to get it in proper condition.

16 Q Does the compactor make noise?

17 A Uh, I believe so.

18 Q Okay. But you don't know -- or you
19 can't share with me where you're going to place
20 it?

21 A I don't know if he's comfortable with
22 me sharing that information, but I have properly
23 assessed whether it's feasible in that location.

24 Q Feasible in what regards?

25 A Uh, will it fit, can it be removed.

1 Q What type of noise it makes?

2 A Uh, I have no idea about the noise.

3 Q Okay. Um --

4 CHAIRPERSON ANDERSON: I think he's
5 asking you if the noise was one of the questions
6 that you asked. I thought that was the question.

7 MR. THOMAS: Correct. I'm asking
8 if --

9 THE WITNESS: Oh, yeah, I did ask them
10 how loud it was, and they said not that loud, but
11 I didn't ask the decibel range or get an example
12 of one. They're not incredibly large, but the
13 guy that came out -- I mean, he's also a sales
14 guy, so who really knows, but he told me that it
15 shouldn't be too big of an issue.

16 BY MR. THOMAS:

17 Q Would they be located near -- I mean,
18 if you're not going to share where the compactor
19 would be, can you tell --

20 A It would be in the alley.

21 Q It would be in the alley. Okay. How
22 close to the residential areas of the alley?

23 A Um, fairly close. I just assumed that
24 the benefit of having, what, five businesses
25 locating their trash in one space would outweigh

1 the sound that it might cause every six hours. I
2 don't know how often it makes a sound.

3 Q It's going to be close to residences.
4 Correct?

5 A I mean, it's in the alley, so you've
6 already -- we've already looked at the makeup of
7 the alley.

8 Q Okay. Um, I want to talk about your
9 dialogues with other businesses as well. So you
10 talked -- Mr. Nouri testified -- and I don't know
11 if you were in the virtual room or not -- that
12 someone had had conversations with Dogtopia about
13 allowing them to use -- allowing you to line
14 people up in front of their business. Are you
15 the person that had those conversations?

16 A Yes, I did, and I do want to clarify,
17 it was mentioned agreement. We don't have any
18 formal agreement. What I did was after one of
19 the meetings people had concerns about Dogtopia,
20 so I went over to ask them if they had any
21 concerns about us coming, if they would need any
22 type of sound-deadening curtains or if we put a
23 line outside or if they were worried about sound
24 coming from our building, and they didn't have
25 any concerns.

1 Q Okay. So just to clarify, because I
2 want to make this point clear, there is no formal
3 agreement between ESL and Dogtopia to allow you
4 guys to operate a line outside of their
5 establishment. Correct?

6 A There's no formal agreement. At the
7 time it didn't seem it was necessary.

8 Q Okay. Um --

9 A But we also don't know whether we're
10 going to have a line. Like I said, a lot of
11 times people just put one there to make it look
12 busier than it is.

13 Q Was that policy at the old ESL
14 location?

15 A I wouldn't say it's a policy that
16 people talked about, but it was definitely
17 something they did.

18 Q Okay. So ESL used to keep a line
19 outside for the purposes of getting business in
20 the door?

21 A Not all the time. I mean, it's a
22 different location, different concept. It's
23 surrounded by a bunch of nightclubs --

24 Q Understood, but --

25 A -- but they had definitely had a line

1 outside when it was very empty inside.

2 Q Okay. Thank you for that. I
3 appreciate the candor on that.

4 So you mentioned that you're going to
5 line people up kind of, I'm guessing from your
6 description, next to the stairs. Is that right?

7 MR. KLINE: Objection. The testimony
8 is that she doesn't expect to have a line and
9 now we're talking about where we're going to line
10 them up.

11 MR. THOMAS: If I recall correctly,
12 she testified -- and the witness can answer the
13 question, but I recall that she said if there was
14 a line they were going to put it next to the
15 stairs --

16 MR. KLINE: I'll withdraw it.

17 MR. THOMAS: -- and not have people
18 standing on the stairs. Am I remembering that
19 right?

20 CHAIRPERSON ANDERSON: All right. I'm
21 going to overrule the objection, but I think
22 we're speculating.

23 MR. KLINE: I withdrew it.

24 CHAIRPERSON ANDERSON: She just
25 testified that I don't know if we're going to

1 have a line, so I'm not quite sure why we're
2 spending a whole lot -- the witness gave some
3 general testimony about, okay, if we have a line
4 this is what we're going to do. So I'm not quite
5 sure -- the business is not open. They don't
6 know if they're going to have a line, so I'm not
7 quite sure how probative this line of questioning
8 will be.

9 MR. THOMAS: Well, I'm getting into
10 the line -- the policy of how they would handle a
11 line if they should have one.

12 BY MR. THOMAS:

13 Q And all I wanted -- all I want to know
14 is, are you going to rope off the line on the
15 sidewalk if you do in fact have one? Is that
16 going to be the policy?

17 A I didn't have any intention of doing
18 that, but if it becomes necessary we might. But
19 I was planning more for the security staff to ask
20 people to line up more formally in a more
21 condensed line, and those who can't follow
22 probably shouldn't be let into our establishment.

23 Q Okay. Um, I want to talk about
24 cashless really quickly. Um, so you guys -- both
25 Mr. Nouri and yourself have testified that you're

1 going to use cashless completely for cover
2 charge. Is that right?

3 A Correct.

4 Q Are you guys aware of any statutory
5 prohibition in the District of Columbia that
6 prevents you from operating a purely cashless
7 business?

8 A No, because --

9 (Simultaneous speaking.)

10 MR. KLINE: Objection. There is not
11 testimony that this is going to be a purely
12 cashless business. That was not the testimony.

13 BY MR. THOMAS:

14 Q Are you aware of a statute called the
15 Cashless Retailers Prohibition Amendment Act of
16 2020 that prevents you from offering -- from not
17 accepting cash?

18 MR. KLINE: Objection. Calls for a
19 conclusion of law, and I would dispute that
20 that's what that law says.

21 MR. THOMAS: Doesn't call for a
22 conclusion of law. I asked simply if she's aware
23 of it and if they considered it in forming their
24 cashless plan. Whether it violates --

25 (Simultaneous speaking.)

1 MR. KLINE: He also recited what he
2 thinks it says. I don't believe it says that,
3 and I'm certain that this witness is not in the
4 position to say what she believes it says.

5 MR. THOMAS: Again, I questioned
6 whether she's aware of the law.

7 CHAIRPERSON ANDERSON: Hold on a
8 minute. This is -- all right, I'm going to
9 sustain -- I'm going to overrule -- I'm sorry --
10 I'm going to overrule the objection. If she can
11 answer the question, yes; if not, move on.

12 Yes/no, he asked you are you aware.
13 If you are, answer.

14 THE WITNESS: I'm not aware of any
15 such law because I know that most businesses
16 right now are operating cashless because of
17 COVID-19.

18 BY MR. THOMAS:

19 Q In terms of food service, um, have you
20 guys settled on a menu yet?

21 A We have not, but we have some in the
22 making.

23 Q Did you provide a menu to the ANC?

24 A Um, I do not recall. We could have.

25 Q Did you provide a menu to the

1 neighbors?

2 A I don't recall. I just know that if
3 we do open, everything is subject to change based
4 on preferences, tastes, and general volume.

5 Q Are you guys going to use the kitchen,
6 or are you going to bring food in from the
7 outside and serve it? How is that food service
8 going to work?

9 A Well, that depends, because we have
10 one person that we've already spoke with about
11 potentially catering, and then we also have our
12 backup plan of using the kitchen. Everything --
13 I mean, you know, it's a business. Everything is
14 subject to change.

15 Q I understand that but -- never mind.
16 So if you need to bring deliveries of
17 food in, where are you going to take those
18 deliveries from?

19 A Um, potentially the back door, also
20 the front door, if necessary.

21 Q Okay. So you're going to have trucks
22 pull into the alley to deliver things, um, to the
23 establishment. Is that correct?

24 A Potentially, as all the other
25 businesses in the alley do.

1 Q Right. Um, finally, in terms of
2 security, how did you reach your staffing plans
3 for security?

4 A Can you rephrase the question?

5 Q Sure. So you testified that you were
6 going to have one security guard at each bar and
7 then two at the door. Is that right?

8 A Um, yes, if that's what it needs for
9 the night. Every station will have at least one,
10 but these things are changing depending on how
11 busy we are.

12 It will never be less than that, is
13 what I'm saying. It's likely going to be a lot
14 more.

15 Q Okay. And are these staffing
16 decisions based on any policy, any sort of
17 guidance from a security organization, from MPD,
18 anything along those lines?

19 A No, just based off of experience and
20 based off of what we decide we need later. These
21 are just preliminary guidelines until we're open.

22 Q Okay. How is the security going to
23 monitor any conduct that happens outside of the
24 establishment?

25 A Uh, it depends on where it is.

1 Outside of it, you know, we will have likely two
2 security staff. I mean, they're all trained in
3 how to de-escalate.

4 They should never put their hands on
5 a guest unless it's absolutely necessary and
6 they're becoming a danger to them or to other
7 people. We take security very seriously, and
8 it's not something that I'm willing to, um, look
9 the other way for.

10 Q Have you formulated a security plan
11 for this establishment?

12 A Uh, I have. I don't believe we're
13 required to, since we're not a nightclub. We're
14 going for the C class tavern license.

15 Q Having mentioned that, let me ask you
16 this. Do you maintain the website for Eighteenth
17 Street Lounge?

18 A Um, I personally do not.

19 Q Are you familiar with the website?

20 A I have seen it before, but we're not
21 open, so it hasn't been touched in a while, to my
22 knowledge.

23 Q Okay. Are you aware that the website
24 holds Eighteenth Street Lounge out as a
25 nightclub?

1 A Yeah, well, it's our legacy. It's
2 probably left over from 2020.

3 Q Okay. So you're saying you were a
4 nightclub?

5 MR. KLINE: Objection as to what is a
6 nightclub. We have a licensing statute that sets
7 up various categories. Other than that, there is
8 no legal definition of what is a nightclub.

9 CHAIRPERSON ANDERSON: Sustained.
10 Let's move on.

11 THE WITNESS: Any other questions?

12 MR. THOMAS: Board's indulgence for a
13 moment.

14 BY MR. THOMAS:

15 Q Did you yourself compile the security
16 plan or did you have assistance from anybody?

17 A Um, I worked on the previous one and
18 I made changes to it from the old Eighteenth
19 Street Lounge.

20 Q Okay. And are you -- do you have any
21 law enforcement background, any history with
22 security, any security certifications, anything
23 along those lines?

24 A I do not. But we haven't had it
25 reviewed by legal yet, so it was just a

1 preliminary document.

2 Q Okay. Did you review any secondary
3 sources in compiling your security plan?

4 A Uh, no, because I left all the crucial
5 information -- or what I believe to be crucial.

6 MR. THOMAS: Okay. Um, can I -- I'd
7 like to introduce an exhibit if possible. I have
8 to get permission.

9 MR. KLINE: What is it?

10 CHAIRPERSON ANDERSON: Well, is it in
11 your disclosure?

12 MR. THOMAS: Yeah. It's Exhibit 14 to
13 our PIF. It is the Eighteenth Street Lounge
14 security plan that was submitted, which I think
15 the witness just testified she drafted, so I'd
16 like to ask her some questions about it.

17 (Whereupon, the above-referred to
18 document was marked as Protestant Exhibit 14 for
19 identification.)

20 CHAIRPERSON ANDERSON: Ms. Fashbaugh,
21 can you please give Mr. Thomas the ability to
22 share his screen, please?

23 MS. FASHBAUGH: This is accomplished.

24 CHAIRPERSON ANDERSON: You can share
25 your screen, sir.

1 MR. THOMAS: I'm pulling it up.

2 BY MR. THOMAS:

3 Q Okay. Can you see that, Ms. Naber?

4 A Um, yeah.

5 Q Sorry, I'm not well versed in the
6 Webex platform so I apologize if it's a little
7 clunky. But there are just a few things I wanted
8 to ask you about, if you don't mind.

9 So if you -- I'm going to show you, I
10 guess, page -- section 7 -- well, first of all,
11 I'm going to just scroll through this quickly.
12 In another time, before COVID, I would actually
13 show it to you, and you could thumb your way
14 through it -- but is this a copy of the security
15 plan that you assembled?

16 A I mean, if you're bringing it up, I'm
17 sure it is.

18 Q Okay. I just want to make sure. You
19 know, if it's not, tell me.

20 A Yeah, sure.

21 Q Okay. I'm going to stop at section 7,
22 Identifying over-intoxication.

23 A Uh-huh.

24 Q So the plan states that someone who is
25 over-intoxicated or drunk should be considered as

1 someone who poses a threat to the safety of
2 themselves and others. Um, you would agree with
3 that statement, right?

4 A Yes.

5 Q Um, you would agree that if someone is
6 over-intoxicated, um, they would pose a threat to
7 the community once they left your establishment.
8 Is that right?

9 A Um, yes, but the point of the security
10 plan is to avoid having people get excessively
11 drunk.

12 Q Agreed, agreed. And I understand
13 that, but I guess my question is a little bit
14 more -- what my question is going to be is, what
15 plans does ESL have to deal with patrons who
16 become over-intoxicated or drunk and then leave
17 their facility?

18 A Um, I believe in the security plan it
19 says somewhere that if somebody needs to be
20 removed or leave to escort them -- have a friend
21 take them or escort them into a car, like an Uber
22 or something.

23 Q Does the security plan lay out any
24 procedures for monitoring the exterior portions
25 of the establishment?

1 A Uh, not that I know of.

2 Q Okay. Does it talk about monitoring
3 the rear exterior of the establishment?

4 A Um, there is definitely something
5 mentioning that we should be checking the back
6 door to ensure it's locked often.

7 Q What about for intoxicated patrons
8 back there?

9 A Well, there are multiple bars back
10 there. We can't be responsible for every random
11 person that walks through the alley.

12 Q Well, I didn't ask about any random
13 person. I asked about your patrons that may be
14 intoxicated back there. Is there a plan to
15 monitor back there to ensure that intoxicated
16 patrons don't leave and go hang out back there?

17 A I'm sure if that arises, we could add
18 it to the plan.

19 Q Does the plan discuss any sort of
20 exterior security, um, dealing with intoxicated
21 patrons?

22 A Uh, I believe outside of the door, but
23 as I mentioned, I don't think we're even required
24 to have a security plan, so we have this as good
25 measure.

1 Q I'm not focused on the requirement.
2 I'm focused on, um, the actual way that you're
3 going to protect the community. That's my focus.
4 So my question is just more --

5 A Ideally the idea is to protect --
6 MR. KLINE: Objection. Mr. Chairman,
7 I've let this go on, but the fact of the matter
8 is we all know ABC establishments have limited
9 authority over anyone outside their premises.
10 And it seems to me Ms. Naber has answered to the
11 best of her ability and we seem to be moving into
12 just badgering at this point.

13 CHAIRPERSON ANDERSON: I'm -- Mr.
14 Thomas, I'm not quite sure where you're going.
15 Because they have applied for a Class CT, there
16 is no requirement for them to have a security
17 plan. And if they do have a security plan, it
18 will be reviewed by our agency for us to see
19 whether or not it's legally sufficient.

20 So what they have is something that's
21 informal that they have created. There's no
22 requirement -- at least there's no legal
23 requirement from ABRA for them to even have a
24 security plan.

25 So I'm not quite sure -- it's just not

1 helpful for the Board for you to be going through
2 this plan, because at least as far as I'm
3 concerned, it's telling me that here is an
4 establishment that has no legal requirement to
5 have a security plan but they have developed one.
6 So I'm not sure -- it's not helpful for us to be
7 going through a security plan that it's not
8 legally required for them to have, and this Board
9 has not stated that this plan is legally
10 compliant.

11 So I'm going -- so I'm going to
12 overrule the objection but I'm not sure where
13 this level of questioning is going.

14 MR. THOMAS: Thank you.

15 First of all, I'd like to move the
16 security plan into evidence.

17 CHAIRPERSON ANDERSON: Mr. Kline?

18 MR. KLINE: I don't have any
19 objection.

20 CHAIRPERSON ANDERSON: This is Exhibit
21 what?

22 MR. THOMAS: Uh, Exhibit -- BANCA
23 Exhibit 14.

24 CHAIRPERSON ANDERSON: All right.
25 Petitioners Exhibit 14, the security plan, is

1 moved into evidence.

2 Let's move on, please.

3 (Whereupon, the above-referred to
4 document, previously identified as Protestant
5 Exhibit 14, was received in evidence.)

6 MEMBER SHORT: Mr. Chair?

7 CHAIRPERSON ANDERSON: Yes, Mr. Short.

8 MEMBER SHORT: Just to make a comment.

9 CHAIRPERSON ANDERSON: Mr. Short, you
10 can't make a comment at this juncture. We're in
11 the middle of cross-examination, sir.

12 MEMBER SHORT: Mr. Chairman, will you
13 please let me finish?

14 CHAIRPERSON ANDERSON: Mr. Short, I'm
15 sorry. Mr. Short, we're in the middle of cross-
16 examination of a witness, sir, we can't make
17 comments. You will get an opportunity to ask her
18 questions.

19 MEMBER SHORT: Thank you.

20 CHAIRPERSON ANDERSON: Go ahead, Mr.
21 Thomas.

22 MR. THOMAS: Um, that's all right,
23 I'll, um -- I have no further questions for this
24 witness.

25 CHAIRPERSON ANDERSON: All right,

1 fine. Thank you.

2 Any questions by any Board members of
3 this witness? Go ahead, Mr. Short.

4 MEMBER SHORT: Thank you.

5 Ms. --

6 CHAIRPERSON ANDERSON: Naber.

7 MEMBER SHORT: Ms. Naber, okay, Jordan
8 Naber, yes.

9 Ms. Jordan Naber, are you familiar
10 with the policies of the Metropolitan Police
11 Department when it comes to private security
12 guards in the District of Columbia?

13 THE WITNESS: Uh, in what regard?

14 MEMBER SHORT: In how they're hired,
15 how they're trained, in how they perform their
16 duties, if they have prior problems with other
17 establishments like yours. Because what we're
18 finding is we have security guards who get fired
19 by one bar or nightclub or CT and they go right
20 around the corner and get a job.

21 So whose job is it to check the
22 backgrounds of the people you're hiring?

23 THE WITNESS: Well, we were planning
24 on hiring a head of security once we're closer to
25 opening, because I'm definitely no expert, but

1 our plan is to have somebody in charge of them. I
2 think that was the one thing I told Farid I could
3 not do is oversee security.

4 MEMBER SHORT: Thank you for that very
5 honest answer, but the bottom line is if that
6 head of security isn't trained by some formal
7 training on District law, then how can you hold
8 that person accountable for training the staff
9 underneath of him?

10 THE WITNESS: Well, that's what we
11 already discussed is that they all have to be
12 TIPS certified or get the TAM training.

13 MEMBER SHORT: Would that cover their
14 backgrounds? Suppose they have been convicted of
15 a murder before and you don't check their
16 backgrounds and you hire them as a security
17 guard?

18 THE WITNESS: Well, I think
19 everybody -- that's in hiring and we will be
20 checking up on people that we're hiring.

21 MEMBER SHORT: Okay. Here's another
22 thing that happens, Miss Jordan. I come here
23 from California or Oregon or Alaska and my record
24 doesn't follow me like locals. So I come here
25 and I say I just change my middle name and I get

1 hired.

2 THE WITNESS: Yes.

3 MEMBER SHORT: If the MPD, which the
4 law states, checks on security persons in private
5 establishments, that could not happen, or if it
6 did, it would be caught. So you're saying that
7 you or the person you're going to hire are going
8 to be responsible for all of that to the
9 community?

10 THE WITNESS: I'm saying yes, we will
11 be responsible. I'm trying to relay that we've
12 been more responsible than we needed to with the
13 security plan. That was not required of us.

14 MEMBER SHORT: Okay, but --

15 THE WITNESS: We'll do the due
16 diligence to hire the right people.

17 MEMBER SHORT: That's fine. I don't
18 want to hold your time up there. The chair is
19 trying to move things on, move things forward.

20 But now, there's been testimony today
21 that this CT where you're working is not going to
22 be like ordinary CTs because you're going to be
23 doing just a little outside of what normal CTs
24 do, with a live band and lines for people getting
25 in and all those other things that happen

1 actually in nightclubs.

2 So if you're going to be doing these
3 extra things, don't you think your security plan
4 should counter for those kind of extra things and
5 not what a normal CT would do, because you're not
6 going to be -- according to the testimony and the
7 owner, it's not going to be a normal CT. Will
8 you agree with that?

9 MR. KLINE: Mr. Chairman, I hate to
10 object to a Board member's question, but I feel
11 that I must in that, number one, it's compound,
12 and number two, there has been no testimony that
13 he's doing anything different than any other CT
14 with an entertainment endorsement. And there's a
15 whole list of licenses that have CTs that have
16 entertainment endorsements, and this one isn't
17 any different.

18 And the testimony is they're going
19 above and beyond and they are doing a security
20 plan, so they do recognize what it is that
21 they're doing. But to say that they're somehow
22 doing something different as it's not consistent
23 with law, I just have to object.

24 MEMBER SHORT: With all due respect,
25 Counselor, with all due respect --

1 MR. KLINE: Back at you, Mr. Short.

2 MEMBER SHORT: -- it was actually the
3 owner who testified that he is doing things
4 outside of what normal CTs do, and that he is not
5 going to be doing things like a normal CT does
6 and he did not do at his last establishment what
7 other establishments do. So the bottom line is,
8 I'm asking a question of this security person
9 who's testifying that she's met with the
10 community, she's met with these persons and she's
11 testified about and submitted a security plan.

12 And if that's true, then the owner did
13 not testify as he should have, because he did
14 testify, and the record will reflect that he does
15 things outside of what other CTs do. Is that
16 correct or not?

17 CHAIRPERSON ANDERSON: Hold on, hold
18 on, hold on. All right, Mr. Short, Mr. Kline
19 objects to your testimony -- to the question
20 you're asking, however, I'm going to overrule the
21 objection. But can you just ask her a shorter,
22 more pointed question, sir. I'm trying to move
23 this along so if you have a question, so let's --
24 what's the question you're trying to ask her?

25 MEMBER SHORT: Thank you, Mr. Chair,

1 for allowing me to re-ask my question.

2 My question is, again to Ms. Nader,
3 Jordan Nader.

4 THE WITNESS: Naber.

5 MEMBER SHORT: Naber. Forgive me.

6 THE WITNESS: No worries.

7 MEMBER SHORT: Okay. Ms. Naber --
8 okay, I see the B, I wrote down a D. Please
9 forgive me.

10 THE WITNESS: No, that's fine.

11 MEMBER SHORT: Ms. Naber, again let me
12 ask, what are your qualifications as a security
13 person for this establishment?

14 THE WITNESS: Well, I'm not a security
15 person. I will be the head of operations,
16 general manager. I've worked in the service
17 industry for ten years. I was a cashier, a grill
18 cook, a server, a bartender, a delivery driver, a
19 dishwasher, and a manager.

20 I have a bachelor's degree in
21 accounting and finance, and a master's degree in
22 data analytics. Um, like I said before, my
23 position is coordinating HR, payroll,
24 bookkeeping, hiring and oversight of general
25 operations, and I will be hiring more managers

1 and shift leaders.

2 MEMBER SHORT: And again, so we can
3 keep moving and I don't hold you too long on your
4 answers, again, I heard all of those titles and I
5 heard all the degrees. What makes you qualified
6 to hire a security person in charge of all
7 security for this licensee?

8 THE WITNESS: I mean, what makes
9 anybody qualified for that? We'll do our due
10 diligence, we'll check their backgrounds, we'll
11 talk to their friends if we hire them through
12 friends. We have plenty of security staff from
13 the old location that will be brought on.

14 MEMBER SHORT: I don't want to cut you
15 off and I don't want to seem like I'm not letting
16 you answer the question, but the question
17 currently is -- and I mentioned this earlier --
18 why not check with the Metropolitan Police
19 Department and follow their regulations for
20 security guards in private establishments?

21 THE WITNESS: And we certainly will
22 when we're hiring security staff.

23 MEMBER SHORT: Okay, that sounds good
24 and thank you for that testimony, and hopefully
25 we never have to revisit this.

1 And then lastly, everything you've
2 said, we want to trust you, but I've heard this
3 in politics before and I've heard it here in this
4 Board before, we want to trust but verify. So
5 how would we verify that you've done that?

6 THE WITNESS: Are there any systems in
7 place for you to verify that? I'm sure we could
8 put that in an agreement somewhere.

9 MEMBER SHORT: You could call the
10 Metropolitan Police Department and ask them what
11 private security guards regulations are for the
12 District of Columbia. I think that would help.
13 Do you think that would help?

14 THE WITNESS: Absolutely. We'll be
15 sure to do that when we're hiring.

16 MEMBER SHORT: All right. Thank you
17 very much.

18 That's all I have for this witness --
19 no, one last question.

20 When you met with the community and
21 you were talking to them about what would and
22 would not happen, did you have -- at those
23 meetings with the neighbors and the community
24 around this new licensee, did you have the
25 authority to make a deal with them or to say this

1 is exactly what's going to happen? Or would you
2 have to leave that meeting and talk with someone
3 else before they could get a binding answer from
4 you?

5 MR. KLINE: Mr. Chairman, I object.

6 CHAIRPERSON ANDERSON: Sustained.

7 Let's move on.

8 MR. KLINE: She doesn't have authority
9 to make a deal. We're talking about settlement
10 discussions.

11 CHAIRPERSON ANDERSON: All right. So
12 let's move on. Do you have another question?

13 MEMBER SHORT: Mr. Chairman, thank
14 you, and I'm glad I got through this without
15 being interrupted too much. Thank you again.

16 CHAIRPERSON ANDERSON: All right.
17 Thank you, Mr. Short.

18 Any other questions by any other Board
19 members?

20 MS. HANSEN: I have some questions.

21 CHAIRPERSON ANDERSON: Go ahead, Ms.
22 Hansen.

23 MS. HANSEN: Ms. Naber, you mentioned
24 going to an ANC meeting and hearing some
25 solutions which you described as both -- you were

1 listening and unreasonable solutions. Can you
2 list some of the solutions you felt to be
3 unreasonable?

4 CHAIRPERSON ANDERSON: Um, you can't
5 ask that question, Ms. Hansen. Let's move on. I
6 am -- you can't ask that question, because you're
7 going to ask her about settlement discussions.

8 MS. HANSEN: I'm not asking about
9 settlement discussions. I was asking if she
10 could list the reasonable and unreasonable
11 solutions. I think she can answer that question.

12 CHAIRPERSON ANDERSON: No, but that's
13 still -- that's --

14 MS. HANSEN: Do you choose to answer
15 the questions?

16 MR. KLINE: Wait. The question is
17 whether it's a proper question first.

18 CHAIRPERSON ANDERSON: Neither party
19 had objected to it. I objected to it because I
20 don't believe it's a proper question to ask this
21 witness because it's after -- she went to a
22 meeting and basically she's trying to find
23 solutions, and so --

24 MS. HANSEN: She raised it on her own
25 that there were reasonable and unreasonable

1 solutions. If she can answer the question what
2 those were, reasonable and unreasonable.

3 CHAIRPERSON ANDERSON: And what I'm
4 saying, Ms. Hansen, I mean, the parties were
5 unable to agree. It's up to the Board to decide
6 what is reasonable and what is -- so irrespective
7 of what was discussed at meetings, it's because
8 the parties couldn't agree.

9 It's now up to the Board to fashion a
10 remedy whether or not we're going to grant the
11 license or whether or not we're not going to do
12 it. So whether or not she went to a meeting and
13 folks said what was reasonable and unreasonable,
14 I don't believe that's relevant to what the
15 Board -- for the decision the Board has to make.

16 And so that's my position that that's
17 not a question for this witness to answer. And
18 so let's move on, please.

19 MS. HANSEN: Ms. Naber, you mentioned
20 the name Patrick Welch. What's your professional
21 relationship with him?

22 THE WITNESS: Um, he's just the guy
23 who owns the property.

24 MS. HANSEN: And that part of the
25 discussion about trash and how to handle that --

1 THE WITNESS: Which discussion?

2 MS. HANSEN: You brought his name up,
3 you said that you were consulting with him. Can
4 you explain the nature of the relationship and
5 consulting with him about --

6 THE WITNESS: Yeah, he owns a lot of
7 property in the area and the discussion was about
8 using his property for the compactor.

9 MS. HANSEN: And with the -- I'm going
10 to call it communal trash, you said you were
11 looking for ways to have the businesses in the
12 same shared space use the same -- is it the exact
13 same trash compactor?

14 THE WITNESS: Yes.

15 MS. HANSEN: And is there an issue of
16 liability for communal trash? I mean, how do you
17 decide who is using it more, who's not? Is it
18 like paid for by the group? How do you decide
19 what the liability is?

20 THE WITNESS: Yeah, we were all
21 planning to split. That's also one of the, you
22 know, concerns of how do we split it with the
23 company. And that's all part of our discussions
24 of figuring out how can we put this here and make
25 it work for everybody, but we would all be

1 sharing the cost.

2 MS. HANSEN: And my last question is
3 about the establishment -- or the business next
4 door with Dogtopia. Do you know -- do you know
5 the frequency of their late pickups and how that
6 might affect the space?

7 THE WITNESS: I have no idea anything
8 about their trash but they're not one of the
9 businesses --

10 MS. HANSEN: I'm sorry. Late pickup
11 because it's dog grooming and boarding, so people
12 have the option to pick up their dog late and on
13 weekends. So do you know how that affects the
14 frequency of their traffic?

15 THE WITNESS: Oh, I'm not sure, but
16 when I discussed with them, they didn't seem
17 concerned about our business at all. I didn't
18 think they were open late, but I could be wrong.
19 Just from my discussion with them, they seemed to
20 not think that it was an issue.

21 MS. HANSEN: Okay. Thank you.

22 THE WITNESS: Sure.

23 CHAIRPERSON ANDERSON: Thank you, Ms.
24 Hansen.

25 Any other questions by any other Board

1 members?

2 (No response.)

3 CHAIRPERSON ANDERSON: Mr. Thomas, any
4 questions of this witness based on the questions
5 that were asked by the Board?

6 MR. THOMAS: No, not at -- no.

7 CHAIRPERSON ANDERSON: Thank you.

8 Mr. Kline, any redirect?

9 MR. KLINE: No, I don't have any
10 redirect. Thank you.

11 CHAIRPERSON ANDERSON: Thank you, Ms.
12 Naber, for your testimony today.

13 (Whereupon, the witness was excused.)

14 CHAIRPERSON ANDERSON: All right. Do
15 you have another witness, Mr. Kline?

16 MR. KLINE: Calling Steve Donahoe.

17 CHAIRPERSON ANDERSON: Steve who? I'm
18 sorry.

19 MR. KLINE: Steve Donahoe.

20 CHAIRPERSON ANDERSON: Mr. Donahoe,
21 where are you? Mr. Donahoe, are you online?

22 MR. NOURI: I think he needs to be
23 elevated, maybe. Is that the case?

24 CHAIRPERSON ANDERSON: I don't know.

25 MS. FASHBAUGH: Chairperson --

1 CHAIRPERSON ANDERSON: Go ahead, Ms.
2 Fashbaugh. Ms. Fashbaugh?

3 MR. DONAHOE: Hello. Can you guys
4 hear me now? This is Steve Donahoe. I don't
5 have a video option here.

6 CHAIRPERSON ANDERSON: All right,
7 okay. I don't see you on my screen, but I guess
8 you're somewhere.

9 So what I will do, Mr. Donahoe, since
10 you do not have -- I can't see you, I don't know
11 where you are on my screen, and the only problem
12 with this is that none of are going to know that
13 you are actually here when we're asking
14 questions, but anyway.

15 MR. DONAHOE: Right now it says my
16 video is disabled.

17 CHAIRPERSON ANDERSON: Do you have
18 access to have a video, sir?

19 MR. DONAHOE: Can you guys see me now?

20 CHAIRPERSON ANDERSON: Yes, I can see
21 you, Mr. Donahoe. Yes.

22 Are you on two lines, sir, because I'm
23 hearing feedback, so is that from your end?

24 All right. Mr. Donahoe, can you raise
25 your right hand, please?

1 Do you swear or affirm to tell the
2 truth and nothing but the truth?

3 (No response.)

4 CHAIRPERSON ANDERSON: I can't hear
5 you, sir.

6 THE WITNESS: I do.

7 CHAIRPERSON ANDERSON: All right.
8 Thank you.

9 Your witness, Mr. Kline.

10 MR. KLINE: Thank you.

11 DIRECT EXAMINATION

12 By MR. KLINE:

13 Q Good afternoon, Mr. Donahoe. What is
14 your occupation?

15 CHAIRPERSON ANDERSON: Mr. Kline, can
16 you have him spell his name for the record,
17 please?

18 MR. THOMAS: Before we do the witness,
19 again, I don't see Steve Donahoe on the PIF that
20 I have, so I'm just going to lodge an objection
21 to the witness based on --

22 (Simultaneous speaking.)

23 CHAIRPERSON ANDERSON: All right. Do
24 you have a copy of the addendum, sir?

25 MR. THOMAS: I've never received --

1 sorry -- I've never received a copy of the
2 addendum.

3 CHAIRPERSON ANDERSON: Well, I
4 don't -- let me look at -- let me go back to the
5 addendum.

6 MR. THOMAS: And for the record, I've
7 spoken with my client during a break and the
8 only -- the only PIF that they received on -- I
9 have the version that they received on January
10 12, and the version that I have does not have
11 that name and didn't have the name of the other
12 witness on it.

13 CHAIRPERSON ANDERSON: All right.
14 When was this document -- Mr. Kline, when was
15 this document disclosed?

16 MR. KLINE: Last Wednesday, on the
17 12th. We can dig out the email if need be. I
18 mean, your office got it clearly and it was all
19 sent on the same email, so I don't know what the
20 confusion is.

21 CHAIRPERSON ANDERSON: Let me see --
22 all I can say, the document is available to the
23 Board, and you know, you should never assume but
24 because it was placed as one of the documents for
25 the hearing for the Board, I am assuming -- and I

1 know I shouldn't assume, but I'm assuming that it
2 was -- it was disclosed properly to the Board, to
3 the agency. And because it was disclosed
4 properly to the agency, the agency has made the
5 document available to the Board. So I -- so yes,
6 I have the document.

7 MR. THOMAS: Mr. Chairman, so I
8 just -- I mean, we can move forward in the
9 interest of time. I don't want to hold it up,
10 but I do want to just preserve my objection that
11 we have not been properly noticed about this
12 witness. We were not properly noticed about a
13 prior witness.

14 And we can move forward, but I just
15 want to preserve my objection for the record.
16 That's all.

17 CHAIRPERSON ANDERSON: But the problem
18 that I'm having, Mr. Thomas, is there can be no
19 objection if the document was properly served. I
20 said I have the document so unless -- all right,
21 let's -- I need this to be filed.

22 All right. Who sent this disclosure
23 and can -- can we find the email when this
24 document was sent and when it was done? Because
25 if the document was properly served on the

1 agency, there is no -- there is no objection.

2 And counsel stated that on the 12th
3 the document -- counsel stated that this
4 amendment was served, was properly served, and
5 that's why I have it in front of me. There's no
6 date on it so I can't tell -- I can't tell when
7 it was served, but I would only have to ask the
8 agency when is it that the agency received this
9 information to make it available to the Board.

10 MR. KLINE: Mr. Chairman, I'm looking
11 at an email from Ms. Yohannes of my office,
12 January 12, 11:36, to Martha Jenkins, ABRA,
13 Blagden Naylor, Bank Group 5,
14 Picnicbench@gmail.com, John Guggenmos, and to me
15 with this document.

16 MS. YOHANNES: I've also just
17 forwarded that email to Mr. Thomas, as well as to
18 ABRA, to legal, to Ms. Jenkins.

19 CHAIRPERSON ANDERSON: Did you get
20 that email, Mr. Thomas?

21 MR. THOMAS: It hasn't come across my
22 inbox yet but I imagine it will momentarily.

23 CHAIRPERSON ANDERSON: Because if the
24 document -- it's my understanding, based on
25 representation, it was timely served, that it was

1 timely served. I have it, I have access to it,
2 but again, because ABRA legal provided documents
3 to the Board.

4 So it's my assumption that it was
5 properly served and that ABRA legal received it
6 timely, and so therefore, I have the document in
7 front of me with the witnesses that you are
8 objecting to. But my position is that there can
9 be no objection because the documents were -- at
10 least there can be no objection on the fact that
11 you did not properly -- you were not
12 properly timely notified that these are the
13 witnesses who would testify.

14 MR. THOMAS: I haven't received the
15 email yet.

16 CHAIRPERSON ANDERSON: Mr. Thomas, can
17 you put your email in the chat so Ms. Yohannes
18 can look -- so Ms. Yohannes will provide it to
19 you, please?

20 MR. THOMAS: Oh, no. Ms. Yohannes has
21 my email and I take it she forwarded it to me. I
22 don't dispute that representation at all, I'm
23 just saying I have not received it yet.

24 (Pause.)

25 CHAIRPERSON ANDERSON: I'm going to

1 ask -- I'm asking general counsel -- I'm asking
2 general counsel to email me a copy of the
3 document that was just sent to her by Ms.
4 Yohannes.

5 MR. KLINE: Mr. Chairman, could we
6 perhaps take five under the circumstances.

7 CHAIRPERSON ANDERSON: All right. So
8 it's 3:58, 4:10, and we'll be off the record
9 until 4:10.

10 MR. KLINE: Thank you.

11 MR. THOMAS: Thank you.

12 (Whereupon, at 3:58 p.m., a brief
13 recess was taken.)

14 CHAIRPERSON ANDERSON: All right,
15 everyone. We're back on the record.

16 MR. THOMAS: So Mr. Chairman, to
17 clarify, we've gone back through and my client
18 has been able to locate it, so I withdraw my
19 objection.

20 CHAIRPERSON ANDERSON: Thank you very
21 much, because I was going to put on the record
22 that this document was timely disclosed.

23 All right. So Mr. Donahoe, I did
24 swear you in. Is that correct, sir?

25 THE WITNESS: Yes.

1 CHAIRPERSON ANDERSON: All right.

2 Fine.

3 Go ahead, Mr. Kline, and I did ask you
4 to spell and state your name for the record,
5 please, if you have not yet.

6 THE WITNESS: Yeah. Steve Donahoe.
7 Last name is spelled D-O-N-A-H-O-E.

8 BY MR. KLINE:

9 Q Mr. Donahoe, what's your occupation?

10 A I am a licensed realtor in DC,
11 Maryland and Virginia.

12 Q How long have you been so licensed?

13 A Um, about six years total, maybe a
14 year less in Virginia.

15 Q And do you work in the area where the
16 new Eighteenth Street Lounge is to be located?

17 A I do. I do a lot of work in
18 northwest.

19 Q Northwest DC?

20 A Yep.

21 Q And as part of your work, uh, are you
22 involved in gauging the market, market trends
23 with respect to residential housing prices?

24 A I am, and kind of one of my
25 specialties is knowing people in the different

1 restaurant and entertainment industries, kind of
2 knowing what's coming up in different
3 neighborhoods. So that way I'll be able to kind
4 of verse my clients on, this is what's going on
5 in the neighborhood.

6 You're going to have a new restaurant
7 here, this is the development that's happening.
8 You'll be able to walk to this place, walk to
9 that place. So I am kind of involved in that and
10 I watch all the different trends in the
11 neighborhoods.

12 Q Okay. So you do watch the trends of
13 prices in various neighborhoods?

14 A Yes, definitely. Yep.

15 MR. KLINE: Okay. Mr. Chairman, given
16 the witness's background, I would ask that he be
17 qualified as an expert and be entitled to give
18 his opinion on certain issues.

19 CHAIRPERSON ANDERSON: Mr. Thomas?

20 MR. THOMAS: I mean, I object.

21 CHAIRPERSON ANDERSON: Do you wish to
22 voir dire, sir?

23 MR. THOMAS: I kind of do, yeah.

24 CHAIRPERSON ANDERSON: Go ahead, sir.

25 VOIR DIRE

1 BY MR. THOMAS:

2 Q Mr. Donahoe, how many properties have
3 you sold around Blagden Alley?

4 A My team and I have sold several. I
5 work on a team so we kind of --

6 CHAIRPERSON ANDERSON: Mr. Donahoe, we
7 can't hear you, sir.

8 THE WITNESS: Can you hear me now?

9 CHAIRPERSON ANDERSON: Yes, we can.
10 All we heard was your team.

11 THE WITNESS: Yeah. So I work on a
12 team. We've sold several properties in the area.

13 I would have to go back and download
14 the list of them. I don't have them off the top
15 of my head. A lot of properties I've shown are
16 in 910 M Street, shown a few row houses in the
17 area.

18 BY MR. THOMAS:

19 Q How many were you the -- how many --
20 let me take a step back. How many were you
21 listed as the listing agent on?

22 A I would have to go back and look.

23 Q More than five?

24 A Uh, in that area, probably three in
25 the past two years.

1 Q Okay. What about, you've been
2 practicing -- or you've been licensed for six
3 years?

4 A Yes.

5 Q So you've sold three properties in the
6 area -- or you've been listed as the listing
7 agent on three properties around there in the
8 past five years?

9 A No, not past five years, past couple
10 of years.

11 Q Okay.

12 A I would have to go back and pull those
13 for you.

14 Q Where were they? How close were they
15 to the location of the current establishment?

16 A There's one over on 5th Street.

17 Q On 5th Street?

18 A Yeah. Do you need me to get the
19 address?

20 Q No, that's fine. 5th Street and what,
21 what are the cross streets?

22 A 5th -- hold on, let me get the exact
23 address here. It was 5th and -- hold on a
24 second -- I'd have to go back and see, I think it
25 was 5th and N.

1 Q Okay. And you don't recall the
2 others?

3 A I'd have to go get the addresses.

4 Q Okay. How -- what was the closest
5 property that you were the listing agent for that
6 was to Blagden Alley?

7 A That was the closest one.

8 Q Okay. So 5th Street is the closest.

9 A Yes.

10 Q Okay.

11 A I'm actually more of a buyer's agent,
12 so I do more work with buyers.

13 Q Okay. Well, how many were you the
14 buyer's agent of record on that --

15 A I'd have to pull those for you.

16 Q Okay. Do you have --

17 A There's been 26 sales in the last two
18 years, so I'd have to pull the list of that.

19 Q Okay. But how many of those 26 were
20 near Blagden Alley?

21 A I would have to pull that up on a map.

22 Q Okay.

23 A But I show properties in the area
24 generally very often.

25 Q You show properties in the area.

1 A I do show in that area very often.

2 Q Have you ever, um, done any, um, price
3 compilations for the area, any market analyses,
4 anything along those lines?

5 A Yeah. I do any time I'm working with
6 a client and we're going to put an offer in on
7 something.

8 Q Do you have -- when was the last time
9 you worked with a client to put an offer in on
10 something in the area?

11 A Um, I will have to look, because
12 within the past two years, I mean, I'm putting in
13 three or four offers per client.

14 Q Okay. And you've been licensed for
15 six years?

16 A Yes.

17 Q How many properties, just in total, in
18 DC have you been the listing agent on?

19 A Um, let me pull it up and see. Hang
20 on one second. The past 24 -- I mean, I would
21 have to get a map out because I have my totals, I
22 don't have it broken down by individual area
23 right here in front of me.

24 Q Okay.

25 A I was just --

1 Q No, you're fine. Um, what were you
2 going to say?

3 A I was not prepared to bring every
4 listing that I have here.

5 Q Okay. Well, where would you say you
6 primarily list properties and sell properties?

7 A One sec, let me just bring up a map.
8 I mean, northwest -- I'm pretty equal with
9 northwest and northern Virginia.

10 Q Okay. So half of the sales you do are
11 in northern Virginia?

12 A About.

13 Q Okay. And then the other half are in
14 northwest DC?

15 A Yeah, northwest, a couple in
16 northeast, a couple southwest, two in the
17 southwest this year.

18 Q Okay. Have you ever -- do you have
19 any appraisal certifications?

20 A I'm not an appraiser.

21 Q Okay. Do you have any specialized
22 training in, um, analyzing real estate trends or
23 markets, any advanced degrees in --

24 A I have a GRI designation, Graduate
25 Realtor Institute. I have taken a certification

1 class in competitive pricing analysis.

2 Q From where?

3 A That was offered by GCAAR.

4 Q Okay. And that's a trade association,
5 correct?

6 A GCAAR is the Greater Capital Area
7 Association of Realtors, yes.

8 Q Okay. Any other certifications or
9 qualifications?

10 A Uh, just three different licenses, the
11 GRI, and that.

12 Q What's your educational background?

13 A Uh, I have a bachelor's degree in
14 marketing and communications from George Mason. I
15 have a graduate certificate in electronic digital
16 marketing from Virginia, UVA.

17 Q Okay. What did you do before you were
18 a Realtor?

19 A I did marketing business development.
20 I worked for some large trade associations,
21 consulting firms.

22 Q Okay. Not real estate related,
23 though, correct?

24 A Uh, I have done real estate in the
25 past. In college I worked for a couple of

1 different -- a couple of different brokerages
2 working as kind of a salesperson, not a licensed
3 salesperson but I worked on properties. I worked
4 for new home builders a little bit as well.

5 MR. THOMAS: Okay. Um, in the
6 interest of time, I'm going to renew my objection
7 to qualifying this witness as an expert. He has
8 no sales history, he can't testify about his
9 sales history. He -- the closest listing he has
10 is four blocks away.

11 Um, I don't believe that the witness
12 is an expert and can testify on property values
13 in this specific distinct area, so we would
14 object to the qualification of this witness.

15 CHAIRPERSON ANDERSON: Let me ask --

16 THE WITNESS: Those property values
17 also change every week, so I would have to pull
18 something now. I can pull it up for you and give
19 you general prices and property values. That's
20 what I do all day.

21 MR. THOMAS: I'll also add for the
22 record that I make the objection with all due
23 respect to the witness. I don't want for the
24 witness to take offense to my objection, but our
25 objection is continuous.

1 CHAIRPERSON ANDERSON: Mr. Donahoe,
2 what's a Licensed Realtor GRI, what does that
3 mean?

4 THE WITNESS: That's the Graduate
5 Realtor Institute. I had to take 12 different
6 classes, all day classes to get that designation.

7 CHAIRPERSON ANDERSON: And where do
8 you currently work, sir?

9 THE WITNESS: I work for TTR
10 Sotheby's.

11 CHAIRPERSON ANDERSON: What is TTR
12 Sotheby's, sir?

13 THE WITNESS: That is a brokerage. So
14 TTR Sotheby's --

15 CHAIRPERSON ANDERSON: I don't know
16 what it is. I need you to explain what it is.
17 I'm a lay person, I'm not in the real estate
18 business, sir.

19 THE WITNESS: So have you heard of
20 Long & Foster or Remax?

21 CHAIRPERSON ANDERSON: Mr. Donahoe, I
22 need you to explain me who you are, sir.
23 Everything that is being said, sir, it is being
24 transcribed, so if someone else goes on and reads
25 the transcript, this is what -- you're telling

1 them who you are, sir.

2 This is your opportunity to sell
3 yourself. I'm asking who you are and so I need
4 to make a decision.

5 THE WITNESS: Okay. Have you heard of
6 Remax or Long & Foster?

7 CHAIRPERSON ANDERSON: I'm being
8 rhetorical, sir. I know what it is, I need you
9 to put it on the record, sir.

10 MR. KLINE: Mr. Chairman, may I try
11 here to ask some additional questions?

12 CHAIRPERSON ANDERSON: Go ahead, Mr.
13 Kline.

14 MR. KLINE: Thank you.

15 BY MR. KLINE:

16 Q Mr. Donahoe, you work for TTR
17 Sotheby's International Realty. Is that correct?

18 A Correct.

19 Q All right. What does that company do?

20 A They are a brokerage that sells
21 residential real estate, and actually they're
22 international.

23 Q Okay. And in the course of your work,
24 you represent buyers and sellers who are buying
25 and selling residential real estate?

1 A Correct. I represent more buyers but
2 I do both.

3 Q Okay. In fact, yeah, you did indicate
4 that you represented more buyers. In the course
5 of the past two years, how many buyers have you
6 represented approximately?

7 A The ones that have actually purchased,
8 probably 15, including some that decided not to
9 purchase, probably 20-something.

10 Q Okay. And how many of those in the
11 District of Columbia -- how many of those in the
12 District of Columbia?

13 A I mean, I'm going to say roughly half
14 of those.

15 Q Okay. And how many of those in the
16 neighborhood surrounding where Eighteenth Street
17 Lounge seeks to open, approximately? And I'm
18 talking about everybody you've worked with and
19 done any analysis for.

20 A I mean, I've shown tons of houses in
21 the neighborhood, it doesn't mean I've sold them
22 all there.

23 Q I'm talking people that you've worked
24 with.

25 A I mean, I've probably worked with 15

1 different people that have at least looked in
2 that neighborhood.

3 Q Okay. And in the course of doing so,
4 do you do a comparative analysis of pricing in
5 the neighborhood?

6 A I do. I do that usually when we get
7 a little bit more serious, so we're considering
8 making an offer.

9 Q Okay. And in the course of your work,
10 do you talk to people about what it is that makes
11 property desirable, why it is that they might
12 want to move to certain neighborhoods in the
13 District or elsewhere?

14 A Yeah, all the time. I mean, that's
15 kind of why they hire me. Like I said, my
16 specialty is knowing what's going on in the
17 neighborhoods.

18 MR. KLINE: Mr. Chairman, I would
19 offer him as an expert. To the extent that
20 there's any question about his credentials, it
21 seems to me it goes to weight, not to
22 admissibility.

23 CHAIRPERSON ANDERSON: I will take --
24 I will move that he be offered as an expert.

25 Mr. Thomas, you'll have an opportunity

1 to cross-examine him on the nature of his
2 testimony. Based on direct and cross-
3 examination, the Board will make a determination
4 what weight, if any, we'll give to his testimony
5 based on whether or not if you're able to put
6 some holes in his testimony.

7 So go ahead, Mr. Kline.

8 MR. KLINE: Thank you, Mr. Chairman.

9 BY MR. KLINE:

10 Q Mr. Donahoe, have you looked at
11 pricing trends in the neighborhood around were
12 Eighteenth Street Lounge seeks to locate?

13 A I have. I mean, over the last several
14 years that neighborhood has really increased.
15 You know, I don't know if you have the chart that
16 was submitted, but property values have continued
17 to rise up there as more and more restaurants are
18 coming in, as more and more businesses are there.
19 That neighborhood has become less of kind of a
20 desolate area and more of a desirable area.

21 MR. KLINE: Could we pull up, please,
22 Applicant's Exhibit 8?

23 (Whereupon, the above-referred to
24 document was marked as Applicant Exhibit 8 for
25 identification.)

1 MS. YOHANNES: Can I get the ability
2 to share, please?

3 CHAIRPERSON ANDERSON: Ms. Fashbaugh,
4 I don't know if Ms. Yohannes can have the ability
5 to share her screen.

6 MS. FASHBAUGH: It's handled.

7 BY MR. KLINE:

8 Q All right. When you said chart, is
9 this the chart that you were referring to?

10 A Yeah, this is the chart we were
11 looking at. Yep.

12 Q Okay. Have you verified is the
13 information in this chart correct?

14 A Yeah, this is correct. I went in and
15 put in --

16 CHAIRPERSON ANDERSON: I'm sorry. Mr.
17 Kline, can you please have him identify the
18 document for the record, please, sir?

19 MR. KLINE: Sure.

20 BY MR. KLINE:

21 Q Can you identify what this is?

22 A Uh, this is Exhibit 8. This is a
23 chart that was put together about the sales in
24 the immediate area. The longitude and latitude
25 is down there at the bottom.

1 Q Okay. And did you go in and verify
2 that this is correct?

3 A Yeah, I went back. This information
4 is all correct.

5 Q All right. And this shows sales
6 volume by number and sales volume by dollar
7 amount. Is that correct?

8 A It shows the number of total sales and
9 then the dollar amounts.

10 Q From 18 to 21?

11 A Correct.

12 Q All right. Now, in your experience in
13 working with buyers, what is it that they find,
14 if anything, desirable about this particular
15 neighborhood?

16 A I mean, this is a neighborhood for
17 people --

18 M. THOMAS: Objection. Calls for
19 speculation, and he's not an expert on what
20 buyers find desirable and what they don't find
21 desirable. That's going to vary from buyer to
22 buyer. I object.

23 CHAIRPERSON ANDERSON: He's a real
24 estate agent, and I don't think we're questioning
25 the fact that he's a real estate agent, so I

1 believe that he can testify. So I'm going to
2 overrule the objection. As a real estate agent
3 he can generally speak about what is going on in
4 the area.

5 Go ahead, sir.

6 BY MR. KLINE:

7 Q All right.

8 A And that's what I'm here to do is to
9 speak generally. You know, there's always
10 exceptions, but in general, people who are
11 looking in this area want to be able to walk to
12 things. They want the city experience.

13 It's close to the Metro. You don't
14 really have to have a car when you're over here,
15 so I have a lot of clients that don't drive and
16 they want to be able to walk to things. They
17 want to be able to walk to get coffee, they want
18 to be able to go to a restaurant, they want to go
19 maybe have a drink afterwards.

20 So this neighborhood kind of provides
21 that experience. So when somebody tells me
22 that's what they're looking for, something that's
23 walkable, something that's accessible to
24 different businesses, even like Dogtopia, I mean,
25 that's something people look for. So they like

1 to be able to be in that neighborhood and not
2 leave.

3 Um, also the art gallery is nice,
4 people enjoy that. Unconventional Diner, that's
5 a big draw to the neighborhood. So in general,
6 people in this neighborhood know that's what it's
7 about and that's what they're looking for.

8 If they want, you know, a quiet
9 neighborhood where it's more of a suburban feel,
10 I don't bring them down there. I say, let's go
11 to Chevy Chase or take a look at Crestwood. But
12 for this neighborhood, that's the type of buyer I
13 bring through.

14 Q Is an establishment such as the
15 Eighteenth Street Lounge something that would be
16 desirable in the neighborhood, based on your
17 experience working with buyers?

18 A Yeah, for people who are looking for,
19 like I said, that type of experience --

20 MR. THOMAS: Same objection. I object
21 that it calls for speculation. He's an expert on
22 property values, not trends in what a buyer may
23 or may not want.

24 That's a purely speculative question.
25 He's not an expert on that subject.

1 THE WITNESS: Well, buyers --

2 (Simultaneous speaking.)

3 CHAIRPERSON ANDERSON: Hold on --

4 MR. KLINE: Mr. Donahoe, the objection
5 is to be ruled on by the chair.

6 CHAIRPERSON ANDERSON: Do you have any
7 comment, Mr. Kline?

8 MR. KLINE: Um, it goes to his
9 expertise as a real estate agent. He works with
10 buyers, he knows what preferences they expect --
11 they have, what preferences they have, and that's
12 why he's here, to testify what it is that buyers
13 look for in a particular market.

14 CHAIRPERSON ANDERSON: Okay. I'm
15 going to overrule the objection.

16 Answer the question, Mr. Donahoe, if
17 you can.

18 THE WITNESS: Okay. Again, you know,
19 there are buyers that prefer different things.
20 I'm talking about specific buyers on a specific
21 thing, so those types of buyers, Eighteenth
22 Street Lounge being in the neighborhood would be
23 big benefit.

24 In fact, I have two clients that I was
25 working with in the past couple weeks and I

1 pointed out I think Eighteenth Street Lounge is
2 going to be located here. I always point out
3 Tiger Fork, I point out Unconventional Diner. I
4 point out the gallery, I point out the closeness
5 to the Metro.

6 So again, this neighborhood is for
7 people, generally, who are looking for a nice
8 city experience where they can walk to everything
9 and have everything they need in one
10 neighborhood: entertainment, food, you know,
11 different types of services, and the
12 accessibility to the Metro again.

13 BY MR. KLINE:

14 Q Based on your experience, based on
15 your experience working with buyers, do you have
16 an opinion as to whether the opening of this
17 establishment at this location would have a
18 negative effect on real property values?

19 A No. I mean, I don't -- I think if
20 somebody was opposed to having restaurants and
21 other entertainment venues in their neighborhood,
22 they might look somewhere else. To me, it's only
23 a benefit. And again, I point that out all the
24 time when I drive through that neighborhood.

25 And when I go to different

1 neighborhoods I'm doing the same thing: here's
2 this restaurant, here's The Dabney, you know,
3 this is a Michelin restaurant, you have Tiger
4 Fork, you have Calico -- which isn't exactly my
5 speed but that's, you know, another bar in the
6 neighborhood -- Columbia Room I always point.

7 So this is the kind of neighborhood
8 where people want the new businesses. They want
9 things that are somewhat exciting. You know,
10 again, it's desirable to people who are looking
11 in that area.

12 MR. THOMAS: All right. I have no
13 further questions at this time. Thank you.

14 CHAIRPERSON ANDERSON: Mr. Thomas.

15 MR. THOMAS: Yeah.

16 CROSS-EXAMINATION

17 BY MR. THOMAS:

18 Q So you said that if someone didn't
19 want to be located in that area, they may look
20 somewhere else. Is that right?

21 A They may or they ask me for guidance.
22 Usually what I do is, I ask them kind of what
23 their criteria is, what they're looking for, and
24 then I will say, look, this neighborhood has all
25 of this. It might be missing this. If you're

1 looking for Metro accessibility or whatever else
2 you're looking for, I take that criteria and then
3 I kind of point them in the right direction.

4 Q Well, you would agree that having
5 excessive late night establishments may turn off
6 potential buyers from an area, correct?

7 A I would say if there was a nuisance it
8 could turn people off. Unfortunately a lot of
9 times they don't find that out until after
10 they're in the neighborhood. So I don't know if
11 would turn people off in the beginning, but you
12 know, having a nuisance could bother people,
13 yeah.

14 Q All right. Do you think noise issues
15 would be a turnoff to a potential buyer?

16 A To some, to some.

17 Q Do you think music playing late at
18 night is something that would be off-putting to a
19 potential buyer?

20 A I mean, if there was a business that
21 wasn't controlling their noise, then that could
22 be.

23 Q Even if they weren't controlling their
24 noise, I'm not asking you to assume that they
25 weren't controlling their noise. But do you

1 suspect that certain buyers would be put off by
2 living next to a nightclub, for example?

3 A I'm sure there are some, but I would
4 not direct them in that area.

5 Q Okay. But that would mean that there
6 are less buyers available to purchase properties
7 in that area, right?

8 A Uh, it depends what they're looking
9 for.

10 Q You would agree with the basic sort of
11 economic point that the more people want to buy
12 in an area, the more the prices are going to go
13 up, right? Is that a fair assumption?

14 A Yep.

15 Q And then the less that people want to
16 buy in the area, the more prices are going to go
17 down, right?

18 A Uh-huh.

19 Q So that if less people want to live in
20 a particular area, prices will decrease. Is that
21 a fair statement?

22 A Uh, sort of. I mean, less people want
23 to live in Chevy Chase but those prices increased
24 because of other factors. They're looking for
25 schools and a few other things.

1 So people who are looking for, again,
2 the city experience are going to want to buy in
3 that area, and that will keep it desirable.

4 Q What about people with families? Do
5 you think people with families would want to live
6 in an area with nightclubs?

7 A I mean, I don't know. The school
8 districts there are not always the most
9 desirable. A lot of people who have families and
10 are looking for more of a family experience,
11 they're going to move up where people aren't on
12 the street at ten o'clock and it's a little more
13 of a suburban area.

14 Q What is your opinion on how crime
15 deals -- how crime affects home prices?

16 A Uh, I have to be careful what I say
17 about that.

18 Q I mean, sir, you're here testifying as
19 an expert, so I mean, I don't really think that
20 it's fair for you to say you have to be careful
21 about it. I think you --

22 (Simultaneous speaking.)

23 A Well, I --

24 Q I'd like to know what your opinion
25 about crime on real estate prices is.

1 A I've been told when it comes to
2 speaking about crime -- well, not told -- we are
3 not supposed to comment on crime in a
4 neighborhood when we are selling. We have to
5 tell people to check the crime statistics.

6 In general, I tell people if they ask
7 me about crime, I say: This is a city, there is
8 going to be crime here; I need to point you to
9 this website where you can get the crime
10 statistics and make a decision on that yourself.

11 Q You agree that there's different types
12 of crime in different areas. Right?

13 A Uh, yeah. I'm not sure, but I guess.

14 Q There are certain parts of Washington,
15 D.C. that have more crime than others. Is that a
16 fair statement?

17 A That is true.

18 Q Okay. And in your experience, the
19 places that have less crime tend to have higher
20 property values. Is that correct?

21 A Uh, I would -- maybe.

22 Q Okay.

23 A I mean, it's hard to say. Like I
24 said, you've got \$2 million houses and two blocks
25 way might be rough. I mean, you look in Columbia

1 Heights, you know, it's kind of block by block.

2 Q Let me move on to Eighteenth Street
3 Lounge itself. So what do you know about that
4 business? What do you know about its operations?

5 A Um, can you be more specific?

6 Q Well, have you seen like -- have you
7 spoken to the owner at all?

8 A Yes.

9 Q Okay. And what has he told you about
10 the operations?

11 A I mean, I've witnessed the old
12 operation, so I know how that works. I'm told
13 it's going to be -- I mean, he hasn't really --
14 actually he hasn't really told me much. I just
15 knew where it was going to be, and actually I
16 asked him what the address was because I do have
17 clients that like to know.

18 Q Okay. So you don't really know that
19 much about the planned operations in this space?

20 A I mean, I've been on this meeting
21 since 10:00 a.m. so I do now.

22 Q You've heard. Okay.

23 A Yeah.

24 Q Prior to this hearing, did you have
25 any, um, any idea about like what the layout of

1 the space was going to be?

2 A Um, sort of. I mean, I've had friends
3 that have told me it's going to be, you know, a
4 lounge atmosphere kind of like before but maybe a
5 little bit more -- a little on a smaller scale.

6 Q Did you have any knowledge about the
7 back roof or balcony?

8 A Yeah. I mean, I've been in that area
9 a lot. I go to The Dabney and eat quite often.
10 I go to Tiger Fork, so I have looked at it.

11 Q Well, I'm not talking about the
12 specific -- I'm not talking about these other
13 locations. I mean, you mentioned a lot of other
14 locations, but I'm talking specifically about
15 this proposed establishment. Did you have any
16 information about how the roof deck was going to
17 be used or operated prior to today?

18 A Um, no, other than like I said, I've
19 been in the alley. I knew where the location was
20 and I've looked and I could see. That's about
21 it.

22 Q Okay. So you formed your opinion with
23 very minimal information about what [audio skip].

24 A You cut out for a second.

25 Q Did you cut out?

1 A So you froze for a little bit.

2 Q Yeah, sorry. I cut out. I don't know
3 what I said.

4 A I'll answer kind of generally. A lot
5 of what I know about is based on my past
6 experiences at the former Eighteenth Street
7 Lounge.

8 Q Okay. In terms of your sales
9 experience and your sales history -- so we did a
10 brief voir dire -- you would agree that when
11 you're listing a house is when you have to place
12 a value on it so that you can market it to the
13 public, correct?

14 A Um, well, you have to do it when
15 you're working with a buyer because we have to
16 know if we're paying too much. So I have to take
17 a look at the neighborhood and see if that price
18 they're asking makes sense, and then, you know,
19 kind of do an analysis of how many offers are
20 going to be in there. But I think with both, you
21 do an analysis.

22 Q When you're buying, though, there's a
23 starting point as an asking price. When you're
24 listing, there is no real starting point, you
25 have to sort of select it, correct?

1 A No. I just look at all the comps in
2 the neighborhood. Actually, sometimes it's
3 easier to list than to deal with a buyer because
4 listing I get to see what everything sold for,
5 but when you buy, like, I don't know if there's
6 ten other offers I'm competing against or if
7 there's -- you know, what there is. So I think
8 with a listing it's actually a little bit easier
9 to price, because I can see what has sold in the
10 past, you know, three months, six months, twelve
11 months.

12 Q If I recall your testimony from your
13 voir dire, you haven't done a comp, a comparable
14 analysis recently, or you can't recall one that
15 you've done.

16 A What do you mean?

17 Q For this area.

18 A I mean, I could do one two weeks ago
19 and it would be different than it is now, so it's
20 kind of, you know, what's going on in the market.

21 Q Why would it be different?

22 A Well, if some guy decides to pay \$1.2
23 million for a \$1.1- listed home, and then someone
24 else does that next day, if somebody sold the
25 same one for a million, that can totally skew the

1 market. So this market right now is a little bit
2 different.

3 Q And if a nightclub came in and caused
4 serious issues with crime and with noise and it
5 caused someone to sell for a decreased value,
6 that would decrease the market too. Right?

7 A It could.

8 Q I want to ask you quickly, and this is
9 the last thing I'm going to touch on is your
10 Exhibit 8. So I just want to understand what I'm
11 looking at here.

12 So it looks like it is a total number
13 of sales are the red bar, and the purple bar is
14 the total -- I guess the total amount that's been
15 sold, right, like the total sales number.

16 A Sales volume. Yep.

17 Q Right. So this doesn't really have
18 any indication about what individual properties
19 are selling for. Correct?

20 A I mean, you could do that, but that
21 would take a lot of work. And that would be
22 different two weeks ago than it is now -- well,
23 maybe not two weeks, but month by month that
24 would change.

25 Q So like if you look at this map --

1 this graph, in 2020, the gross sales were \$40
2 million. But in 2021, they were \$50 million, but
3 there was also 25 more sales. Correct?

4 A Yes.

5 Q So it doesn't really have an
6 indication on what particular property values
7 were, it just shows that more properties were
8 sold.

9 A That's correct. Yeah, you would
10 really have to break it down. Because there's
11 condos, there's single -- well, over there
12 there's not really single family, but you have
13 condos, row homes, so you would have to break it
14 down.

15 Q I'm sorry. There are not single
16 family homes over there?

17 A I'm talking about row homes. There's
18 not as many detached, you know, bungalows in that
19 area.

20 Q Are you aware of 10th Street?

21 A There are, but I'm just saying in
22 general, there are a lot of condos, a lot of row
23 homes over there.

24 Q I understand, but are you aware of
25 10th Street and the single family homes that abut

1 Blagden Alley? Are you familiar with those?

2 A There are. I'm just saying generally
3 there's a lot more of the other, so you would
4 have to break each one out by condo, detached,
5 row home, multi units. So you could do that, but
6 this is just a general overview.

7 Q Is it fair that there's been a
8 significant amount of residential housing
9 development in that particular area over the past
10 few years?

11 A I mean, there's been everywhere, yeah.

12 Q Right. So the inventory of
13 residential real estate, particularly condos in
14 that particular area, has risen between, let's
15 say, 2019 and 2021. Correct?

16 A Yes, there's been a ton of stuff going
17 on over there.

18 Q And that would likely -- that likely
19 could account for the increased amount of sales
20 in the area. Correct?

21 A It could.

22 MR. THOMAS: Okay. I have no further
23 questions.

24 CHAIRPERSON ANDERSON: Thank you.

25 Are there any questions by any Board

1 members?

2 (No response.)

3 CHAIRPERSON ANDERSON: Okay. All
4 right, fine. All right.

5 There's no questions asked, you don't
6 have the automatic right to have redirect, and so
7 there are no questions that were generated by the
8 Board so you don't get another bite of the --
9 well.

10 MR. KLINE: Normally I do, but I don't
11 have any questions, Mr. Chairman.

12 CHAIRPERSON ANDERSON: All right.

13 Thank you.

14 Thank you, Mr. Donahoe.

15 THE WITNESS: Thank you, sir.

16 (Whereupon, the witness was excused.)

17 CHAIRPERSON ANDERSON: Do you have
18 another witness, sir?

19 MR. KLINE: Yes. Calling Lt. Col.
20 Simon Miller.

21 CHAIRPERSON ANDERSON: Is Lt. Col.
22 Simon Miller on the line?

23 MR. KLINE: Col. Miller, are you here?

24 CHAIRPERSON ANDERSON: I see the name.
25 Lieutenant Colonel, can you raise you right hand,

1 please?

2 THE WITNESS: Yes.

3 CHAIRPERSON ANDERSON: Do you swear or
4 affirm to tell the truth and nothing but the
5 truth?

6 THE WITNESS: I swear.

7 CHAIRPERSON ANDERSON: Your witness,
8 Mr. Kline.

9 MR. KLINE: Thank you, Mr. Chair.

10 DIRECT EXAMINATION

11 BY MR. KLINE:

12 Q Good afternoon, Col. Miller.

13 A Good afternoon. Thanks for having me.

14 Q Yes. Thanks for being here.

15 Where do you reside?

16 CHAIRPERSON ANDERSON: Can you have
17 him please spell his name for the record, please,
18 Mr. Kline?

19 MR. KLINE: I'm sorry, Mr. Chairman.

20 BY MR. KLINE:

21 Q Please spell your name for the record,
22 Col. Miller.

23 A Yes. First name is Simon, S-I-M-O-N,
24 last name is Miller, M-I-L-L-E-R.

25 Q All right. Col. Miller, where do you

1 reside?

2 A So I reside at 910 M Street. I'm
3 basically across the street from the southern
4 mouth of Blagden Alley. I'm on the first floor,
5 so as I look out my porch, I can see Calico and I
6 can see the -- I can actually see the new -- the
7 building where the Eighteenth Street Lounge is
8 about to move in from where I'm sitting.

9 Q And I forgot to ask you this. What
10 branch of service are you in?

11 A I'm in the Space Force, U.S. Space
12 Force.

13 Q And how long have you resided in the
14 neighborhood?

15 A I've been here since January of 2015.

16 Q Okay. And what caused you to move to
17 this neighborhood?

18 A Uh, well, I was in Arlington before
19 and I wanted to make a real estate investment
20 downtown. This was before City Center came up,
21 before a lot of the other businesses that moved
22 in the alley moved in. I think all that was
23 there when I initially moved in was the coffee
24 shop.

25 Q Are you familiar with the business

1 known as Eighteenth Street Lounge?

2 A Yes. I actually went to college here
3 back in the '90s, and used to go there quite a
4 bit a long time ago, not so much now since they
5 closed, here and there every once in a while.
6 But I'm very familiar with the quality of the
7 entertainment and the clientele there and the ESL
8 in general.

9 Q And do you support the pending
10 application that's being considered by the Board
11 today?

12 A Yes, I do.

13 Q And why is that?

14 A Uh, well, I mean, there's been kind of
15 a lull in terms of, you know, this growth of
16 commercial real estate. I actually own two units
17 in this building, um, and with COVID I think it
18 kind of slowed everything down, particularly with
19 I think the last leg of the City Center was
20 supposed to be built.

21 But you know, any sort of business
22 that sort of brings in jobs and revenue I think
23 is a plus. I think in terms of the quality of
24 ownership of ESL and the entertainment they
25 bring, I think would be a welcome addition to

1 this particular neighborhood.

2 Q And when you say the quality of the
3 ownership, are you acquainted with the ownership
4 there?

5 A No, not personally, but you know, just
6 knowing and frequenting ESL in the past, I know
7 the quality of the music and, um, the sort of
8 standard of behavior that they have within the
9 establishment, and you know, the quality of the
10 clientele that have frequented ESL in the past.

11 Q Are you concerned at what effect the
12 opening of this establishment might have on the
13 real estate values of the two properties that you
14 own there?

15 A I don't. I mean, since buying in
16 2015, we had the addition of Calico, which is
17 this open air bar which I can see from my porch,
18 as well as the Columbia Room which also has a
19 rooftop, Never Looked Better, and really, you
20 know, just keeping an eye on the value of my
21 properties they've sort of incrementally gone up
22 as the years have gone by.

23 And I think it brings more of a
24 positive effect. I think it's what most of the
25 people in this neighborhood --

1 MR. THOMAS: Objection to testimony
2 about property values. The witness is not
3 testified as an expert.

4 CHAIRPERSON ANDERSON: Hold on, Mr.
5 Thomas. You object to the question, not to the
6 answer, sir.

7 MR. THOMAS: I understand. I
8 apologize, I was on mute. I was trying to object
9 and just was able to unmute.

10 The question seeks an expert opinion
11 from the witness about real estate property
12 values that the witness is not -- hasn't been
13 qualified to make.

14 (Simultaneous speaking.)

15 CHAIRPERSON ANDERSON: Hold on, Mr.
16 Kline. I'm not going to -- I'm going to overrule
17 the objection. He's a property owner, he's
18 talking about from his experience.

19 Mr. Kline specifically asked him about
20 his property, that he owns two properties in the
21 area, so he's testifying about his property. I
22 don't believe he's testifying about the
23 properties in the area, and that's not what I
24 heard, but he's talking about his experience of
25 owning two properties in the area.

1 THE WITNESS: I can add some
2 additional nuance on what I meant by that. So I
3 recently did a refinance, probably about two
4 months ago. And the appraisal came at about
5 probably about a \$50,000 increase from when I
6 originally bought it, this particular one, two
7 years ago.

8 So I was in the previous one, that's
9 gone up significantly since I bought it back in
10 '15. But I can say just in my own experience,
11 that within the last two years it has gone up
12 probably about \$50,000 just from the appraisal
13 value and when I recently closed on the refinance
14 probably about three months ago.

15 BY MR. KLINE:

16 Q Okay. But where we were to that
17 path -- and that's all great -- but where we were
18 is, do you have concerns about an effect of the
19 Eighteenth Street Lounge potentially slowing that
20 growth or having a negative effect on your
21 property's values, your concerns with respect to
22 your property.

23 A I do not myself. So I think the
24 number one concern, obviously, to any owner is
25 the noise. And you know, having lived across the

1 street, you know, you have two open air bars, and
2 if you look at Calico, half of the bar is
3 outside. It's rooftop and it's actually closer
4 to where I live than, I think, where Eighteenth
5 Street Lounge is going to be, and I've never
6 heard a peep even through closing from my vantage
7 point.

8 So I don't have a concern. You know,
9 I've walked in and out of the alley all the time.
10 At peak hours I can barely -- the noise isn't
11 really at a significant level to the point where
12 it's a concern in my case living across the
13 street from the alley.

14 And I think, you know -- I've owned
15 houses in DC for about probably more than 20
16 years now. Um, I know that an increase in
17 commercial activities is good in terms of value.
18 It's where people are going to be working,
19 therefore, the market value of your property
20 would go up because it's closer to where they
21 work.

22 So I think any time that you have a
23 reputable group of people, such as the folks that
24 have owned ESL, I think that could induce other
25 commercial ventures near and around the alley

1 just because to be in proximity of ESL, who has a
2 pretty solid reputation in terms of entertainment
3 venues here in DC. I mean, I would trust them to
4 move in before a lot of other folks. So I think,
5 at least for me, I think they would be a welcome
6 addition to the neighborhood.

7 Q And when you say trust them, you mean
8 in terms of the way they run their operation?

9 A Yes.

10 MR. THOMAS: All right. Thank you.
11 I don't have any further questions at this time.
12 I'll make you available to Mr. Thomas, as well as
13 the ABC Board for questions. Thank you.

14 CHAIRPERSON ANDERSON: Mr. Thomas, do
15 you have any questions, sir?

16 MR. THOMAS: I do, Mr. Chairman.
17 Thank you.

18 CROSS-EXAMINATION

19 BY MR. THOMAS:

20 Q First, I want to just understand, um,
21 precisely -- first of all, I'm sorry, is it
22 Colonel Miller?

23 A Yes.

24 Q Or Lieutenant Miller?

25 A Lieutenant Colonel Miller.

1 Q Oh, it's both. My apologies.

2 Lt. Col. Miller, where precisely is
3 your apartment located in conjunction with the
4 alley? Is it on the far south side of the alley?
5 Is that right?

6 A It is in the far south side of the
7 alley, across the street from the mouth. So as I
8 sit in my living room -- and I can turn the
9 computer around -- I can see Calico and I can see
10 a little bit of the building where ESL is about
11 to be put in. If I go to the second floor of my
12 unit, I can basically see the entire alley.

13 Q What floor is your unit on?

14 A It's on the first floor, but it's a
15 bi-level unit.

16 Q Okay.

17 A It's two floors.

18 Q Okay. So you're sort of at the other
19 end of the alley from where ESL is going to be?

20 A I'm right across the street from the
21 southern mouth of the alley, but ESL is right in
22 the center of the alley. So I'm basically right
23 across the street from the southern mouth.

24 Q Okay. Are you aware of the hours that
25 ESL has sought for its liquor license?

1 A Yes. I've read that they're looking
2 to stay open probably about 2:00 or 3:00 in the
3 morning on the weekends, and I don't think
4 they'll be open during the week all that much.

5 Q What are you basing that they're not
6 going to be open during the week on?

7 A Um, I thought they were. I did see
8 that they were going to be open from 2:00 to 3:00
9 in the morning on weekends and during the week as
10 well.

11 Q And you mentioned some other bars,
12 Lieutenant Colonel, like Calico and like Columbia
13 Room.

14 A Yes.

15 Q Neither of those are open till 2:00 or
16 3:00 in the morning. Is that correct?

17 A No, they are not.

18 Q Okay.

19 A I think they close around midnight.

20 Q Okay. And they're both open air bars.
21 Right?

22 A Yes. Calico is mostly open air, and
23 in fact, most of the people, especially during
24 the summertime, are outside consuming alcohol
25 rather than inside -- probably about half-half.

1 Q Okay. Um, and this may sound like a
2 silly question, but how did you end up here
3 testifying today?

4 A How did I end up testifying?

5 Q Correct. Did you contact the
6 applicant and volunteer your testimony? Did
7 someone reach out to you? Um, what led to you
8 being here with us today?

9 A Uh, someone who knew -- the attorneys
10 contacted me asking me to testify, knowing that I
11 live close by.

12 Q How did they get your contact
13 information?

14 A Um, I think it was a friend of a
15 friend, or was Mr. Yohannes, Sidon Yohannes.

16 Q Okay. Um, that's counsel for the
17 Applicant. So Ms. Yohannes reached out to you
18 and asked you to testify here today?

19 A Yes.

20 Q But you didn't reach out to them to
21 volunteer?

22 A No.

23 Q Have you ever spoken with the owner of
24 the Applicant, Mr. Nouri?

25 A Oh, yes. So the owner contacted me

1 and, uh, he's friends of a friend of mine who I
2 used to frequent ESL with.

3 Q Okay. And so he requested that you
4 speak about --

5 A Yeah, yeah. They basically asked me,
6 hey, are you interested in -- do you have a
7 problem with the club going in across the street.
8 I said, you know, no, I'm all for it. I was kind
9 of looking forward to it, this is kind of what we
10 signed up for living downtown, and that was that.

11 Q Okay. So you haven't experienced any
12 sound issues at the alley at all?

13 A No, not at all. I've been here seven
14 years and it's never -- you know, I sleep
15 basically right across the street from the
16 southern mouth of the alley. I haven't heard a
17 peep, you know, generally go to bed about 9:00,
18 10:00 o'clock.

19 You know, Calico is open air, and I've
20 actually -- just walking up and down the alley,
21 I've never sort of walked past those properties
22 and said, Gosh, it's kind of loud in there. I've
23 never had a personal objection to that.

24 Q Do you have any soundproofing in your
25 home?

1 A I do not.

2 Q Okay. Are the windows in your house
3 soundproofed? It's a new development.

4 A Uh, it was built in 2006, not -- it's
5 not -- it's just windows, from what I can see.

6 Q Okay. Um, have you ever witnessed any
7 crime in the area, any public intoxication,
8 public urination, anything along those lines?

9 A I have not witnessed that myself,
10 although I'm sure it happens just being downtown.
11 Um, you know, obviously I've heard police reports
12 of crime in the area not directly related to the
13 alley itself, but I haven't witnessed any
14 instances of crime in the alley.

15 Q How often do you frequent the alley?

16 A I go there quite a bit. I'd say
17 probably at least once or twice every weekend, if
18 not during the week.

19 Q During the day or at night?

20 A Both times.

21 Q How late do you usually stay out in
22 the alley?

23 A Um, you know, if I'm going to a
24 restaurant probably about 9:00 or 10:00 o'clock.
25 If I go to a bar, sometimes later.

1 Q Okay. Never till like 2:00 or 3:00 in
2 the morning?

3 A No. Everything kind of shuts down
4 probably around 11:00 or midnight.

5 MR. THOMAS: Okay. I have no further
6 questions for this witness. Thank you very much,
7 Lieutenant Colonel.

8 THE WITNESS: Thank you.

9 CHAIRPERSON ANDERSON: Thank you.

10 Any questions by the Board members?

11 MEMBER SHORT: Yes, Mr. Chair.

12 CHAIRPERSON ANDERSON: Go ahead, Mr.

13 Short.

14 MEMBER SHORT: First and foremost, Lt.
15 Col. Miller, I salute you, sir, and thank you for
16 your service.

17 THE WITNESS: Thank you.

18 MEMBER SHORT: You are the very first
19 person that I've had contact with with our new
20 Space Force. I know it's a little off the
21 subject, can you just give us a little background
22 how you got involved?

23 THE WITNESS: Sure. So I've been in
24 the Air Force -- well, I started off in the Air
25 Force doing space. I've been in the service 22

1 years. I've been doing satellite command and
2 control, space lift, space tracking, and nuclear
3 weapons, as well as some intel collection.

4 And in 2019 when the NDA was signed,
5 all of the space operations were then transferred
6 to the Space Force. And I kind of went over and
7 currently work out of the Pentagon, bringing --
8 starting the ops center as well as performing a
9 lot of the current ops type activities at Staten.

10 MEMBER SHORT: Again, I thank you for
11 your service.

12 THE WITNESS: Thank you.

13 MEMBER SHORT: When you left
14 Arlington -- you said Arlington you lived in
15 before you moved?

16 THE WITNESS: Yes, sir.

17 MEMBER SHORT: When you left Arlington
18 you moved lock, stock, and barrel to the 9th
19 Street area?

20 THE WITNESS: Well, I left Arlington
21 and moved to Vienna, Virginia, because I was
22 working out of Chantilly over at the national
23 reconnaissance office for an assignment, and then
24 moved downtown to take a Pentagon assignment.

25 MEMBER SHORT: Okay. Again, thank you

1 and welcome to Washington, D.C. I've been here
2 for 75 years.

3 THE WITNESS: Thank you.

4 MEMBER SHORT: Welcome aboard. At any
5 rate, it's a pleasure having you in our community
6 and your testimony gives me a little reliance.
7 You live in the community, and so I do take what
8 the ANCs and communities say very heavily as a
9 Board member.

10 I don't know about other Board
11 members, but I do take what the ANCs and the
12 community, people who live there every day
13 testify to. Again, thank you for your service
14 and thank you for your testimony.

15 That's all I have, Mr. Chair.

16 THE WITNESS: Thank you, sir.

17 CHAIRPERSON ANDERSON: Thank you, Mr.
18 Short.

19 Any other questions by any other Board
20 members?

21 (No response.)

22 CHAIRPERSON ANDERSON: Hearing none,
23 Lt. Col. Miller, thank you very much for your
24 testimony. Thank you very much for your
25 testimony, sir. Have a great day. Thank you.

1 THE WITNESS: Thank you. Appreciate
2 your time.

3 (Whereupon, the witness was excused.)

4 CHAIRPERSON ANDERSON: Mr. Kline, do
5 you have another witness?

6 MR. KLINE: Yes. Call Martin Beam,
7 please.

8 CHAIRPERSON ANDERSON: And is this
9 your last witness, sir?

10 MR. KLINE: Um --

11 CHAIRPERSON ANDERSON: I believe
12 that's fine.

13 MR. KLINE: No. I have one more. I
14 have Pat Powell from the Golden Triangle BID.

15 MR. THOMAS: I'm just going to --
16 never mind. I'll let him call the witness. I'd
17 rather move this along.

18 CHAIRPERSON ANDERSON: Martin Beam.
19 Mr. Beam, can you raise your right hand, please?

20 Do you swear or affirm to tell the
21 truth and nothing but the truth?

22 THE WITNESS: Yes, I do.

23 CHAIRPERSON ANDERSON: Your witness,
24 sir.

25 MR. KLINE: Thank you.

1 DIRECT EXAMINATION

2 BY MR. KLINE:

3 Q Good afternoon, Mr. Beam. Would you
4 spell your name for the record, please?5 A Martin, M-A-R-T-I-N, Beam, B as in
6 Boy-E-A-M as in Martin.7 MR. KLINE: All right. Ms. Yohannes,
8 could you bring up Exhibit 9, please?9 (Whereupon, the above-referred to
10 document was marked as Applicant Exhibit 9 for
11 identification.)

12 BY MR. KLINE:

13 Q And while she's doing that, Mr. Beam,
14 you have a background in acoustical engineering.
15 Is that correct?

16 A That's correct.

17 Q All right. And we're getting ready to
18 show the Board what I believe is your resume.
19 Did you provide that for submission --

20 A Yes, I did.

21 Q -- as part of the Applicant's
22 materials?

23 A Yes.

24 Q All right. Let's see if we can get it
25 up here.

1 Have you testified before the ABC
2 Board before as an expert?

3 A Yes, I have, numerous times.

4 Q And you've been qualified as an expert
5 before the ABC Board.

6 A Yes, I have.

7 Q All right. Identify Exhibit 9,
8 please, if you would.

9 A That's my CV.

10 MR. KLINE: Mr. Chairman, in the
11 interest of moving this along, I'm going to
12 request that he be recognized as an expert. I
13 could ask him a whole lot more questions, but
14 he's testified before you many times and I would
15 ask that he be so qualified.

16 (Simultaneous speaking.)

17 MR. THOMAS: Sorry. No objection.

18 CHAIRPERSON ANDERSON: All right. So
19 moved.

20 Go ahead, Mr. Kline.

21 MR. KLINE: Thank you.

22 BY MR. KLINE:

23 Q Mr. Beam, did you have occasion to do
24 some work on the new location of Eighteenth
25 Street Lounge?

1 A Yes, I did.

2 Q And what was the work that you did?

3 A We were asked to evaluate the noise
4 impact on the neighbors of the --

5 MR. KLINE: Wait a minute. I lost
6 your audio.

7 THE WITNESS: Am I back?

8 CHAIRPERSON ANDERSON: Yes.

9 THE WITNESS: Hello?

10 CHAIRPERSON ANDERSON: Go on, Mr.
11 Beam.

12 THE WITNESS: Okay. Sorry.

13 Yeah, I was asked to evaluate the
14 impact on the neighbors of noise potentially
15 emanating from the rooftop deck.

16 BY MR. KLINE:

17 Q Okay. So what did you do? Did you
18 make any site visits?

19 A Yeah. I made site visit, evaluated
20 the location, walked around the alley, looked at
21 all the neighboring buildings, and looked at
22 the -- then I looked at the plans. You know,
23 just got a physical feel for the space, which is
24 important.

25 Q All right. And did you, um, make any

1 recommendations?

2 A Yes, I did.

3 MR. KLINE: All right. Ms. Yohannes,
4 could you bring up, um, Mr. Beam's report,
5 Exhibit --

6 CHAIRPERSON ANDERSON: What exhibit?

7 MR. KLINE: I beg your pardon?

8 CHAIRPERSON ANDERSON: Okay. So we're
9 going to move Exhibit -- I need to move.

10 MR. KLINE: Exhibit 9, yeah, please
11 move Exhibit 9. Thank you, Mr. Chair.

12 CHAIRPERSON ANDERSON: Mr. Thomas, any
13 objection?

14 MR. THOMAS: Uh, no, no objection.

15 CHAIRPERSON ANDERSON: All right.
16 Exhibit 9 is moved in evidence.

17 (Whereupon, the above referred to
18 document, previously identified as Applicant
19 Exhibit 9, was received in evidence.)

20 CHAIRPERSON ANDERSON: So what exhibit
21 are we now with?

22 MR. KLINE: We are Exhibit 3.

23 (Whereupon, the above referred to
24 document was marked as Applicant Exhibit 3 for
25 identification.)

1 CHAIRPERSON ANDERSON: Go ahead.

2 BY MR. KLINE:

3 Q All right. Mr. Beam, can you identify
4 this document?

5 A Yes, I can. I wrote that document.

6 Q Okay. And what is it?

7 A It's my acoustical analysis and
8 recommendations for mitigating any noise issues
9 with the rooftop deck.

10 MR. THOMAS: I'm sorry. I can't hear
11 the witness.

12 MR. KLINE: I can't either.

13 CHAIRPERSON ANDERSON: Mr. Beam, I
14 think you're going in and out so maybe you need
15 to just stay one -- I don't know what's going on.

16 THE WITNESS: It's an analysis of the
17 situation there acoustically and then
18 recommendations for mitigating any noise issues.

19 CHAIRPERSON ANDERSON: Hold on, Mr.
20 Beam. You know, your testimony is perfect
21 regarding noise mitigation because one time
22 you're testifying and the noise has been
23 mitigated, but then the next time you are just
24 very loud, so I don't know what it is that you're
25 doing, sir.

1 (General laughter.)

2 THE WITNESS: I moved closer to the
3 mic so I'll try to get maybe halfway back.

4 CHAIRPERSON ANDERSON: All right,
5 okay. Thank you.

6 THE WITNESS: So yeah, I went and did
7 an analysis. I went there and evaluated the
8 physical location, then went back to the -- you
9 know, to my office and did -- ran an acoustical
10 analysis and came up with recommendations and
11 then documented them in Exhibit 3.

12 BY MR. KLINE:

13 Q Okay. And so what recommendations did
14 you make?

15 A Excuse me. Uh, the main one was to
16 add acoustical absorption to the wooden panels,
17 the walls on either side, and then the --

18 MR. KLINE: Mr. Beam, I can't hear
19 you. It's ironic that of all people that we
20 can't hear you. Is there something wrong with
21 your mic because it keeps cutting in and cutting
22 out?

23 THE WITNESS: Let me see if I can
24 adjust the mic here somehow.

25 MR. KLINE: Now I can hear you.

1 THE WITNESS: Now you can hear me?
2 Let's see if that works.

3 MR. KLINE: Now I can't.

4 THE WITNESS: Now you can't. Maybe I
5 can get over closer to where you were hearing me.
6 Is that any better?

7 CHAIRPERSON ANDERSON: Yes, sir, it is
8 better now.

9 THE WITNESS: Okay. So the main, uh,
10 recommendation was balancing of the two speakers
11 that they're going to have on the deck and how to
12 point them and at what level to run them at, so
13 that we recommended a limiter on the sound system
14 to prevent any sound levels. No matter what the
15 guy does with the volume control, this device
16 prevents any levels going out above a certain
17 fixed level, which I recommended at 75 decibels,
18 dBA, at ten feet.

19 BY MR. KLINE:

20 Q Okay. Now, have you spoken to Mr.
21 Nouri as to whether he's agreed to implement your
22 recommendations?

23 A Yeah. He's fine with everything.
24 He's agreed that whatever we tell him to do, he's
25 fine with that.

1 Q Okay. And if these things are done,
2 what will be the result in terms of the effect of
3 the operation of the summer garden on residences
4 in the area?

5 A We think there will be no impact,
6 really. I mean, we're looking at levels that are
7 below ambient for that area, so they should fade
8 into the background noise.

9 Q Okay. Now, ambient noise, let's talk
10 about that. What's ambient noise?

11 A That's just the general city hubbub
12 that goes on, traffic, and you know, bars and
13 nightclubs, people's HVAC equipment -- mainly
14 traffic and HVAC equipment, that's the main
15 source. Airplane flyovers.

16 Q Okay. So if you can -- in an
17 establishment or in a particular property, if you
18 can reduce the noise level below the ambient
19 noise level in the area, is that something that
20 can be done?

21 A Oh, yeah.

22 Q And what does that accomplish?

23 A Well, depending the frequency content,
24 you may or may not be able to hear anything at
25 all from the establishment. Occasionally there

1 might be a tonal noise that comes through, but
2 generally speaking, if you're below ambient then
3 it really becomes hard to even hear.

4 Q Okay. And what you've done here -- is
5 that what you've done here, is with these
6 recommendations, it is your opinion that the
7 level of noise generated from the summer garden
8 will be below the ambient noise levels in that
9 neighborhood?

10 A Yes.

11 Q Okay. Now, noise is a function of
12 volume and distance, in my rudimentary
13 understanding. Is that a fair assessment?

14 A Yep, that's a fair assessment.

15 Q Okay. And did you look at the
16 distance of residences that were in the
17 neighborhood of the proposed Eighteenth Street
18 Lounge location?

19 A Yes, I did. Uh, the closest residence
20 appears to be to the north, uh, which is about
21 110 feet from the roof deck, the edge of the roof
22 deck. And then 180 feet to the south, there's a
23 condo building there, and then to the west is 225
24 feet to the 10th Street unit, I think it's 115
25 that backs on to Blagden Alley.

1 Q Okay. So 225 feet so those would be
2 the units on 10th Street?

3 A Yes. That's the closest unit on 10th.
4 Most are further than that, that one just happens
5 to be set back in away from 10th Street actually
6 and more on Blagden Alley.

7 Q So the properties on 10th Street are
8 actually further than the north and south sides
9 of what we call the alley?

10 A Yeah, significantly further.

11 Q All right. And in your report, you
12 talk about, um, 50 decibels. That's at a
13 particular point from the summer garden area of
14 the establishment. Correct?

15 A We took the measurements from the
16 closest point where people could be, so eight
17 feet in from the west -- eight feet in from
18 Blagden Alley for the residences facing, you
19 know, to the west, and then at the barriers, at
20 the walls for the north and south units, so
21 really worst case scenario.

22 Q Okay. And the summer garden area,
23 rooftop canopy -- it's been called a bunch of
24 different things today -- is actually set back
25 from the alley, isn't it?

1 A Yes, it is.

2 Q And how far is it set back?

3 A I think 26 feet.

4 Q Okay. And that was -- the setback was
5 taken into account when you did your
6 calculations?

7 A Yes. That's -- to tell you the truth,
8 that's an added safety factor I didn't even
9 really need to count on the roof.

10 Q Okay. So you did it from the
11 westernmost edge of third floor of the building?

12 A Yes, I did.

13 Q Okay, all right. Without accounting
14 for any setback?

15 A Right. And that assumed all 50
16 patrons that could be up there, 49 patrons plus
17 the bar -- or 48 plus the bartender, were all at
18 that location which, of course, is not the case.
19 But again, I was trying to run it all as worst
20 case scenario so that there wouldn't be any
21 doubt -- you know, no contention on, you know, am
22 I close enough.

23 Typically you would take it in the
24 middle of the space, assuming that half of the
25 people are in one direction and half of the

1 people in the other, but because I knew we were
2 going to be fine, I went ahead and ran them at
3 the worst case scenario.

4 Q Okay. And so you looked at both music
5 volume and volume from patrons. Correct?

6 A That's correct.

7 Q And you said that you took a worst
8 case scenario where all the patrons were speaking
9 at the same time. Correct?

10 A Correct.

11 Q Which that doesn't happen, does it?

12 A I mean, certain cultures probably, but
13 are you at a wedding, maybe, but yeah, typically
14 that would not be the case.

15 Q So in the typical situation the noise
16 volume would actually be less than that.
17 Correct?

18 A In fact, I even went further than
19 that. When we're having a normal conversation,
20 you know, across a high top or something like
21 that at a bar, if there was no -- if it was just
22 the two of you, you'd probably be speaking
23 between 60 and 65 dBA. And then when you add
24 people, there's background noise, people start
25 raising their voice.

1 We measured this situation in probably
2 a hundred different outdoor scenarios in the last
3 ten years. Since the explosion of the rooftop
4 decks and the summer gardens because of the smoke
5 control, everybody wanted to put one in. So
6 we've actually had the occasion to measure a lot
7 of those.

8 And so we came up with functions on
9 how many people, how much they generate, what was
10 the background noise. And so normally we would
11 use 70 decibels, because people will raise their
12 voice. And then in this case I even said let's
13 assume all 50 people are talking at 75 dBA, and
14 still were below 50 at any adjacent property.

15 MR. KLINE: All right. Um, I don't
16 have any further questions of the witness and
17 would make him available for cross and for the
18 Board's questions.

19 CHAIRPERSON ANDERSON: Mr. Thomas, any
20 questions?

21 MR. THOMAS: Yes, Mr. Chairman.

22 CROSS-EXAMINATION

23 BY MR. THOMAS:

24 Q Mr. Beam, you were paid for the
25 statistical analysis that you did -- excuse me --

1 the sound analysis that you did. Correct?

2 A Otherwise I'd be starving to death.

3 Q Fair enough. Were you paid for your
4 testimony here today?

5 A Yes, I was.

6 Q Okay. And are you going to be paid if
7 the license is approved and these build-outs move
8 forward, or does the scope of your engagement end
9 today?

10 A Only if they need construction
11 administration assistance.

12 Q Okay. Do you anticipate receiving
13 further compensation from the licensee?

14 A Probably not.

15 Q Okay.

16 A These are fairly simple
17 recommendations, so it's not real complicated to
18 implement.

19 Q Okay. Did you do any analysis of the
20 inside of the property?

21 A No, I didn't.

22 Q Okay. Um, you do know that the
23 downstairs has a door that abuts the alley as
24 well. Correct?

25 A Yes.

1 Q Okay. And do you know -- so are you
2 unaware of whether sound can get through that
3 door?

4 A Sound can get through anything. How
5 loud is the sound, that's the case.

6 Q Agreed, agreed. That's why we're
7 here, I think.

8 Um, do you know what type of musical
9 acts are going to be taking place at the
10 location?

11 A I do not.

12 Q Okay. Would you agree with me that
13 there are different types of sound?

14 A Different types of sound?

15 Q Right. Like sound comes in different
16 frequencies, like there's bass frequencies and
17 there's treble frequencies.

18 A Sure. Yeah, sound goes from 20 hertz
19 which is the bass frequency to 20,000 hertz in
20 the human hearing.

21 Q Right. And they have different
22 effects on things. Correct?

23 A Different effects? I mean, different
24 effects on construction. It's harder to contain
25 bass frequencies than higher frequencies. Bass

1 frequencies are not speech frequencies, so they
2 don't interfere with speech, but they do travel.

3 Q So if there was a musical performance
4 that had a heavy amount of bass or drums, that
5 would be a different type of sound analysis than
6 a musical performance that had, I don't know, a
7 piano?

8 A Sure.

9 Q So some of the sound analysis is going
10 to really depend on the type of entertainment
11 that's being hosted. Correct?

12 A Well, there's no entertainment on the
13 roof deck.

14 Q Agreed, but there's going to be
15 entertainment coming from the inside to the roof
16 deck.

17 A Yeah, sure, through doors.

18 Q Through doors and through speakers.

19 A Well, the speakers are inside. There
20 are speakers on the deck, but they're background
21 sound, they're not live -- they're not
22 re-broadcasting the inside music.

23 Q Okay. So if -- but if they were
24 broadcasting the inside music, would that change
25 your analysis at all?

1 A No. We'd would still be recommending
2 they run those speakers at 75 dBA at ten feet and
3 then we'd be fine.

4 Q Okay. What if the background -- what
5 about -- is the type of background music going to
6 matter? What if it's something that's heavy with
7 bass, for example.

8 A dBA stands for the A weighted decibel
9 level and so what that is is a single number
10 rating to set -- it simulates human hearing which
11 is why it's used in all the noise codes. So what
12 that does is it discounts low frequencies where
13 we don't hear as well, and emphasizes the minimum
14 high frequencies where the speech frequency at
15 where our ears are attuned to.

16 Q Okay. Let me ask you about people
17 talking. So, um, would you agree that people
18 tend to raise their voice when there is
19 background noise?

20 A Yes. I just testified to that.

21 Q Okay. Um, and would you agree that
22 people tend to raise their voice if there's other
23 noise coming from inside the establishment?

24 A I mean, background noise, wherever the
25 background noise is coming from.

1 Q Did your analysis consider the fact
2 that noise could be released through the doors
3 when they're opened?

4 A No, it didn't.

5 Q Did it consider --

6 A Unless they hold the doors open, it's
7 going to be fleeting.

8 Q Right, but someone could hold the
9 doors open. Correct?

10 A I mean, that's a management -- you
11 know, that's a management issue.

12 Q Understood, but that would have an
13 effect on your analysis. Right?

14 A I mean, they'd have to hold it open
15 for a long time and I'm assuming the management
16 is going to be like, hey, you can't have the door
17 open.

18 Q Well, what about people walking in and
19 out frequently?

20 A I mean, there's -- it's a small
21 opening, the door is a small opening, so it's not
22 like you get zero out of it even when it's open.

23 Q And I want to understand -- look, I am
24 certainly a novice when it comes to the sound
25 stuff and I'm really digging into my like middle

1 school physics education here, so bear with me.
2 But my understanding is that sound waves, they're
3 going to hit things and as they hit things they
4 sort of die down. Right?

5 A That's one way.

6 Q So like if the sound inside the
7 establishment and it is going towards the door
8 that's the outside of the establishment, it's
9 going to hit the door and it's going to lose its
10 strength or power as it goes through the door.
11 Right?

12 A That's one way.

13 Q Okay. So if the door is open, it's
14 not going to have -- it's not going to make --
15 there's not going to be that friction of it
16 hitting the door and slowing it down and so it's
17 going to be more powerful when it comes outside.
18 Is that right?

19 A If the door is open.

20 Q Okay. So I want to continue that out
21 a little bit further, so bear with me. All
22 right?

23 A Okay.

24 Q This is on the second-ish -- this is
25 a raised above the ground floor. Right?

1 A That's correct.

2 Q How clear of a path is there from the
3 west side of this, um -- this rooftop balcony to
4 the houses on the 10th Street side of the alley?

5 A Most of them are blocked by the
6 building across the alley, so most anything from
7 the Blagden Alley that goes -- that's going north
8 that's the crossway of Blagden Alley -- it's a
9 little confusing because of how many Blagden
10 Alleys there are.

11 Q Right.

12 A But anything that's going north of the
13 east-west Blagden Alley alleyway will be blocked
14 by that large brick building right behind them.

15 Q So you can see the residential homes
16 on the other side of Blagden Alley from the top
17 of the roof deck. Correct?

18 A You can see one mainly.

19 Q Okay. And there's not -- and because
20 you can see them, you're not looking through a
21 glass building or anything, it's just a straight
22 shot. Right?

23 A That's correct.

24 Q All right. So there's nothing in
25 between there and this building that would knock

1 down the sound. Is that right?

2 A Well, distance knocks down sound.

3 Q Sorry. You are correct. There's a
4 distance that will slow it down, but there's no
5 physical structure that's going to knock it down.

6 A Well, yeah, that building right across
7 the alleyway is going to block off that whole
8 portion of the -- you're not looking at 180
9 degrees of exposure to the sound. All the
10 buildings on 10th Street are occluded by other
11 buildings to a certain extent.

12 Q Okay. Let me ask you about an alley
13 too. Um, so sound tends to travel when it's in
14 a sort of tunnel or alley type of environment.
15 Correct?

16 A Sound travels everywhere.

17 Q Well, if I'm in an open field, is my
18 sound going to travel more than if I'm in an
19 enclosed area that has walls on both sides of me?
20 Isn't the sound going to condense and go straight
21 ahead? Did that make sense? I apologize.

22 A It's not going to condense really but
23 it's going to -- I mean, if you had reflective
24 surfaces, it would reflect off those surfaces.

25 Q It's the reason why tunnels are so

1 loud. Right?

2 A Tunnels, I don't -- you know, I'm not
3 in a lot of tunnels that are -- but yeah, it
4 depends on where the noise source is. If you're
5 in a tunnel and the noise source was on top of
6 the tunnel, it wouldn't be any louder.

7 Q Right.

8 A If it's at one of the entrances, then
9 sure, it would travel down the tunnel.

10 Q Right. Because there's nowhere for
11 the sound to go.

12 A I wouldn't necessarily put it that way
13 but that's -- it's funneling it -- it can guide
14 it down that way.

15 Q And that concept, right, would apply
16 to an alleyway too where you are sort of
17 surrounded by buildings.

18 A Sure.

19 Q Okay. Um --

20 A But again, that's not really the case
21 we have here because of the -- all the buildings
22 on the south side of the east-west alley are one
23 story buildings that are shorter than the roof
24 deck, so they're going to be attenuated by the
25 edge of the roof deck. And then the ones on the

1 right side is that big brick building that they
2 just put in, a fairly new building it looks like,
3 and so that's going to block that.

4 Q Well, so that kind of gets me to my
5 next question, which is does your sound study
6 account for people standing in and around the
7 establishment in the alley for patrons leaving?

8 A They don't leave through that way,
9 they go out the front.

10 Q But they can walk around the back,
11 couldn't they?

12 A I guess. You can walk anywhere in the
13 city.

14 Q And the, um, the sound study does it
15 account -- does time matter at all?

16 A Does it account for? I'm sorry.

17 Q Time. And what I mean by that is, you
18 know, there's going to be certain times where
19 there's going to be a lot going on in the alley.
20 Right?

21 There's going to be trucks and buses
22 and people walking around, you know, middle of
23 the day, late afternoon, and then there's going
24 to be times where there's no activity going on in
25 the alley. Right? Or very limited or a very

1 minimal amount of activity in the alley. And so
2 my question is, does that distinction matter in
3 your analysis.

4 A Well, we looked at the low ambient
5 noise, yeah. We assumed that it was, you know,
6 2:00 in the morning and it was a low ambient.

7 Q Okay. Um, you mentioned that, um,
8 there's a 26-foot setback. Are you positive of
9 that? Mr. Nouri testified that it was an eight
10 foot setback.

11 A That was 26 to the roof, to the
12 overhanging, to the roof structure he's putting
13 in. It's eight feet to the first barrier along
14 Blagden Alley.

15 Q From the west side of the roof to the
16 shrubs.

17 A Yeah, that's about eight feet. And
18 then you go another, what's that, 18 feet and
19 then you're underneath a roof structure.

20 Q What's that roof structure made of?

21 A I understand it's canvas.

22 Q Okay. Does that have any acoustical
23 benefit?

24 A It will help absorb some sound
25 actually.

1 Q Okay. What about the shrubs on the
2 west end?

3 A They don't really do anything. You'd
4 need a lot more shrubs.

5 Q Is there a reason why you wouldn't
6 recommend putting, um, a -- some sort of sound
7 barrier on the west end to prevent any noise from
8 coming out into the alley?

9 A I mean, at this point it's not allowed
10 because of the historical, but if it was -- and
11 the calculations show it's not necessary. If it
12 was necessary, I'd be like, you'd better go back
13 to the historical society and see if you can get
14 a barrier there.

15 Q Well, you're putting plexiglass up on
16 the other sides. Right? Didn't you say that you
17 had plexiglass on the north and south side
18 barriers?

19 A Right. Wood and plexiglass, right.

20 Q And you're putting shrubbery on the
21 west barrier. Correct?

22 A Correct.

23 Q Well, why couldn't you put a
24 plexiglass on the other side of the shrubbery so
25 it's not viewable from the alley?

1 A That's a historical society thing. I
2 mean, I was told that they're not allowed to
3 build higher than a 42-inch barrier on that side.

4 Q Got it. Okay. When you say the
5 historical preservation thing, that's not --
6 that's coming just from a fact assumed.

7 A Uh, right. I didn't verify that, but
8 you know, I'm sure he would have rather built a
9 barrier if he had the opportunity.

10 Q I don't want to make any assumptions
11 about him, but I assume that that's a fact that
12 you were told and that you haven't done any
13 background into historical preservation. Is that
14 correct?

15 A That's correct.

16 Q Um, let's talk about the limiter for
17 a second. So you mentioned that you recommended
18 having a limiter limiting the volume to, is it 75
19 decibels?

20 A Seventy-five dBA.

21 Q dBA is the same as decibels. Right?

22 A No. Decibels -- all octave bands are
23 measured in decibels, dBA is the A-weighted
24 decibel so that takes all the octave bands in the
25 audible frequency spectrum and applies weighting

1 factors to each one based on how humans hear
2 those frequencies.

3 So I said earlier that lower
4 frequencies get discounted, the middle
5 frequencies can actually get increased just
6 slightly in terms of their effect on humans.

7 Q Can a limiter be changed?

8 A Sure. I mean, if you don't have it
9 locked, I mean, somebody could go and change it.

10 Q Right. So the limiter is subject to
11 change. Correct?

12 A I mean, it's a management issue. We
13 put them in all the time and they get -- it's a
14 lot easier nowadays because the limiters are
15 basically just a black box and you have to have,
16 you know, a Cat 5 cable and the right tool to
17 adjust it.

18 It's not the old days where it was
19 actually a dial. There's no dial anymore, it's
20 just a black box.

21 Q Okay. Is this limiter going to be
22 separate and apart from any limiter that would be
23 in the interior part of the --

24 A Oh, definitely. Yeah, it's a
25 different sound system.

1 Q Okay. Um, you said you went and made
2 site visits to the alley. Um, when did you make
3 those visits?

4 A It was a single visit and I went
5 there -- let's see here --

6 Q Was it November 30?

7 A It was after November 30, because that
8 was the project drawing. So it was about two
9 weeks ago, I believe.

10 Q Okay. So the project drawings were
11 made and then you guys -- after the drawings were
12 made and submitted to DCRA, you came and did an
13 acoustic analysis. Correct?

14 A That's correct.

15 Q Okay.

16 A Actually it was December 23 was when
17 I made the site visit.

18 Q Okay. Do you recall when you were
19 engaged?

20 A December 22.

21 Q Okay. Um, what kind of day did you
22 come out to the visit -- to visit the site?

23 A Just midday, mid afternoon.

24 Q Okay. Are you otherwise familiar with
25 the area?

1 A Oh, sure. I work all over the city.

2 Q Okay. Have you done other analyses
3 for other establishments in that area?

4 A Not in Blagden Alley, that I know of.
5 Some of my colleagues might have. You know,
6 there's six of us in the company so we don't
7 always know exactly what each other partner is
8 doing.

9 Q Okay. So Miller or Paganelli could
10 have come out, but you haven't come out in the
11 Blagden Alley before?

12 A Right, or Doug Koehn. He's one of our
13 senior consultants. He does a lot of these
14 measurements for establishments.

15 Q Okay. And when you do these, do you
16 always just go kind of in the middle of the day,
17 or do you actually go and see what the
18 environment is like at, you know, hours where
19 noise really does matter? If that makes sense.

20 A I would do both, depends on the
21 situation. We've done so many of these analyses
22 and in-field measurements that, you know, going
23 late at night -- the levels are very consistent
24 across the city unless you're in like Fox Hall,
25 you know, some real more suburban type of area of

1 the city, but downtown they're very consistent.

2 Q This may sound like a silly question,
3 but does sound affect people differently?

4 A Sure.

5 Q So certain people could have more
6 adverse and be more sensitive to sound than other
7 people?

8 A I don't know about adverse but they
9 certainly can be more sensitive.

10 Q Does -- would a child be more
11 sensitive to sound than an adult?

12 A I haven't really seen that. I don't
13 really study that.

14 Q Okay. So there's not -- what would
15 affect sound sensitivity?

16 A Uh, disease, tinnitus, just personal
17 sensitivity. I'm very sensitive to sound because
18 I've been doing this job for so many years that
19 any sound really -- I have to analyze it and see
20 what's going on. So for me, I'm very sensitive
21 to sound so I could never live downtown.

22 Q Okay. So assume people may have --
23 for certain people the sound that you have
24 suggested is appropriate, it could adversely
25 affect them. Correct?

1 A When you say adversely, it's certainly
2 not a medical situation at that point. They
3 could be bothered by it.

4 Q Correct.

5 A But I mean, people can be bothered by
6 all kinds of things. The noise code wasn't
7 developed so that nobody would ever be bothered
8 by noise. It was developed so that, you know,
9 people can live next to each other and adjacent
10 to each other and not be at each other's throats.

11 Q Well, I'm glad you brought up the
12 noise code, because the noise code is set to a
13 certain number and it's between certain hours.
14 Right?

15 A That's correct.

16 Q So the noise code doesn't apply to
17 9:00 to 5:00. Right?

18 A It applies 24 hours a day.

19 Q Oh, it does?

20 A Yes.

21 Q Your report states that the noise code
22 sets a maximum sound level of 55 dBA at a
23 residential property between 9:00 p.m. and 7:00
24 a.m.

25 A That's correct.

1 Q Okay. So the noise -- does that also
2 apply from, you know, 8:00 a.m. to 8:00 p.m.?

3 A No. It's 60 dBA during the day.

4 Q Okay. So it goes up during the day
5 and it goes down during the night.

6 A That's correct.

7 Q Acknowledging that, you know, people
8 want quiet at night.

9 A Right.

10 MR. THOMAS: Okay. Board's indulgence
11 for a moment.

12 (Pause.)

13 BY MR. THOMAS:

14 Q One last question, and not to belabor
15 the point of doors, but are you aware of what
16 material the doors to the roof are?

17 A I don't know what they're going to be
18 in the future, no.

19 Q Okay. Do you have any idea what
20 material the doors at the rear on the ground
21 level of the establishment are?

22 A It looked like a solid wood door.

23 Q A wood door.

24 A That's what it looked like. It could
25 be metal. I didn't really take a close look.

1 Q Okay. And would material matter? Are
2 certain materials more sound absorbent than
3 others?

4 A Sound resistant, yes, and absorbent.
5 Right.

6 Q Um, what's the difference between wood
7 and glass?

8 A It depends on what the glass is. You
9 can make a glass door that's as effective as a
10 wood door, and you can make a wood door that's
11 less effective than your typical window in a
12 residence. I mean, it just depends on, you know,
13 how much you want to spend and what your real
14 goal is.

15 MR. THOMAS: Okay. That's all I have
16 for this witness. Thank you.

17 CHAIRPERSON ANDERSON: Thank you, Mr.
18 Thomas.

19 Any questions by any of the Board
20 members?

21 MEMBER SHORT: Mr. Chair?

22 CHAIRPERSON ANDERSON: Yes, Mr. Short.

23 MEMBER SHORT: Mr. Beam, how are you,
24 sir? Good afternoon.

25 THE WITNESS: Good afternoon, Mr.

1 Short.

2 MEMBER SHORT: Mr. Beam, you said you
3 testified before this Board before?

4 THE WITNESS: Yes.

5 MEMBER SHORT: Do you know what year?

6 THE WITNESS: Uh, the last time was a
7 couple of years ago for Church Nightclub
8 actually.

9 MEMBER SHORT: Oh, the one on N.
10 Capital and K?

11 THE WITNESS: Yep.

12 MEMBER SHORT: I remember that
13 hearing.

14 THE WITNESS: I was there. That was
15 a long hearing. I was one of the last witnesses
16 called.

17 MEMBER SHORT: They spent a lot of
18 money getting that place soundproofed.

19 THE WITNESS: Yes, they did.

20 MEMBER SHORT: They did it right. Do
21 you know the results of it? Have all those
22 precautions worked?

23 THE WITNESS: I think it's been --
24 everything got held up because of COVID, so I
25 don't think it's really advanced a lot beyond the

1 design stage at this point. I know they're
2 working on some infrastructure, but I don't think
3 it's advanced to the point where they're even
4 close to opening yet.

5 MEMBER SHORT: You know, that was a
6 former church.

7 THE WITNESS: Yes, it was.

8 MEMBER SHORT: Pretty big building
9 with wide open spaces.

10 THE WITNESS: That's really a nice
11 adaptive reuse.

12 MEMBER SHORT: Okay. Well, let me ask
13 you this. Have you done any other projects here
14 in the District of Columbia that are operating
15 now?

16 THE WITNESS: Oh, for sure. Geez, I
17 mean --

18 MEMBER SHORT: Well, if I could ask
19 this question. How many success stories and how
20 many didn't work out so well?

21 THE WITNESS: All success stories
22 actually. Never had -- you know, once we get
23 involved we carry it through till all complaints
24 are satisfied, and we're like the Canadian
25 Mounties, we get our noise.

1 MEMBER SHORT: I'm glad to hear that.
2 Can you just give us one other address where it
3 really worked out where they're operating now?

4 THE WITNESS: Yeah. Let's see,
5 there's a beer garden on 2 or P, what was the --

6 MEMBER SHORT: The one on 7th Street.

7 THE WITNESS: Is it 7th and P or 7th
8 and Q?

9 MEMBER SHORT: Yeah.

10 THE WITNESS: Yeah.

11 MEMBER SHORT: Okay. That was a
12 little problematic for you, but I think that
13 pretty much their music wasn't the type that a
14 lot of bars and nightclubs have.

15 THE WITNESS: Well, they have a lot of
16 people in there. It gets pretty raucous in the
17 beer garden there in the summer, and people are
18 drinking those big German beers. They start
19 getting -- you know, they get a little noisy. So
20 that was difficult but, you know, we resolved all
21 complaints.

22 MEMBER SHORT: Yeah, because I
23 remember we put some planters and things out
24 there. Right?

25 THE WITNESS: Right. That was more --

1 I think that was more for the owners. They just
2 like plants, so I think that was really more for
3 that, but really it was all barriers, physical
4 barriers.

5 MEMBER SHORT: Okay. Well, I'll just
6 say this, Mr. Beam, thank you, and it's a
7 pleasure seeing you again and thank you for all
8 the service you give to the District of Columbia
9 in these hearings.

10 THE WITNESS: You're welcome, Mr.
11 Short.

12 MEMBER SHORT: Thank you very much.

13 THE WITNESS: Thank you.

14 MEMBER SHORT: That's all I have, Mr.
15 Chair.

16 CHAIRPERSON ANDERSON: Thank you, Mr.
17 Short.

18 Any other questions by any Board
19 members?

20 MS. HANSEN: I do have a question.

21 CHAIRPERSON ANDERSON: Go ahead, Ms.
22 Hansen.

23 MS. HANSEN: I'm not too familiar with
24 soundproofing. Is there a technical explanation
25 for why you soundproof? Is it to prevent noise

1 leaving or does it also have a function of
2 keeping noise in?

3 THE WITNESS: Well, it's sort of two
4 sides of the same coin. If you don't keep it in,
5 it travels. I would look at it more like are you
6 more worried about the sound inside the
7 establishment or the sound leaving the
8 establishment. Those are two sort of separate
9 things, sort of related.

10 Sound in the establishment, to make it
11 sound better in the establishment you want to
12 have, you know, sound absorptive surfaces so
13 everything is not super reverberating and all
14 like clangy like in some of these restaurants you
15 go into where you can hardly even digest your
16 food. But when you're trying to prevent sound
17 from going outside of an establishment, then it's
18 more about mass, you know, putting the right --
19 you know, the fact that this is a masonry
20 building certainly helps that situation from any
21 inside noise, so that's the kind of thing.

22 And the sound system design, I won't
23 say the interior sound system design, although I
24 didn't really study it in detail, the design
25 intent is one that we support which is instead of

1 having two humongous speakers next to the stage
2 that are just, you know, blasting at high decibel
3 levels, they're using a distributed system so you
4 can have lower levels throughout the space but
5 it's more even throughout the space.

6 Q And what role do the security -- I
7 know they haven't named security staff or know
8 how they're going to operate yet, but what tools
9 does security use to determine the volume at any
10 given time? Sometimes we hear about these things
11 when someone has made a complaint, but I assume
12 that they go around and make it a point to check.
13 What tool is used to check the volume?

14 A Sound level meters. Security, I mean,
15 at some problem locations they need to use those,
16 but normally that was really in the old days
17 before these limiters became readily available,
18 and so since that we've tried to eliminate the
19 human element and just take care of it up front.

20 Because the secret on sound systems is
21 that the sound man is pretty much deaf most of
22 the time and he always likes it louder. So if
23 you just leave it in the hands of the sound man,
24 it's just going to get louder as the night moves
25 on, so we've tried to remove that.

1 Q So the limiter is set automatically,
2 if you set it to a certain decibel and then leave
3 it. Is that how it works?

4 A That's correct. So you can -- like
5 your volume control on your amplifier, you could
6 turn that up to eleven, as they say, but it's
7 only going to raise the volume as much as the
8 limiter will allow it. So it will look like
9 you're turning it to eleven, but the sound ain't
10 going up any higher than what the limiter allows.

11 Q And there's no way to override that
12 manually?

13 A Not manually. You'd have to have this
14 device with the Cat 5 cable and a computer and
15 the proper program to even get into the machine.
16 So that makes things a lot easier, because in the
17 old days they were analog and you could just go
18 over and like take the cover off and flip the
19 switch, and boom, now you're loud again.

20 Q And you mentioned the sensitivity to
21 humans. Do dogs have a different sensitivity to
22 the decibels?

23 A Sure. Well, there are different
24 frequency levels that they're sensitive to. It's
25 a very high frequency. We hear up to 20,000

1 hertz, they can hear up to -- I don't do a lot of
2 animal studies, we do some stuff for NIH and
3 stuff, but I'm sort of testing my memory bank,
4 but 40- or 50,000 hertz, so something we can't
5 hear at all. Like the dog whistles, when you
6 blow it you can't hear it but the dogs are like,
7 hey, what's going on. So they're sensitive that
8 way.

9 And that was the other thing I was
10 surprised. I mean, you can hear the dogs at --
11 when I was on the roof deck, you could hear the
12 dogs barking, so certainly that noise is already
13 there.

14 MS. HANSEN: No further questions.
15 Thank you.

16 CHAIRPERSON ANDERSON: Thank you, Ms.
17 Hansen.

18 Any other questions by any other Board
19 members?

20 (No response.)

21 CHAIRPERSON ANDERSON: Any recross,
22 Mr. Thomas?

23 MR. THOMAS: No recross for me. Thank
24 you.

25 CHAIRPERSON ANDERSON: You're welcome.

1 Mr. Kline, any redirect?

2 MR. KLINE: Just a couple.

3 REDIRECT EXAMINATION

4 BY MR. KLINE:

5 Q Mr. Beam, so a limiter is like a lock.
6 Right? It's like a sound lock. Right?

7 A Correct.

8 Q All right. And you also worked on the
9 rooftop called Mi Vida. Right?

10 A That's correct, that's right.

11 Q All right. And that's another one of
12 your successes, isn't it?

13 A Yes, it is. They had a lot of very
14 wary neighbors that did not want to hear that
15 place.

16 Q And you made some recommendations and
17 they were implemented and you've never heard
18 about it. Correct?

19 A Never heard.

20 MR. KLINE: That's all I have. Thank
21 you very much for your testimony.

22 CHAIRPERSON ANDERSON: Mr. Beam, thank
23 you very much for your testimony, sir. You are
24 free to go. Thank you very much.

25 THE WITNESS: Thanks, everybody.

1 CHAIRPERSON ANDERSON: Thank you.
2 (Whereupon, the witness was excused.)

3 CHAIRPERSON ANDERSON: Mr. Kline, do
4 you have another witness?

5 MR. KLINE: One more, Patrick Powell,
6 and will be quick.

7 Mr. Powell, are you here?

8 CHAIRPERSON ANDERSON: Mr. Powell?
9 Mr. Powell?

10 MR. KLINE: Patrick Powell, are you
11 here?

12 CHAIRPERSON ANDERSON: I see his name
13 on my screen. Mr. Powell?

14 THE WITNESS: Yes, I'm here. They
15 just elevated my credentials.

16 CHAIRPERSON ANDERSON: Okay. Mr.
17 Powell, can you raise your right hand, please?

18 Do you swear or affirm to tell the
19 truth and nothing but the truth?

20 THE WITNESS: I do.

21 CHAIRPERSON ANDERSON: Thank you.
22 Your witness, sir.

23 MR. KLINE: Thank you.

24 DIRECT EXAMINATION

25 BY MR. KLINE:

1 Q Will you spell your name for the
2 record, please?

3 A Yes. Patrick, P-A-T-R-I-C-K, Powell,
4 P-O-W-E-L-L.

5 Q And where are you employed?

6 A The Gold Triangle Business Improvement
7 District.

8 Q And how long have you been employed
9 there?

10 A I've been there for ten years.

11 Q And what's your title?

12 A I'm the senior director of operations
13 and emergency preparedness.

14 Q During the course of your work, did
15 you have occasion to interact with Eighteenth
16 Street Lounge?

17 A Yes, I did. I met Farid Nouri as part
18 of our 2017 Nightlife Initiative that we did. We
19 started a large initiative to reach out to
20 nightlife establishment owners to, you know,
21 promote the industry, to work on neighborhood
22 issues around trash and any safety issues,
23 traffic, that type of thing.

24 Q And didn't that also involve issues
25 related to noise?

1 A It did.

2 Q Okay. And what role did Mr. Nouri
3 play in those discussions?

4 A So one of the things I noticed is that
5 nightlife is often a very tight industry and
6 everyone kind of knows each other. And Mr. Nouri
7 kind of served as a gateway and really helped us
8 connect to the other owners and helped us gather
9 people. You know, when it came to getting people
10 to come to a meeting, I had a meeting and no one
11 showed up, and he was like, Well, that's because
12 you didn't text them and you didn't do this.

13 And so the next meeting, we had it at
14 Eighteenth Street Lounge and he got them all
15 involved and got them there. So he was really a
16 leader in that initiative on the industry front.

17 Q Okay. And there were a couple of
18 initiatives that he was specifically involved in
19 as a leader. Is that correct?

20 A Yeah, that's correct. Besides just
21 helping host and organize the meetings and
22 leading discussions with the owners, he
23 volunteered to pilot in front of Eighteenth
24 Street Lounge the DC's first carshare, rideshare,
25 pickup/drop-off zone. He even had staff out on

1 the first day helping with getting patrons to
2 understand how the rideshare location worked out.

3 Q Okay. And what about with respect to
4 trash, did he have involvement there as well?

5 A Yes. So we've worked with Mr. Nouri
6 when he mentioned in his earlier testimony about
7 working on the compactor grant program. My
8 colleague worked with him and the adjacent other
9 properties on that compactor grant program.

10 And you know, again, he was kind of
11 the person that got everyone together, got the
12 other owners together, realized there was a
13 problem, and helped shepherd that through getting
14 it fixed. So he definitely served much the same
15 role that he did for us in our 2017 initiative on
16 the compactor program there for the alley.

17 Q Would you say he's proactive in
18 addressing problems that might arise?

19 A Yes, I would, I would. You know, he
20 was very open with -- you know, many business
21 owners are maybe not as open around other
22 business owners for fear of sharing information
23 or anything like that. He was always very open
24 with the way he operated and the way he, you
25 know, kind of encouraged colleagues to do the

1 same.

2 Q And um, was there a feeling when he
3 closed up and left your community there in the
4 Golden Triangle?

5 A It was. Yeah, we were definitely very
6 sad to see them leave. I know Eighteenth Street
7 Lounge has a lot of history in many of DC's music
8 and nightlife cultures and having it in the
9 neighborhood really was something we were very
10 proud of and we were very sad to see him close.

11 Q And you also lost one of the good
12 guys, didn't you?

13 A Yes, that is true, and one of the
14 advocates in that nightlife area for us to kind
15 of connect to that community. We'll have to
16 start rebuilding some relationships now that he's
17 going to be moving east.

18 MR. KLINE: All right. Thank you. I
19 have no further questions of the witness.

20 CHAIRPERSON ANDERSON: Mr. Thomas?
21 You're on mute, Mr. Thomas.

22 MR. THOMAS: My apologies. Thank you
23 for alerting me to that.

24 Just a few quick questions.

25 CROSS-EXAMINATION

1 BY MR. THOMAS:

2 Q Mr. Powell, how would you describe the
3 area that Eighteenth Street Lounge used to be
4 located in?

5 A Uh, we are commercial district with
6 some scattered residential condo buildings within
7 our boundaries.

8 Q Are there a significant amount of
9 nightclubs in that area?

10 A Uh, there's a number of nightlife
11 establishments right in that 18th Street,
12 Connecticut Avenue, M Street area. Yes.

13 Q Um, you mentioned that Mr. Nouri was
14 very open. Um, are you aware of any ABRA actions
15 that have been brought against Eighteenth Street
16 Lounge?

17 A I'm not. I don't get the
18 notifications on the ABRA violations.

19 MR. THOMAS: Okay. Um, that's all I
20 have.

21 CHAIRPERSON ANDERSON: Thank you, Mr.
22 Thomas.

23 Any questions by any Board members?

24 (No response.)

25 CHAIRPERSON ANDERSON: Hearing none,

1 thank you very much, Mr. Powell, for your
2 testimony today.

3 THE WITNESS: Thank you, sir.

4 CHAIRPERSON ANDERSON: Thank you.
5 You're free to go or remain.

6 (Whereupon, the witness was excused.)

7 CHAIRPERSON ANDERSON: Mr. Kline, do
8 you have another witness?

9 MR. KLINE: Mr. Ben Pourian, are you
10 still here?

11 CHAIRPERSON ANDERSON: Mr. Kline, how
12 many witnesses do you have? I thought --

13 MR. KLINE: He would be the last one,
14 but I think he's gone. He's a resident, he stuck
15 it out all day, but I think he finally signed
16 off.

17 CHAIRPERSON ANDERSON: All right. So
18 there are any -- have you asked for whatever --
19 do you rest?

20 MR. KLINE: I just want to make sure
21 that the exhibits that we've identified have been
22 admitted.

23 CHAIRPERSON ANDERSON: Which exhibits
24 do want to admit, sir?

25 MR. KLINE: Applicant's Exhibit 2, the

1 plans --

2 CHAIRPERSON ANDERSON: I'm sorry --

3 MR. KLINE: And Applicant's Exhibit 3.

4 CHAIRPERSON ANDERSON: Number 2,
5 number what?

6 MR. KLINE: Number 3.

7 CHAIRPERSON ANDERSON: I'm sorry.
8 What is number 2?

9 MR. KLINE: Number 2 is the plans that
10 we reviewed in some detail.

11 CHAIRPERSON ANDERSON: Hold on, hold
12 on. Let me look to see where we were. We've
13 already moved Exhibit 2, 5, 6 into evidence, and
14 we've -- hold on -- and Exhibit 9. Those are the
15 only exhibits that have been moved into evidence.

16 MR. KLINE: Okay. So we have 9. You
17 said 5, so we want to move 5 and 3.

18 CHAIRPERSON ANDERSON: Hold on.

19 MR. KLINE: And 3 is --

20 CHAIRPERSON ANDERSON: 5 is already
21 into evidence so the only one left not into
22 evidence is Exhibit 3.

23 MR. KLINE: Okay. That would be Mr.
24 Beam's report.

25 CHAIRPERSON ANDERSON: Mr. Thomas, do

1 you have Exhibit 3?

2 MR. THOMAS: Do I have exhibit 3? I
3 do have Exhibit 3.

4 CHAIRPERSON ANDERSON: Mr. Kline wants
5 to move it into evidence. Do you have any
6 objection?

7 MR. THOMAS: Candidly, I do not
8 because I already had it moved and admitted.

9 MR. KLINE: Sorry.

10 CHAIRPERSON ANDERSON: So Exhibit 3 is
11 moved without objection, so Exhibit 3 is in
12 evidence.

13 (Whereupon, the above-referred to
14 document, previously identified as Applicant
15 Exhibit 3, was received in evidence.)

16 CHAIRPERSON ANDERSON: Okay. So we
17 have moved into evidence -- I just want to move
18 here one more time -- we have moved into evidence
19 Exhibits -- I'm sorry -- Exhibits 2, 3, 5, 6 and
20 9. Those exhibits have been moved into evidence.

21 MR. KLINE: And the only other one is
22 8 which was the Blagden Alley sales volume.

23 CHAIRPERSON ANDERSON: Mr. Thomas,
24 Exhibit 8?

25 MR. THOMAS: Relevance and -- I object

1 on the grounds of relevance, but yeah, I'm
2 putting the objection on the record.

3 CHAIRPERSON ANDERSON: Um, I'll move
4 it but the Board will take it for whatever it's
5 worth.

6 MR. THOMAS: Right.

7 CHAIRPERSON ANDERSON: So I'll also
8 move Exhibit 8 into evidence.

9 (Whereupon, the above-referred to
10 document, previously identified as Applicant
11 Exhibit 8, was received in evidence.)

12 CHAIRPERSON ANDERSON: All right. So
13 you now rest, Mr. Kline?

14 MR. KLINE: Yes, sir. Thank you.

15 CHAIRPERSON ANDERSON: All right. Mr.
16 Thomas, do you have any witnesses that are able
17 to testify today, sir?

18 MR. THOMAS: Candidly, I don't have my
19 witnesses available right now. I have gotten
20 various text messages throughout the past six
21 hours concerning witnesses having to leave for
22 various reasons, childcare reasons, things like
23 that.

24 In full candor, I have my own
25 childcare issues that I'm now working out. You

1 know, we were told at the very outset that each
2 side was going to have an hour to present and the
3 Applicant has gotten six hours to present and I
4 don't think --

5 CHAIRPERSON ANDERSON: Mr. Thomas,
6 hold on one minute. Mr. Thomas, you have spent a
7 significant amount of time in cross-examination,
8 so your cross-examination has been untimed, so if
9 I was timing your cross-examination, you would
10 have lost the amount of time that you have to
11 present your case, sir. I'm just being very
12 frank.

13 Because I knew that we did not have a
14 time constraint today, and I thought I made it
15 known to everyone that we had all day to do it,
16 but I did -- and I also informed the parties that
17 you should not spend most of your time on cross-
18 examining the witnesses because that counts
19 against your time.

20 So if I was keeping time in the sense
21 that if we had other hearings today, I would not
22 allow the parties -- I would have told the
23 parties that they were running out of time, but I
24 gave some flexibility because there were four
25 different protest groups, and so therefore, I

1 gave flexibility because I want folks to answer.

2 So I just want to put that on the record, sir.

3 However, this is -- I would have hoped
4 that you would have had a witness to testify
5 today because the dates that we have, we can
6 offer February 2 at -- February 2, which is two
7 weeks, at 1:30. That's the first available,
8 that's our next -- our next meeting is next week
9 and then the next meeting after that, so we could
10 offer February 2 at 1:30 for you to do your case.

11 But part of the problem is that you
12 have five witnesses and I don't know how long
13 that's going to take, and so therefore, we're
14 going to run into an issue.

15 MR. THOMAS: What I can represent --
16 first of all, I will represent that I will make
17 February 2 work. I'm looking at my calendar, I'm
18 available. I've just received text from my
19 client who said that they will work to make sure
20 that the witnesses are available for them.

21 And I can represent that I do not
22 believe my case in chief will be nearly as long
23 as the Applicant's case in chief. I don't know
24 how Mr. Kline is going to cross-examine my
25 witnesses but I do not have seven or eight, I

1 have five. I could potentially make it four, um,
2 and so we can make February 2 work.

3 And I would appreciate the
4 Commission's indulgence in doing that so we have
5 an opportunity, frankly, to put on our full case
6 considering the issues that are before the
7 Commission.

8 CHAIRPERSON ANDERSON: And I just want
9 to say, also, Mr. Thomas, there are no timelines
10 in the sense of when the day ends. This Board
11 was prepared to go today to convene -- to
12 complete this hearing, and so on -- so I will
13 alert all parties that on February 2 when we have
14 this hearing, if you know that you're going to
15 have to childcare issues at some point that you
16 have to make some additional plans because this
17 hearing, although it's just your case, I'm not
18 sure if we'll be done by five o'clock. If you
19 have five witnesses, it is going to take some
20 time.

21 And also, we did not start
22 Applicant's -- excuse me -- we didn't start
23 Applicant's case today until almost twelve
24 o'clock, because remember, the Board did its
25 presentation. So yes, you are right, it's six

1 o'clock, so yes, the Applicant has had about five
2 hours, with cross-examination, to do its case.
3 However, that's where we are.

4 So we will adjourn this hearing and
5 then we will reconvene -- Mr. Kline?

6 MR. KLINE: I mean, the only thing I'm
7 going to ask, and I'm probably going to make an
8 enemy of someone I respect very much, is that
9 general counsel then get the order done in 45
10 days instead of 60 days, because I mean, we're
11 past the time this hearing should have been held
12 and we indulged it a week for a lot of reasons
13 and now we're another couple of weeks.

14 CHAIRPERSON ANDERSON: But I thought,
15 Mr. Kline, that this hearing was scheduled to be
16 held on January 12.

17 MR. KLINE: It was.

18 CHAIRPERSON ANDERSON: Right. So
19 January 12, and so -- well, one thing I'll state
20 here, Mr. Kline -- all right --

21 MR. KLINE: It was supposed to have
22 been held by December 26 by law.

23 CHAIRPERSON ANDERSON: Well, I don't
24 know why the hearing was not held -- well, the
25 Board was on break and we could have met, I

1 didn't have a problem, Mr. Kline, but I know that
2 you would have stated that you were not available
3 on December 26 to meet, because the Board could
4 have made that time.

5 But I assure you, Mr. Kline, that we
6 will make sure that this decision -- well, let me
7 say this to you, at the conclusion of the hearing
8 on February 2, the Board will make a decision.

9 MR. KLINE: All right, great.

10 CHAIRPERSON ANDERSON: However, we
11 will ensure that the decision is written as
12 expeditiously as possible. I do appreciate the
13 fact that both parties -- there are four
14 Protestants.

15 MR. KLINE: That's all I can ask, you
16 know, that's all I can ask.

17 CHAIRPERSON ANDERSON: And I've always
18 told all parties that if you settle this matter,
19 everyone lives happily ever after and moves
20 forward, but once the Board has to make a
21 decision we just have to -- and so one of the
22 things I'll state there, Mr. Kline -- and this is
23 something for both sides to consider -- if you
24 want us to make a decision, both sides should
25 consider not doing proposed findings of fact and

1 conclusions of law. Okay?

2 That's something that I think both
3 parties need to consider, because if you do that
4 then that is going to delay the process a much
5 longer period of time. So that's something that
6 I would ask both parties to consider. You have
7 your right but I would ask both parties to
8 consider not doing that once we close the hearing
9 on February 2 so we can have a decision -- so at
10 least we can have a decision made and the
11 community will know whether or not this is going
12 to be -- both the Applicant and the community
13 will be aware of the decision.

14 MR. KLINE: All right.

15 MR. THOMAS: Yes. Thank you.

16 CHAIRPERSON ANDERSON: So anyway,
17 we'll reconvene this hearing for February 2, 2022
18 at 1:30 p.m., and it is going to be a long
19 afternoon. I'm not quite sure what our -- I was
20 told that the time is free, but I'm not sure what
21 else we have in the morning to see whether or not
22 that's going to delay a start of this hearing at
23 1:30, but we'll try to start the hearing as
24 quickly as possible at 1:30.

25 All right. So hold on a minute. All

1 right. So I want to thank all parties for their
2 participation today, and we will reconvene this
3 hearing on February 2, 2022 at 1:30 p.m. Thank
4 you very much.

5 (Whereupon, at 6:04 p.m., the hearing
6 was recessed, to reconvene on February 2, 2022 at
7 1:30 p.m.)
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This is to certify that the foregoing transcript

In the matter of: Eighteenth Street Lounge

Before: DCABRA

Date: 01-19-22

Place: teleconference

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.

Neal R Gross

Court Reporter

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