

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

2 2:08 p.m.

3 CHAIRPERSON ANDERSON: All right, the
4 next case on our calendar is Case Number
5 25-PRO-00026, The Point Fish House/The Point,
6 License Number 111655.

7 Mr. Orellana, can you please move the
8 rights of the parties in this case?

9 MR. ORELLANA: Sure, thing. Frederica
10 Kramer, access elevated; Cameron Mixon, access
11 elevated; Anthony Chase, access elevated; Greg
12 Casten, access elevated; Henry Feaunati, access
13 elevated; and Investigator Tavril Prout, access
14 elevated; and I believe that is it, Chairman.

15 CHAIRPERSON ANDERSON: All right, thank
16 you.

17 MR. ORELLANA: And Matthew Stickney,
18 access elevated.

19 CHAIRPERSON ANDERSON: All right, let me
20 have everyone come on camera. All right, so good
21 afternoon, everyone. So, let me have Mr. Mixon,
22 can you please identify yourself for the record by
23 stating and spelling your name?

24 MR. MIXON: Good afternoon, Cameron
25 Mixon, counsel for the applicant, C-A-M-E-R-O-N

1 M-I-X-O-N.

2 CHAIRPERSON ANDERSON: Good afternoon,
3 sir. The applicant, Mr. Casten, I see that you're
4 in a car. I would hope that you're not in a moving
5 car, sir?

6 MR. CASTEN: I am. I'm just looking for
7 a place to pull over now.

8 CHAIRPERSON ANDERSON: All right, sir.

9 MR. CASTEN: There's a massive pile-up on
10 95, but I'm fine. It's bumper to bumper and I'll
11 be in a parking space in one minute.

12 CHAIRPERSON ANDERSON: All right, so
13 please state your name for the record, sir?

14 MR. CASTEN: I'm Gregory Casten. I am the
15 managing member and 45-percent owner of Greenleaf
16 Buzzard, trading as The Point, and it's sometimes
17 known as Buzzard Point Fish House.

18 CHAIRPERSON ANDERSON: All right, good
19 afternoon, sir, all right.

20 MR. CASTEN: Good afternoon.

21 CHAIRPERSON ANDERSON: All right, thank
22 you. Good afternoon. Ms. Kramer, can you please
23 spell and state your name for the record?

24 MS. KRAMER: Yes, Fredrica Kramer,
25 F-R-E-D-R-I-C-A K-R-A-M-E-R.

1 CHAIRPERSON ANDERSON: And you are,
2 ma'am?

3 MS. KRAMER: I am the Commissioner of ANC
4 6D-07 and I will be testifying. I'm authorized and
5 will be testifying for the ANC 6D at the commission
6 of the hearing.

7 CHAIRPERSON ANDERSON: And you're
8 representing the ANC, is that correct?

9 MS. KRAMER: Correct.

10 CHAIRPERSON ANDERSON: All right. All
11 right, I guess before the hearing starts, I just
12 want to put this on the record. I have not been
13 paying attention to my weekly schedule, so last
14 week, Monday, a friend invited me out to lunch at
15 The Point.

16 So, I just wanted the record to reflect
17 that I had lunch at The Point. A friend invited
18 me out and I went. I wasn't even thinking that there
19 was a protest hearing this week.

20 Last week, Monday, I was there and had
21 lunch, and so, but I don't the fact that I've been
22 to this restaurant and that I had lunch there last
23 week would have no bearing on my decisions and my
24 objectivity today to make a determination on what's
25 the appropriate way of how this protest hearing

1 should end, okay?

2 I just wanted to put that on the record.

3 All right, this is a renewal application, Ms.
4 Kramer. The ANC is not asking us not to renew the
5 -- it is not asking us not to renew the license,
6 is that correct, ma'am?

7 MS. KRAMER: That is correct. We're not
8 asking you not to renew the license, and I'll detail
9 in my testimony that we actually are very supportive
10 of the restaurant. I've eaten there too and it
11 doesn't affect what the issues are that we're
12 bringing to the ABCA Board.

13 CHAIRPERSON ANDERSON: So, since the ANC
14 is not contesting the ruling of the application,
15 will the parties agree that the Board will renew
16 the license and that the rest of the hearing -- it
17 appears that, so it appears that -- is the ANC asking
18 for conditions on the license? Is that what the
19 ANC is asking for?

20 MS. KRAMER: Yes, exactly.

21 CHAIRPERSON ANDERSON: So, could we agree
22 -- could the parties agree that the Board will renew
23 the license and we will use the rest of the hearing
24 to determine what conditions, if any, should be
25 attached to the license? Is that something that

1 we can agree upon?

2 MS. KRAMER: If you're asking me --

3 CHAIRPERSON ANDERSON: Yes, I'm asking
4 you, ma'am, yes.

5 MS. KRAMER: Yes, okay, thank you. I
6 assume that therefore -- yes, we are not contesting
7 their continued ability to operate an alcoholic
8 beverage license. That's correct. We are asking,
9 and I will address in specifics, the conditions that
10 we'd like on this license.

11 CHAIRPERSON ANDERSON: All right, so we
12 will have testimony. So, we'll renew the license
13 and the rest of the hearing will be whether or not
14 we should impose any restrictions on the, any
15 conditions on the license. Do we have an agreement?

16 Well, I know that Mr. Mixon is not going to contest
17 this. That's why I'm addressing it to you from the
18 protestant.

19 MS. KRAMER: Yes, as I understand your
20 question and I will make clear, we are not asking
21 the Board to deny them a license. What we are asking
22 is that license should include conditions, which
23 I will spell out.

24 CHAIRPERSON ANDERSON: All right, that's
25 fine. Do we need the investigator to testify today?

1 Is there any testimony that the ANC would elicit
2 from the investigator or can we release the
3 investigator?

4 MS. KRAMER: Yes, I'm not anticipating
5 asking the investigator.

6 CHAIRPERSON ANDERSON: All right, Mr.
7 Prout, thank you for being here today. Only Ms.
8 Kramer can speak. Ms. Kramer is the representative
9 from -- I'm only dealing right now with the
10 representative.

11 If someone has an objection, you need to
12 talk to Ms. Kramer before -- so, I'm not going to
13 allow anyone else to speak, so you have to talk to
14 Ms. Kramer, if you need a minute to text her, but
15 I'm only speaking to the representative of the
16 parties.

17 MR. MIXON: If I may, Mr. Chair?

18 CHAIRPERSON ANDERSON: Yes, Mr. Mixon?

19 MR. MIXON: The applicant would like to
20 have brief investigator testimony if possible.

21 CHAIRPERSON ANDERSON: Okay, that's fine
22 then. I mean, the Board -- there is no need for
23 the Board themselves to ask questions, so the
24 investigator, then we'll have the investigator.

25 Because normally, the way this case

1 proceeds is that the Board will call its first
2 witness, which is Investigator Prout. We would
3 have him go through his report, then we would have
4 questions, and then the licensee would have an
5 opportunity to ask direct questions, and then the
6 ANC would have questions.

7 So, we're going to dispense with -- the
8 Board will dispense with asking questions of Mr.
9 Prout, but we'll have him available to answer
10 questions, and so what I would ask that the parties
11 do is that I would ask that the parties call him
12 as a witness first, and so we can dispense with him,
13 okay?

14 And so, basically, where we are today is
15 that the Board will renew the license. We will
16 spend the rest of this hearing eliciting testimony
17 on whether or not there should be, what conditions,
18 if any, should be imposed on the renewal of the
19 license, okay?

20 All right, so what I would ask that the
21 parties do, so we'll start with opening statements.

22 I'll have you, Mr. Mixon, provide an opening
23 statement. You can state what it is that you're
24 asking us to do.

25 Then, Ms. Kramer, you can either give an

1 opening statement at this juncture or you can, when
2 you are ready to present your case, you can give
3 your opening statement at that point, but you'll
4 have that option whether or not you want to do the
5 opening statement now or later, okay? All right,
6 so any questions before we start? Okay, go ahead,
7 Mr. Mixon.

8 MR. MIXON: Thank you, Mr. Chair. Mr.
9 Chair and members of the Board, Greenleaf Buzzard,
10 LLC, the licensee in this renewal protest, will show
11 that its Class C restaurant license should be
12 renewed without further conditions needing to be
13 imposed by this Board.

14 The licensee was initially granted its
15 license via a Board order back in 2019, and the
16 licensee then opened for business in April 2021,
17 and has operated for nearly five years without any
18 adverse impacts on the peace, order, and quiet of
19 the Buzzard Point neighborhood.

20 Mr. Gregory Casten, an experienced
21 restaurant operator within the District, that
22 previously testified before this Board as part of
23 that initial application process, will testify
24 today that there has been no history of problems
25 arising out of the establishment's operations.

1 In addition, we will hear from a nearby
2 resident, Henry Feaunati, who can attest to having
3 new issues with the licensee's operation, and who
4 is in support of the licensee's renewal application
5 being granted without condition.

6 Such testimony will demonstrate that the
7 licensee has been a positive contributor to the
8 community, and accordingly, this Board should
9 approve the renewal of this license without
10 condition.

11 CHAIRPERSON ANDERSON: Thank you, Mr.
12 Mixon. Ms. Kramer, do you wish to make an opening
13 statement now or do you want to defer until you
14 present your case?

15 MS. KRAMER: I will just, I will detail
16 in my testimony -- I'm happy to have the opportunity
17 to be heard today, but I'm going to detail our
18 conditions in our testimony.

19 I'd like simply to say, which reiterates
20 where we already have just come, we welcome and
21 support the applicant's establishment in our
22 community. We're only seeking conditions on the
23 license to be both consistent with others and
24 supportive of the residents' needs, so that's why
25 we're here.

1 CHAIRPERSON ANDERSON: All right, thank
2 you. Mr. Mixon, you stated you want to call the
3 investigator, so you can call the investigator.

4 So, Mr. Prout, can you please -- I'll unmute you.

5 So, can you raise your right hand, sir, please?

6 Do you swear or affirm to tell the truth?

7 INVESTIGATOR PROUT: I do, Mr.

8 Chairperson. Good afternoon.

9 CHAIRPERSON ANDERSON: All right, good
10 afternoon. Can you please state and spell your name
11 for the record, sir?

12 INVESTIGATOR PROUT: Yes, sir, my name is
13 Investigator Tavril Prout, T-A-V-R-I-L P-R-O-U-T.

14 CHAIRPERSON ANDERSON: And where are you
15 currently employed, sir?

16 INVESTIGATOR PROUT: I'm currently
17 employed with the Alcoholic Beverage and Cannabis
18 Administration.

19 CHAIRPERSON ANDERSON: All right, go
20 ahead, Mr. Mixon.

21 MR. MIXON: Thank you, Mr. Chair.

22 DIRECT EXAMINATION

23 BY MR. MIXON:

24 Q Mr. Prout, prior to today's protest
25 hearing, did you perform an investigation related

1 to The Point?

2 A Yes, I was assigned at a protest hearing
3 on the matter in the latter part of June of 2025.

4 Q And are you familiar with the protest
5 report that is part of the record in this matter?

6 A Yes, sir.

7 Q As part of preparing the protest report,
8 did you visit the establishment?

9 A Yes, I conducted a regulatory inspection
10 on June 30, 2025.

11 Q And in your time visiting the
12 establishment, did you observe any concerns with
13 its operations or anything that might give rise to
14 a violation?

15 A No, there were no overall concerns that
16 I had about the day-to-day operations of the
17 establishment. The establishment was also
18 monitored on multiple days as well during the time
19 in which the report was being drafted.

20 Q Did you say that was based on multiple
21 observations?

22 A Yes, the establishment was monitored on
23 June 23, June 26, I'm sorry, June 23 from 9:00 p.m.
24 to 1:15 a.m., on June 26 from 1:00 a.m. to 4:00 a.m.,
25 June 30 from 9:47 p.m. to 10:25 p.m., and July 6

1 from 9:10 to 9:30 p.m., on which there were no ABCA
2 violations observed during those monitoring
3 periods.

4 Q Thank you for that level of detail. As
5 also part of your investigation, have you spoken
6 with any of the parties involved in this matter?

7 A So, I sent email correspondence to both
8 the licensee, as well as the ANC chairperson. I
9 did receive email responses from both parties. The
10 ANC, Ms. Kramer, advised that she was optimistic
11 that an overall agreement would be reached between
12 the licensee and the ANC, and that was the basis
13 of her email correspondence and resulted in
14 soliciting her formal statement on behalf of the
15 ANC, as well as the licensee, in which I had
16 contacted you, Mr. Mixon, and advised that the
17 licensee didn't have any concerns of how they have
18 been operating up to this current point, and that
19 there were no overall concerns as a result of the
20 protest period.

21 So, those were, those correspondences were
22 sent out on Monday, June 30. Responses were
23 received from Commissioner Kramer on July 1, and
24 an email correspondence was drafted to you on
25 Monday, June 23, and an email response was drafted

1 by you on Wednesday, June 25, 2025.

2 A And in any of that investigative
3 correspondence, were there any specific aspects of
4 the points of operations that were identified as
5 potentially having an adverse impact on peace,
6 order, and quiet?

7 Q No. So, the basis of the protest was
8 adverse impact on peace, order, and quiet of the
9 community. And so those segments or statements
10 were requested from both parties, the ANC and the
11 licensee, and there were no answers generated in
12 reference to an adverse impact on peace, order, and
13 quiet, as advised by the ANC as well as the licensee.

14 MR. MIXON: Thank you, Investigator
15 Prout. No further questions, Mr. Chair.

16 INVESTIGATOR PROUT: Thank you.

17 CHAIRPERSON ANDERSON: Ms. Kramer, do you
18 have any questions of the witness?

19 MS. KRAMER: No, sir. I think I would
20 wait until I give my testimony.

21 CHAIRPERSON ANDERSON: No, but I'm saying
22 you can cross-examine him if you wish. That's what
23 I'm saying. Do you have any questions of him?

24 MS. KRAMER: I understand. Okay, let me
25 ask one question.

1 CROSS-EXAMINATION

2 BY MS. KRAMER:

3 Q You said you were there. I missed -- I
4 was trying to take notes fast, quickly. You said
5 you were there at 1:15, the two visits, 1:15 a.m.
6 and one at 4:00 a.m., is that correct?

7 A So, I visited the establishment,
8 Commissioner Kramer, on June 23, 2025, from 9:00
9 p.m. to 1:15 a.m.; on Thursday, June 26, 2025, from
10 1:00 a.m. to 4:00 a.m.; and June 30 from 9:47 p.m.
11 to 10:25 p.m.; and Sunday, July 6, 2025, from 9:10
12 p.m. to 9:30 p.m.

13 Q Can you just repeat? I'm sorry. On the
14 30th, you visited from 9:47, did you say?

15 A Yes, ma'am.

16 Q To 2:25?

17 A To 10:25.

18 Q I'm sorry.

19 A Yes, ma'am, until 10:25 p.m.

20 Q 10:25 p.m. And on the last visit, it was
21 from 10:00 p.m. to?

22 A No, from 9:10 p.m.

23 Q Say it again? I'm sorry.

24 A From 9:10 p.m.

25 Q Right.

1 A To 9:30 p.m.

2 Q Thank you. And what date was that?

3 A That was on Sunday, July 6.

4 MS. KRAMER: July 6. Okay, thank you very
5 much. I needed that. Thank you.

6 No, I have no further questions. Thank
7 you.

8 CHAIRPERSON ANDERSON: Thank you. Mr.
9 Prout, I need you to make a correction to your report
10 for your visit. You stated in, at least what's
11 written in the report is that you visited from 9:00
12 p.m. until 1:15 p.m., so --

13 INVESTIGATOR PROUT: Yes, and --

14 CHAIRPERSON ANDERSON: Go ahead, sir.

15 INVESTIGATOR PROUT: So, that was a typo.

16 Rather than it being p.m., it should have been 1:15
17 a.m., because my shift is from 7:30 p.m. to 4:00
18 a.m.

19 CHAIRPERSON ANDERSON: Yes, I need you to
20 correct this report so the record will reflect --

21 INVESTIGATOR PROUT: Yes.

22 CHAIRPERSON ANDERSON: -- the correct
23 time of your visit. Any questions by any Board
24 members? Go ahead.

25 MEMBER GRANT: Just really quickly. It

1 feels like you've answered it, but just to be sure
2 and explicit, Investigator Prout, when you went to
3 the establishment, did you feel any obstruction of
4 your ability to do your work? What was the
5 interaction like with staff? Did you feel like they
6 were allowing you to do what you normally do in your
7 duties?

8 INVESTIGATOR PROUT: Yes, so during my
9 visit to the establishment, the establishment staff
10 was very helpful in assisting questions that needed
11 to be answered for the regulatory inspection.

12 They allowed me to come in, and once most
13 of the patrons were finished for the evening, to
14 come in and take overall pictures of the
15 establishment on the exterior and the interior of
16 the establishment, but I had no general concerns.

17 I believe that the establishment was
18 operating in line with ABCA's laws. They did close
19 on time, and they were following the alcohol sales
20 that's listed on their alcohol license as well.

21 MEMBER GRANT: Thank you for that. No
22 further questions.

23 CHAIRPERSON ANDERSON: Any other
24 questions by any other Board members? Mr. Prout,
25 what are the approved hours of operation for this

1 establishment?

2 INVESTIGATOR PROUT: Board's indulgence
3 while I pull up the license. The hours of sales,
4 Mr. Chair, on Sundays, it's from 8:00 a.m. to 2:00
5 a.m., from Sunday through Thursday and then Friday
6 and Saturday from 8:00 a.m. to 3:00 a.m.

7 CHAIRPERSON ANDERSON: So, that's the
8 hours of sales. What are the hours of operation?

9 INVESTIGATOR PROUT: The hours of
10 operation are from 7:00 a.m. to 2:00 a.m. Sunday
11 through Thursday, and 7:00 a.m. to 3:00 a.m. Friday
12 through Saturday.

13 CHAIRPERSON ANDERSON: So, what are the
14 hours of live entertainment?

15 INVESTIGATOR PROUT: The live
16 entertainment hours, from Sunday through Thursdays
17 are from 6:00 p.m. to 2:00 a.m., and then from 6:00
18 p.m. to 3:00 a.m. on Fridays and Saturdays.

19 CHAIRPERSON ANDERSON: Now, does this
20 establishment have a sidewalk café?

21 INVESTIGATOR PROUT: They do not, but they
22 do have a summer garden.

23 CHAIRPERSON ANDERSON: Your report says
24 sidewalk operations, so I guess -- all right, so
25 what are the hours of this summer garden then?

1 INVESTIGATOR PROUT: The operation hours
2 are from 7:00 a.m. to 12:00 a.m. Sunday through
3 Thursday, and then on Friday and Saturday, it would
4 be from 7:00 a.m. to 2:00 a.m.

5 CHAIRPERSON ANDERSON: Are there any
6 other establishments within 1,200 feet of this
7 establishment?

8 INVESTIGATOR PROUT: Mr. Chair, Board's
9 indulgence. I believe there were possibly two or
10 three. Board's indulgence. So, there were two
11 others. It was Hen Quarter, which is on the
12 backside of the establishment, as well as Riverpoint
13 DC, in which they all share the general building,
14 so The Point would be --

15 (Simultaneous speaking.)

16 INVESTIGATOR PROUT: I'm sorry?

17 CHAIRPERSON ANDERSON: How many, in your
18 report, I mean, what -- were these two
19 establishments listed or how many establishments
20 were listed? I just need you to testify on what's
21 in your report.

22 INVESTIGATOR PROUT: So, there's only
23 two. It would be Hen Quarter and Riverpoint DC.

24 CHAIRPERSON ANDERSON: All right, so do
25 you know the hours of operation for Hen Quarter?

1 INVESTIGATOR PROUT: Not offhand, Mr.
2 Chair.

3 CHAIRPERSON ANDERSON: Okay, all right.

4 All right, thank you for your testimony today, Mr.
5 Prout. I -- no, you know what? I'm sorry. It's
6 your witness, Mr. Mixon. Do you have any questions
7 for the witness based on the questions that were
8 asked by the Board?

9 MR. MIXON: No, Mr. Chair.

10 CHAIRPERSON ANDERSON: Ms. Kramer, no,
11 you don't have any questions? All right, all right.
12 Any questions, Ms. Kramer?

13 MS. KRAMER: No, no, I was -- I just
14 unmuted myself to say no. Thank you.

15 CHAIRPERSON ANDERSON: All right, thank
16 you. Mr. Prout, thank you very much for your
17 testimony today. Have a great day.

18 INVESTIGATOR PROUT: Thank you all.

19 CHAIRPERSON ANDERSON: All right, Mr.
20 Mixon, do you have a witness you wish to call?

21 MR. MIXON: Yes, Mr. Chair. At this time,
22 I'll call Gregory Casten.

23 CHAIRPERSON ANDERSON: All right, Mr.
24 Casten, are you -- have you pulled over, sir?

25 MR. CASTEN: I'm parked, yes, sir.

1 CHAIRPERSON ANDERSON: All right, can you
2 raise your right hand, sir? Do you swear or affirm
3 to tell the truth and nothing but the truth?

4 MR. CASTEN: I do, yes.

5 CHAIRPERSON ANDERSON: All right, sir.
6 Your witness, Mr. Mixon.

7 MR. MIXON: Thank you, Chair.

8 DIRECT EXAMINATION

9 Q Mr. Casten, can you please tell us what
10 is your connection to the establishment?

11 A I'm the founder, and general partner, and
12 majority shareholder.

13 Q And what is your experience as an operator
14 of alcoholic beverage licensed establishments?

15 A I've been operating ABC or ABCA licensed
16 establishments since 1983 in Washington, D.C.,
17 starting with The Dancing Crab was my first one,
18 Tony and Joe's, Nick's Riverside Grill, Ivy City
19 Smokehouse, The Strand, and this one, The Point,
20 and a couple of others that are no longer with us.

21 Q Understood, that's quite a lot. Can you
22 please give us a quick overview of the concept for
23 The Point?

24 A The Point is modeled after the fishing
25 industry. I actually grew up working on a lobster

1 boat, and if you look at it, all of the accouterments
2 and design is based on fishing in one way or another.

3 Some people get that and some don't. It was always
4 meant to be a fun dining establishment along the
5 water.

6 Two of my other businesses are on the water
7 and I have great experience with that. They too
8 are in mixed-use facilities, and so that was the
9 purpose for the selection of the location and the
10 motif.

11 I also own a fish wholesale company, and
12 so, you know, it's spokes on the wheel, as I like
13 to say, sales for the fish wholesale company and
14 the fish restaurant.

15 Q How long has The Point been operating?

16 A You know, the build-up, again, was
17 pre-COVID in 2019, and we did not, unfortunately,
18 due to that, finish until, I want to say, April of
19 2021 was the opening. I think technically we tell
20 everyone May 3, but we actually opened a couple of
21 weeks in 2021, so almost five years. In three
22 months, it will be five years old.

23 Q Early congratulations. Has the license
24 been renewed previously, since that opening?

25 A Yes, I think once or maybe twice. I think

1 it's three-year licenses, but we may have had the
2 licenses during the construction period and time
3 expired on it then, so there may have been a renewal
4 in between, but I know definitely one, you know,
5 we paid the three-year term.

6 Q And can you tell us what hours the
7 restaurant typically operates?

8 A The restaurant is actually usually closed
9 at 10:00 or 10:30. It's up to Matthew's discretion,
10 who is my general manager and also here now, based
11 on volume of business on those nights.

12 Monday night, I may stay open until
13 midnight during the NFL season if there's a game
14 on and enough patrons that want to be there, but
15 generally, the crowd will dictate, and so we don't
16 tend to try to stay open later.

17 On Thursday, Friday, and Saturday, we stay
18 open until a minimum of midnight and then make the
19 judgment call predicated on whether or not there
20 was perhaps a soccer game or some compelling reason
21 to capture revenue that would not be captured
22 otherwise.

23 Q And what hours do you typically operate
24 the summer garden?

25 A The summer garden is until volume every

1 day, and is never later than 10:00, except on
2 Thursday, Friday, and Saturday, which it will go
3 right up until the midnight hour. You know, it
4 might not be empty at midnight, but it's empty by
5 12:30 as people are leaving and finishing their
6 meal. They're not feeding it after 11:00. We will
7 let you go to the outside bar, but we won't take
8 you for dining.

9 And the kitchen is going to be closed at,
10 you know, it'll stop at 10:45 and we won't want to
11 seat anybody, but there may still be a few orders
12 coming in, and so as we're breaking and cleaning
13 the kitchen down, people may stay there, and, of
14 course, they may drink alcohol, and do sometimes
15 at the bars.

16 Q Okay, and what feedback, if any, have you
17 received about the hours in which you operate?

18 A You know, specifically, I've never really
19 received -- there are some people that say, oh, you
20 should do this and stay open later, and you should
21 have people in there, and you can really make that,
22 you know, into something that it isn't, and I resist.

23 That's not what the purpose of having a restaurant
24 is. We're not a nightclub.

25 But nobody makes comments as, you know,

1 if anything, we're not open enough in the morning,
2 in the early morning before 10:30 or 11:00. Some
3 people want breakfast. But nobody certainly
4 complains that we're open too late, just the
5 opposite.

6 They would like to see us, and particularly
7 a number of people in the building would like to
8 see us open later, and with, perhaps, events that
9 would draw them down or provide entertainment for
10 them, because it is such a hard building to get to.

11 This building is at the end of an isthmus, and so,
12 but to my knowledge, those are the only comments
13 negative to our hours of operation, that they're
14 too confined.

15 Q Very good. And can you tell us, how
16 helpful is it to the business to have the hours for
17 which you are current approved?

18 A It is absolutely imperative because you
19 want to be able to take advantage of gathering
20 revenue whenever it is that you can, and you never
21 know when those opportunities are going to present
22 themselves. And if a wedding comes in and they want
23 to be there until 2:00 in the morning, we don't want
24 to tell them no.

25 We want to be cognizant and aware of the

1 residents and the neighbors, and we certainly would
2 make the patron of such restrictions and obligations
3 that we have, but we wouldn't want to be forced to
4 say no because we've signed an agreement or have
5 restricted hours. I think that answers it.

6 Q And do you have any measures in place or
7 is there anything that the establishment does to
8 kind of control its sound output, audio footprint?

9 A So, back when we were first open, there
10 was a number of complaints to ABCA. I think you
11 can look in our history, and not one of them produced
12 us out of decibel. And in the middle of that, we
13 bought, I think we have two decibel readers, and
14 Matthew or one of the other managers is trained to
15 use them and will bring them out from time to time
16 and just take a look at them to make sure.

17 And, you know, not certainly at 7:00 or
18 8:00 at night, but as we get into the later night,
19 if it happens to be a rowdy or a larger crowd, the
20 establishment has a 380-person occupancy.

21 We will be cognizant of that, and
22 especially outside, because we realize, you know,
23 we've got a roofed-in summer garden with a quadruple
24 lining of fabric that mutes all of the noise, but,
25 you know, a lone voice can often travel and be

1 disruptive, and we want to be --

2 Again, our experience at Washington Harbor
3 leads us to be aware of and cognizant that people
4 live there too, and we have to live and get along.

5 So, yes, we do have those decibel machines, and
6 yes, from time to time, we look at them.

7 Q And what feedback, if any, have you
8 received about the noise output, at least in the
9 last couple of years?

10 A No feedback, other than when this request
11 came about, we started to solicit people that we
12 knew who lived within the community upstairs, and
13 we heard repeatedly we can't hear a thing, what you
14 do doesn't bother us, there are no problems.

15 So, other than feedback that I went out
16 to solicit, or myself and Matthew, and other
17 managers, from many of our regulars that come in,
18 people that we meet in the gym, some of us, not me,
19 but some of us work out in the building a lot, and
20 they ask around and interact with people, and we
21 have heard no negative feedback.

22 I don't believe we've ever taken a phone
23 call requesting us to turn down volume or do
24 anything. I don't want to speak out of turn because
25 Matthew might have had that occur, and then I'm

1 positive it would have been addressed immediately
2 upon our knowledge of it, but I don't think it's
3 ever happened.

4 Q Thank you. What can you tell us about The
5 Point's history with respect to any ABCA violations
6 or investigation?

7 A Well, there's two that I forgot about that
8 I looked at when I saw that report. One of them
9 was a manager not on duty, and I believe that we
10 have a contract where we go offsite to do some
11 deliveries, and the manager inadvertently didn't
12 think about the fact that he was the person there
13 with the license and left, and we were cited for
14 not having a manager on duty.

15 And then my controller of 30 years, Julie,
16 in her absence, for the first time, I believe, in
17 30 years, where all five of our establishments
18 missed the filing day by one day, and unfortunately,
19 both of those resulted in violations, but any onsite
20 violations, or noise, or unruly behavior, nothing.

21 There was an incident that occurred
22 outside our building that was disturbing, but,
23 because it was our patrons in a private affair, but
24 it did not involve the establishment at all. No,
25 that's it.

1 Q And so, anything in the primary tier for
2 ABCA purposes?

3 A No. No underage, no after hours, no
4 employees drinking after it's closed.

5 Q Okay, and, should your license be renewed
6 without conditions, how do you anticipate your
7 operations to be in the coming license period?

8 A To continue the same way we have been, and
9 to be open and available to anyone in the community
10 who has any issue whatsoever and to address that
11 issue immediately, and if not, to be open to further
12 discussions with the Board, but I don't anticipate
13 that happening.

14 But that is our modus of operandi of if
15 somebody has an issue, we would like to speak to
16 them one on one, and if we can understand what it
17 is and change our operation if necessary, or at a
18 minimum, be cognizant of the issue, then we will,
19 and we would prefer to address it that way.

20 To our nature and to our knowledge, nothing
21 has been brought to our attention that merits
22 changing any of our current behavior or practices,
23 or operational practices.

24 MR. MIXON: Thank you, Mr. Casten. No
25 further questions.

1 CHAIRPERSON ANDERSON: Ms. Kramer, do you
2 have any questions of Mr. Casten?

3 MS. KRAMER: I do, thank you.

4 CROSS-EXAMINATION

5 BY MS. KRAMER:

6 Q Thank you, Mr. Casten. We still have some
7 questions. Let me clarify. You do play recorded,
8 and occasionally, presumably, live music, both
9 indoors and outdoors, isn't that correct?

10 A You know, we may have an acoustical version
11 outside. I can't deny that, but in the nature of
12 where the entertainment would go, it's inside, and
13 yes, there is recorded music, I mean, whatever,
14 electronic, you know, radio --

15 (Simultaneous speaking.)

16 Q Well, let me be clear. Let me be clear.
17 And let's -- let me make sure that I understand
18 it and the Board understands it. You have speakers
19 installed outside in the summer garden and one can
20 see that, and they are directed --

21 (Simultaneous speaking.)

22 Q Yes, okay, and so sometimes, if not
23 routinely, you can answer that, you play recorded
24 music outside. Aren't those --

25 (Simultaneous speaking.)

1 Q Okay, aren't those directed out, which
2 potentially projects sound away from the building?

3 A They're actually up in the upper, you know,
4 it's a 20-foot high structure that supports, and
5 it's an all-steel structure this air and watertight
6 roof, and they're attached to that pointing
7 downward.

8 Q Well, I think we'd have to -- I don't know.
9 I'd like to give the Board, if we need to do this,
10 photographs of the -- I don't know that it's 20-feet
11 high. I've been to that outside place many times.

12 They are directed essentially out. When they're
13 directed down as well, that's true, but they're
14 directed out of the building, not outside of the
15 building into the building.

16 CHAIRPERSON ANDERSON: Ms. Kramer, do you
17 have an exhibit that you want to have --

18 MS. KRAMER: I don't have an exhibit. If
19 we can add to our record, I'd like to have an exhibit
20 because obviously this is critical and --

21 (Simultaneous speaking.)

22 CHAIRPERSON ANDERSON: Unfortunately,
23 you can't add to the record, so if it's not in the
24 record, then you can't add it to the record.

25 MS. KRAMER: Okay.

1 CHAIRPERSON ANDERSON: All right, go
2 ahead.

3 MS. KRAMER: All right, let me ask you,
4 if you -- let me ask first, Mr. Casten, how do you
5 know that the music outdoors, that is played
6 outdoors, is audible outside the premises? How do
7 you know that?

8 MR. CASTEN: Outside of the summer garden,
9 you mean, or --

10 MS. KRAMER: That's right.

11 (Simultaneous speaking.)

12 MR. CASTEN: So, again, as I stated, the
13 manager, Matthew, and the others, will, on occasion,
14 take the decibel reader and go outside, and it may
15 be audible, but it is not in violation of the decibel
16 number levels that are allowed.

17 (Simultaneous speaking.)

18 MS. KRAMER: Okay, let me come back to
19 that.

20 CHAIRPERSON ANDERSON: Ms. Kramer, allow
21 him to finish before you ask the next question.

22 MS. KRAMER: Sorry, I thought -- go ahead.
23 Excuse me, I did not mean to interrupt you. Go
24 ahead.

25 MR. CASTEN: That's okay. I've said

1 enough on it. That's --

2 MS. KRAMER: No, no.

3 MR. CASTEN: No, we check and we're aware
4 that the music can be -- you know, people live there.
5 We get it and we have experience, like I say, with
6 that, so we will, on occasion, check outside, and
7 inside or outside the front door.

8 BY MS. KRAMER:

9 Q Okay, I'm glad to hear that. Is there
10 documentation of how often you -- first of all, what
11 decibel level you're aiming to do, what's your
12 internal standard, or are you following code in some
13 way? Please help us understand that, and do you
14 have documentation about when you have checked this
15 and what the documentation is?

16 A So, we have a nightly report that is filed
17 via email to Matthew or by Matthew to an email site,
18 and in those reports, from time to time, will be
19 a reference to what was -- I don't know if we're
20 recording the level that we recorded, but there will
21 be a reference to, well, I felt I should check or
22 went outside and used the reader, but I don't know
23 that they're recording the reader.

24 They're definitely recording if somebody
25 makes a complaint, which is, so -- that's not meaning

1 to be deceitful, but, you know, there's almost 2,000
2 individual days of these reports and I did not go
3 through them in preparation to talk here today, but
4 they are supposed to record such, you know,
5 activity, the managers.

6 If anybody complains, if there's any food
7 issues, if there's any violence, if there's any
8 interaction with the waiters that is negative or
9 complained about, if there are any loud noises or
10 uncommon events, if somebody comes in and starts
11 screaming and then goes out, we've had them all,
12 and all of those will be recorded.

13 So, throughout those reports, from time
14 to time, there may very well be a reference to, oh,
15 I thought it was loud and I went out and checked.

16 I would have to go through the reports --

17 (Simultaneous speaking.)

18 Q Who sees these reports? Where are they
19 recorded?

20 A Matthew is generally who goes over them.

21 And then from time to time -- and by that, I mean,
22 you know, once every three to five days, or maybe
23 seven days at the most -- I will sit down with Matt
24 and just go over, okay, tell me about the week.

25 What happened? Did you have anything I should know

1 about, you know?

2 If there was any incident of, you know,
3 like if ABCA shows up, he's going to tell me, and
4 I'll be like what happened? Were they called? No,
5 it was a regular inspection. Our paperwork was all
6 good, blah, blah, blah. I walked them through.
7 I'm like great.

8 But, you know, that's the type of
9 interaction I'll have. Oh, so-and-so was here for
10 dinner and, you know, he brought four people, or
11 six people, and they had a great meal, and he said
12 thank you and he loved his experience. Those are
13 the types of interactions that Matt and I will
14 discuss.

15 Q So, I'm asking very specific -- I don't
16 -- I appreciate your candor and your detail, but
17 I'm asking only about reports on sound, so let me
18 ask it again, and if you don't know it, that's fine,
19 but I'd like to know.

20 What measure are you using to make a
21 judgment about, that the sound is audible, it's too
22 loud or audible beyond, potentially audible beyond
23 the restaurant? That's the first question. What
24 measure are you using? And how often have you
25 looked at that and how can you report to us what

1 it is you're seeing?

2 A I haven't -- I explained how I would have
3 to go back and report the frequency. I cannot give
4 you the numbers. I believe the number we're looking
5 for is 65 or 55 decibels?

6 It's taped on the machine what the law is
7 and it just escapes me at this moment, of course.

8 I can -- Matthew would be able to testify to that
9 specifically because I'm not the one that's really
10 ever using that machine.

11 Q No, but what I'm asking you -- I'll just
12 do one more and then I want to move to the next point.

13 If you know that you're shooting for 55 or 65
14 decibels, and you're not sure about that, what the
15 standard is in the law, how often have you seen
16 testimony to that effect? How often have you seen
17 something that -- how often have you looked at
18 decibel reports and how often have you seen any issue
19 with that?

20 A Again, I haven't reviewed any reports
21 lately. I don't -- it's been a long time since we've
22 had a talk about loudness, four or five years ago
23 when we were first establishing our routines, and
24 again, as I indicated, ABCA was coming down every
25 night.

1 There was one particular resident who
2 continually called over and over again, and during
3 that time, it was multiple times, and I was aware
4 of the numbers, and they were always below what the
5 law required.

6 Subsequent to that, we haven't had any
7 complaints whatsoever from any resident that I'm
8 aware of, and Matthew and I have not really talked
9 about what level. I think he has mentioned -- I
10 don't think I know he's mentioned oh, I'm took the
11 decibel machine around just to get a feel for what
12 was going on and everything was fine. I didn't say
13 did you get a 58, a 52? What were you numbers?
14 I did not. I understood Matthew, who is also
15 experienced to be able to make that evaluation, and
16 if, in fact, he did find that it was close, or over,
17 or even sounded loud in spite of what the reading
18 read, he knows and the manager knows to turn it down.

19 MS. KRAMER: Okay, let me ask a different
20 question if the -- Chairperson Anderson, would it
21 be possible to ask for a short video to be shown
22 by -- that the speakers, first of all, are mounted
23 at the outside edge of the summer garden, facing
24 away from the restaurant and audible? And may I
25 have Mr. Chase, who is with me from the ANC, can

1 he share his screen to show that? Is that possible?

2 CHAIRPERSON ANDERSON: Is this one of your
3 exhibits?

4 MS. KRAMER: We did not -- I don't think
5 we put it in as a formal exhibit.

6 CHAIRPERSON ANDERSON: If it's not --

7 MS. KRAMER: But I can also call, I can
8 call him as a witness when we move on.

9 CHAIRPERSON ANDERSON: You can call him
10 as a witness then.

11 (Simultaneous speaking.)

12 MS. KRAMER: Okay, I'll call him as a
13 witness, okay. The other -- that's fine. And
14 could I also show -- and I can do it at that point.

15 I didn't put this in as an exhibit, The Point's
16 virtual tour of the website, which shows that the
17 speakers project out. So, just for the record, I
18 will try to show it later when we move forward.

19 Let me ask a couple more questions on the
20 sound issue that we've been talking about. Is there
21 a monitoring device to measure the sound that
22 carries, whether it would carry upstairs? Is there
23 anything that would show that, that you have?

24 MR. CASTEN: I mean, you could take our
25 decibel reader and go upstairs.

1 BY MS. KRAMER:

2 Q No, that's not my question. My question
3 is -- I mean, I'm trying to understand, since there
4 have been complaints, as you've said, what carries
5 upstairs? That's all I'm asking, so, if there's
6 something that would show that upstairs. You'd
7 have to have the measure in a different location.

8 If the answer is no, the answer is no.

9 And my last question on this amplified
10 sound business is do you know that the restrictions,
11 are you aware of the fact that the restrictions,
12 both in the Hen Quarter and the Breezy restaurants,
13 which are the two adjoining yours, to control sound
14 penetration to the residents?

15 A I have no idea what their restrictions are
16 or otherwise. I don't think I understand the
17 question, but I don't know what their restrictions
18 are. If you're talking about in a settlement
19 agreement like we're asking for here, I don't know
20 what they have in theirs.

21 (Simultaneous speaking.)

22 MS. KRAMER: That's what I wanted to
23 establish.

24 MR. CASTEN: And if --

25 MS. KRAMER: That's fine.

1 MR. CASTEN: All right.

2 CHAIRPERSON ANDERSON: Mr. Casten, you
3 have answered the question, sir.

4 BY MS. KRAMER:

5 Q Yes. Last question. Do you -- I believe
6 your kitchen generally closes at 10:00. Is that
7 what you -- I think you just testified to that?

8 A 11:00 Thursday, Friday, and Saturday, it
9 should be, at least in season, not when there's eight
10 inches of snow on the ground, no.

11 Q We're all having that problem. Say it
12 again? I'm sorry. Your kitchen closes at 10:00
13 --

14 A 11:00.

15 Q -- on the weekend? 11:00?

16 A And 10:00 during the week. But on
17 Thursday, Friday, and Saturday.

18 Q Thursday, Friday, and Saturday, and 10:00
19 during the week, okay.

20 A On occasion, if there is an event or a
21 special request, we will still have items come out
22 of the kitchen. That's usually more of a buffet
23 setting and not a --

24 (Simultaneous speaking.)

25 Q All right, thank you. I have no further

1 questions on this. Oh, let me ask you one more,
2 excuse me. Just for the record, there are no
3 permanent -- you did specify that there is some
4 curtaining on the outside areas. There are no
5 permanent enclosures separating the summer garden
6 from the residences, is that correct?

7 A Well, the cost sure makes it feel
8 permanent. As I said, it's quadruple layers of
9 heavy-duty fabric with steel that took --

10 (Simultaneous speaking.)

11 Q It's plastic, isn't that right?

12 A Oh, the walls? Yes. What's on the roof,
13 no. The walls are plastic, correct.

14 Q Okay, but let me be clear. Okay, so that
15 the Board understands, so the vertical spaces, the
16 curtaining essentially, is plastic, and the roof,
17 which is retractable, is fabric. Is that correct?

18 A Yes.

19 MS. KRAMER: Okay, that's all.

20 (Simultaneous speaking.)

21 MS. KRAMER: I just wanted to be clear.

22 Okay, thank you.

23 MR. CASTEN: And --

24 CHAIRPERSON ANDERSON: No, if you need to
25 follow up, Mr. Mixon needs to ask you that, sir.

1 You have answered the question.

2 MR. CASTEN: Okay.

3 CHAIRPERSON ANDERSON: Okay, are you
4 done, Ms. Kramer?

5 MS. KRAMER: I am. Thank you.

6 CHAIRPERSON ANDERSON: Any questions by
7 any Board members? Go ahead, Mr. Grant.

8 MEMBER GRANT: Like you, Mr. Chair, I also
9 recently visited The Point, so I want to put that
10 on record as well, not that long ago, not realizing
11 it was on the agenda, again, so forgive me if there
12 were any challenges with that.

13 Mr. Casten, you mentioned -- well, first
14 of all, thank you for being here. You mentioned
15 that you've been a part of ownership for a number
16 of entities that are restaurant-based in this city.

17 We don't have, I believe, any witnesses
18 from any of those communities, but I'm just curious,
19 if you could, describe your relationships in those
20 areas with the ANC commissioners and civic
21 associations in the areas where the other
22 establishments are located?

23 MR. CASTEN: In Georgetown, we have an
24 excellent relationship with both the ANC and the
25 Citizens Association of Georgetown. We do have a

1 settlement agreement there, which came after we
2 opened back in the early 90s, when Georgetown had
3 sort of a different vibe to it and there were a lot
4 of young people that ended up down on the water,
5 and it was loud, and rambunctious, and in all of
6 our interests to agree to that. That is essentially
7 the agreement we have there.

8 We're also in -- well, to go back,
9 Washington Harbor is 32 condominiums. It's 500,000
10 square feet, with offices in between and retail on
11 the bottom, and we have coexisted with all of them
12 for 37 years without any issues whatsoever.

13 In Ivy City, we have no issues. We have
14 no settlement agreement. We've had no violations
15 that I recall, other than the same one with the late
16 filing. The same person did that. And we get along
17 very well with the community and do a number of
18 different things for the community.

19 I have other issues in Ivy City with the
20 ANC that don't involve The Smokehouse, so I'm not
21 sure I can honestly testify that I get along
22 perfectly with that ANC, but from The Smokehouse
23 standpoint, it does.

24 The other one is The Strand, which is in
25 Ward 7, and we have no settlement agreement there.

1 We also have no issues with the ANC or any of the
2 community and do work very well with that ANC
3 commissioner. I forget his name.

4 And, you know, Boss Shepherd's is another
5 one that we had. La Vida Loca was another
6 restaurant, gone long ago. I've been involved with
7 a lot of restaurants in D.C. over the years.

8 MEMBER GRANT: Thank you for that
9 background. Mr. Chair, no further questions.

10 CHAIRPERSON ANDERSON: Any other
11 questions by any other Board members? Ms. Kramer,
12 any questions of the witness based on the questions
13 that were asked by the Board?

14 MS. KRAMER: No further questions. Thank
15 you.

16 CHAIRPERSON ANDERSON: Mr. Mixon, any
17 redirect?

18 MR. MIXON: Yes, Mr. Chair, just a few.

19 REDIRECT EXAMINATION

20 BY MR. MIXON:

21 Q Mr. Casten, in your time of this license
22 period, have you achieved any violations related
23 to noise restrictions under D.C. ABC law?

24 A No.

25 Q Thank you. Are you familiar with a 2019

1 ABC Board order approving the license?

2 A Probably, but not by that number. But,
3 yes, I think so.

4 Q And are you familiar with any restrictions
5 that were imposed on the license under that order?

6 A No, I think there was future consideration
7 given that we tabled at the time for a dock over
8 the water, which we have permitted but don't have
9 the wherewithal to build yet, so that issue has not
10 come into play for the license, but I think if you
11 look up the history of it, the hours of operation
12 for that may be different and restricted from the
13 license.

14 Hopefully, soon we're able to build it and
15 come back here and discuss the merits of that
16 license, of that, not necessarily in this argument,
17 but in just getting it open anyway, but no, no
18 restrictions.

19 MR. MIXON: No further questions.

20 CHAIRPERSON ANDERSON: Thank you very
21 much, Mr. Casten, for your testimony. I'm sorry,
22 Ms. Kramer, you can't have any more -- you cannot
23 ask any more questions, ma'am. You have lost your
24 opportunity to ask questions of him. All right,
25 thank you, Mr. Casten. Thank you for your

1 testimony. You can --

2 MR. CASTEN: Thank you.

3 CHAIRPERSON ANDERSON: You can resume
4 driving now, sir, if you need to do that, because
5 you're no longer going to be testifying. All right,
6 thank you. Mr. Mixon, do you have another witness?

7 MR. MIXON: Yes, Mr. Chair, I do, and it's
8 our last. The applicant calls Henry Feaunati.

9 CHAIRPERSON ANDERSON: Mr. Feaunati, can
10 you raise your right hand, please? Do you swear
11 or affirm to tell the truth and nothing but the
12 truth?

13 MR. FEAUNATI: Yes, sir.

14 CHAIRPERSON ANDERSON: Your witness, sir.

15 MR. MIXON: Thank you, Mr. Chair. Mr.
16 Feaunati, can you please tell us your home address?

17 MR. FEAUNATI: Sure, it's 2121 1st Street
18 SW.

19 CHAIRPERSON ANDERSON: Can you also ask
20 him to spell his name for the record, Mr. Mixon?

21 DIRECT EXAMINATION

22 BY MR. MIXON:

23 Q Mr. Feaunati, if you could please spell
24 your name for the record?

25 A Sure, it's H-E-N-R-Y, F-E-A-U-N-A-T-I.

1 Q If you recall my question from a second
2 ago, related to your home address, can you tell us
3 how far that is in relation to The Point?

4 A I live upstairs.

5 Q How many floors?

6 A I am on the fifth floor of the building.

7 Q And how long have you lived in this
8 building?

9 A I've been here for about four years now.

10 Q And how long have you been aware of The
11 Point?

12 A Since I moved in.

13 Q And how many times have you visited the
14 establishment?

15 A How many times have I visited the
16 establishment?

17 Q Approximately, roughly?

18 A Oh, God, I don't know. I mean, I'd
19 probably say on an average, I'd say, maybe somewhere
20 between two to three times per week, but I can't
21 tell you, like, living there four years, how many
22 times I've been.

23 Q So, it would be safe to say -- or you
24 wouldn't say you're unfamiliar?

25 A No.

1 Q What can you tell us about any noise output
2 from the establishment?

3 A Look, I lived right above the bar and I
4 lived right above the front door. I don't really
5 hear much noise, even during the summer when the
6 awning is open.

7 The only noise that I do hear is at 4:30
8 in the morning when you hear these delivery trucks
9 that show up to deliver food over to the place on
10 the corner and they sit there and honk their horn.

11 That's the only noise that I hear from my place.

12 Q And how do you feel about the impact of
13 The Point operating, either in its interior or in
14 its summer garden, at the currently approved hours?

15 A I don't have problems with it. It's a
16 great establishment. It's a nice place.

17 MS. KRAMER: Mr. Chair, can I interrupt,
18 Mr. Chairman, for a second?

19 CHAIRPERSON ANDERSON: What is it that you
20 want to interrupt regarding, Ms. Kramer?

21 MS. KRAMER: Well, Mr. Feaunati --

22 (Simultaneous speaking.)

23 MS. KRAMER: Yes, excuse me, was not
24 listed on the witness list. The spelling of the
25 witness list of Fuenta. F-U- --

1 MR. MIXON: My apologies.

2 MS. KRAMER: Well, the problem -- I'm
3 sorry. It's right in front of me. F-U-E-N-T-A,
4 Fuenta, which would make it very difficult for us
5 to track and find out who this witness was and what
6 he was testifying about, what he would be testifying
7 about. I just -- I mean, either it should be
8 disallowed or I can just state -- have what I just
9 stated for the record.

10 MR. MIXON: To just clarify, if I may --

11 CHAIRPERSON ANDERSON: Hold on. Let me
12 --

13 MR. MIXON: There was a miscommunication
14 between myself and the Applicant at the initial time
15 of filing the PIF, to where there was a typo. But,
16 it was always our intention to have Mr. Feaunati
17 be the witness, and the testimony being provided
18 at this time is completely in line with the
19 description provided in that PIF.

20 CHAIRPERSON ANDERSON: I'm trying to go
21 -- I'm trying to find your PIF. Okay, let's -- hold
22 on.

23 MS. KRAMER: I'm sorry, I didn't
24 understand.

25 CHAIRPERSON ANDERSON: No, I'm -- hold on.

1 I'm trying to look for the document that was filed,
2 okay? Let's see -- hold on. I'm sorry. I saw it
3 earlier, I just want to make sure before I -- okay.

4 This is it. How do you spell your name, sir?

5 MR. FEAUNATI: Sure. It's
6 F-E-A-U-N-A-T-I.

7 CHAIRPERSON ANDERSON: So, the name is
8 spelled F-U-E-A-N-T-A, that's what's -- it's
9 spelled on the PIF as a neighborhood resident. So,
10 what are you saying now, Ms. Kramer?

11 MS. KRAMER: I'm sorry?

12 CHAIRPERSON ANDERSON: You're saying --
13 what is your objection?

14 MS. KRAMER: Well, my objection is that
15 we -- if we wanted to find this person, we had an
16 incorrect spelling on the list and, so, we wouldn't
17 have been able to find him, look for him, whatever
18 we would want to do on that. I think that this needs
19 to be correct and should be -- it should be so noted.

20 He really shouldn't be testifying. If we
21 want to talk to him, you know, it's -- this is not
22 a clerical error. The problem is, you know, and
23 I should expect that of the counsel to be able to
24 file a witness list properly. We're trying to
25 adhere to that without any legal assistance, and

1 I would expect the same from, and more so, from the
2 opposing counsel to do this correctly. How would
3 I -- how would I, or anybody that's assisting us
4 on the ANC, be able to find this person if the name
5 is not -- it doesn't exist?

6 CHAIRPERSON ANDERSON: Mr. Mixon?

7 MR. MIXON: The PIF reflects what was
8 recorded based on correspondence with the Applicant
9 at the time of the filing of the PIF. I had -- the
10 only representation in writing of his name I had
11 seen is that which was received from the Applicant.

12 But, in content and description, Mr. Feaunati is
13 the person reflected on the PIF in spite of a few
14 letters being off.

15 MS. KRAMER: Well, I'm eager to -- Mr.
16 Chair, I'm eager to give him some cross-examination
17 questions since he's now here. But, I'd like the
18 record to show that it's not fair play on the other
19 side to do that, not by the Applicant but by the
20 counsel. Thank you.

21 CHAIRPERSON ANDERSON: All right. Thank
22 you, Ms. Kramer. I mean, it's the same first name,
23 the spelling of the last name is somewhat off but
24 it's not -- it's off. It says that he's a
25 neighborhood resident and he will be talking about

1 his relationship to -- relationship of the
2 establishment to the community.

3 Based on the testimony so far, I mean, I'm
4 not going to -- I'm going to -- your objection for
5 the record is noted, but let's move on. You'll have
6 an opportunity to cross-examine him and I'll give
7 you some leeway since, if you need to go beyond the
8 scope of Mr. Mixon's questioning in your
9 cross-examination, to verify exactly who he is and
10 that he's actually a resident of the building, okay?

11 MS. KRAMER: Thank you. Thank you very
12 much.

13 CHAIRPERSON ANDERSON: Go ahead, Mr.
14 Mixon.

15 MR. MIXON: Thank you, Mr. Chair.
16 Board's indulgence, turning to my notes.

17 BY MR. MIXON:

18 Q Okay. If I understand correctly, Mr.
19 Feaunati, your testimony prior to the objection was
20 that you were not concerned with the hours of which
21 The Point generally operates. And how similar are
22 your feelings if The Point were to operate to its
23 maximum approved hours? And, as a reminder, those
24 maximum approved hours include up to 2:00 a.m.
25 Sunday to Thursday and 3:00 a.m. Friday and

1 Saturday.

2 A I mean, look, I mean, as a resident being
3 here for four years, I don't have a problem with
4 it. I think, obviously the concern is, is for any
5 resident, is what they would be doing between the
6 hours of say, you know, 10:00 and 3:00. You know,
7 that's really when people really think they have
8 a really good time. But, if it's just the regular
9 bar and restaurant that they've had, they currently
10 have, I wouldn't have a problem with it. It's not
11 going to be a problem.

12 Q And if the license were to be renewed here
13 today without conditions, as the Applicant has asked
14 for, how would that impact your current feelings
15 about the establishment?

16 A It won't. It doesn't at all in any way.

17 MR. MIXON: Thank you, Mr. Feaunati. No
18 further questions.

19 CHAIRPERSON ANDERSON: Ms. Kramer?

20 MS. KRAMER: Thank you very much. Mr.
21 Feaunati, and I apologize if I haven't pronounced
22 your name properly, you said you --

23 MR. FEAUNATI: You're fine.

24 CROSS-EXAMINATION

25 BY MS. KRAMER:

1 Q That's okay. You said you live in the
2 complex above the establishment and you also said
3 that you live right above the front door, that would
4 put you on Second Street, wouldn't it? Your
5 apartment -- the Second Street?

6 (Simultaneous speaking.)

7 A Correct.

8 Q Thank you. And you say you live on the
9 fifth floor, so that's -- your apartment doesn't,
10 in fact, face the summer garden, isn't that correct?

11 It faces -- as you just testified, it faces the
12 front entrance to the building. So it would also
13 be correct to say that, which I will testify later,
14 the building -- the place where the sound mostly
15 carries up is on the, what would be, actually, the
16 W side, the water side of the building? In other
17 words, where there's no street, right?

18 A Correct.

19 Q It doesn't -- yeah. So, you're not on that
20 side of the building. So --

21 A I'm on the corner. My unit is right on
22 the corner.

23 CHAIRPERSON ANDERSON: Mr. Feaunati, hold
24 on.

25 MS. KRAMER: What's that?

1 CHAIRPERSON ANDERSON: Hold on. Ms.
2 Kramer, one question at a time. You're asking
3 compound questions. So just one question at a time,
4 give him an opportunity to answer one question at
5 a time.

6 MS. KRAMER: Okay, I -- that's fair
7 enough. Thank you. So, what I just heard you
8 testify to was your apartment is on the Second Street
9 side of the building?

10 MR. FEAUNATI: Correct.

11 BY MS. KRAMER:

12 Q Thank you. You're not on the side of the
13 building that faces the water where the atrium --
14 where the sort of atrium structures are, or the shape
15 is?

16 A I'm sorry, which part of the building?

17 Q I'll withdraw my question. You're on the
18 Second Street side of the building. Can you -- from
19 your windows, can you actually see any of the
20 activities in the restaurant?

21 A Not in the restaurant, no. But, I can see
22 above -- I can see down below the outdoor patio.

23 So, my unit is actually on the corner of the
24 building --

25 Q Oh, I see.

1 A So, like I said, my unit oversees the front
2 door that oversees the actual patio, the outdoor
3 patio bar.

4 Q Which patio are you talking about? Are
5 you talking about the bar or the summer garden?

6 (Simultaneous speaking.)

7 A They only have -- the bar outside, correct.
8 The bar outside. My apologies.

9 Q The bar. And, how far over does your
10 apartment go around the bar?

11 A It sits right above the bar.

12 Q By how -- by one window or -- so, how just
13 to describe it?

14 A I think it's like, one, two, three, four
15 -- there's six windows in my unit.

16 Q Okay. And, you --

17 A It oversees --

18 Q Okay. And, you also said you're on the
19 fifth floor, is that correct?

20 A Correct.

21 Q All right. Thank you. What time are you
22 usually home in the evenings?

23 A Usually around somewhere between 6:00 and
24 7:00.

25 Q Okay. Thank you. Do you -- can you hear

1 patrons, costumers talking in the restaurant, since
2 you say you're right near the bar?

3 A No.

4 Q You can't hear them?

5 A I cannot, no.

6 Q Why would that be?

7 A Because --

8 MR. MIXON: Objection, speculation.

9 MR. FEAUNATI: I mean, I'm not sure --

10 (Simultaneous speaking.)

11 CHAIRPERSON ANDERSON: Hold on.

12 Sustained. Ms. Kramer, he said he can't hear them.

13 I mean, why he can't hear them, I don't -- that's
14 not a question. You asked him a question, he said
15 I can't hear. So let's move on, ma'am.

16 MS. KRAMER: Well, if he can hear -- if
17 he can't hear because his windows are closed, that's
18 relevant, it seems to me.

19 CHAIRPERSON ANDERSON: But, Ms. Kramer --

20 MS. KRAMER: Yes.

21 CHAIRPERSON ANDERSON: You asked him a
22 question, can he hear the noise, he said no, I cannot
23 hear the noise. Would you ask him why can he not
24 hear the noise? I mean, if his windows are -- it's
25 irrelevant. If his windows are open -- whether or

1 not his windows are open or not, it's irrelevant
2 if he can't hear the noise. So let's move on to
3 another question, ma'am.

4 MS. KRAMER: Okay. How -- let me ask you
5 finally, how did you come to testify today? Did
6 the establishment reach out to you?

7 MR. FEAUNATI: No. Mr. Nixon had reached
8 out to me.

9 BY MS. KRAMER:

10 Q Well, that -- okay. Thank you. And, how
11 did -- do you have any -- do you know the owner or
12 the manager personally?

13 A I know Greg personally, yes.

14 Q Say it again.

15 A I know Mr. Casten personally, yes. And
16 --

17 Q You know Mr. Casten personally?

18 A Yeah. I mean, obviously, look, over the
19 years I've been here, I -- yeah, I do. I mean, I've
20 known Mr. Casten for a number of years because we
21 used to be members of a golf club together.

22 Q Say that again. You're in a golf club
23 together?

24 A Christ.

25 Q Is that what you said?

1 A Yes. We used to be, yeah. I used to --

2 Q You used to be in a golf club together?
3 Okay.

4 A Yes.

5 Q Okay. And, so, that's how -- how did Mr.
6 Mixon know to reach out to you? I guess that's what
7 I'm asking. Because of that prior relationship?

8 A I'm assuming. I don't know. You'll have
9 to ask him that.

10 Q Okay. Thank you. And, do you -- you may
11 have testified before but I don't know, how often
12 are you a customer of the restaurant?

13 A Like I said, I mean, two to three times
14 a week.

15 Q Two to three times a week? Okay, that's
16 good. Thank you. Okay. I think I have no further
17 questions.

18 CHAIRPERSON ANDERSON: Thank you. Any
19 questions by any Board members?

20 MEMBER QUINN: Yes.

21 CHAIRPERSON ANDERSON: Ms. Quinn, you're
22 not on camera, so -- all right. Yeah. Go ahead,
23 Ms. Quinn.

24 MEMBER QUINN: Yes. I just want to make
25 sure I'm understanding your testimony correctly.

1 Are there four units between the restaurant and
2 your unit?

3 MR. FEAUNATI: No. So, down below me is
4 a fourth floor and, then, down below there should
5 be the third floor, and then there's the actual
6 restaurant.

7 MEMBER QUINN: So, there are two units --

8 MR. FEAUNATI: It's been there for years
9 -- yeah. Correct.

10 MEMBER QUINN: Two units, fourth floor.
11 Okay. Thank you.

12 CHAIRPERSON ANDERSON: Is that it, Ms.
13 Quinn?

14 MEMBER QUINN: Yes, that's it.

15 CHAIRPERSON ANDERSON: Mr. Grant?

16 MEMBER GRANT: Thank you, sir, for being
17 here. Just got a couple of questions as it relates
18 to your relationship. Do you have any ownership
19 or stake into the restaurant?

20 MR. FEAUNATI: I do not.

21 MEMBER GRANT: Okay. I saw that the
22 Protestant was, I guess, trying to ascertain, you
23 know, how you got informed about this hearing. And,
24 I don't want to deal with that, what I want to deal
25 with is what motivated you or incentivized you to

1 be here? And I'm always curious of that when people
2 testify in support of applicants. They take out
3 of their day, they sit and wait to be called up to
4 speak. You could be anywhere, doing anything else,
5 but what motivated you to be here with us today to
6 support the Applicant?

7 MR. FEAUNATI: I don't think there's a
8 motivation. I think it's just about supporting the
9 community and supporting what is being built here.

10 It's a great establishment, you know? I would not
11 like to see the establishment lose its license or
12 anything like that, but it's -- there's no other
13 reason. You're absolutely right, I could be doing
14 something else like, you know, working.

15 MEMBER GRANT: Just one follow-up
16 question. You mentioned the establishment not
17 losing its license. We've established in this
18 hearing that both the Protestant and the Applicant
19 agree that we will move forward with approving the
20 license, does that sort of caveat impact your
21 presence here today at all? Are you concerned at
22 all about the limitation that may be put on the
23 application with the conditions of a potential
24 agreement?

25 MR. FEAUNATI: No. Not at all.

1 MEMBER GRANT: Okay. All right. No
2 further questions, Mr. Chair.

3 CHAIRPERSON ANDERSON: Any other Board
4 members?

5 (No audible response.)

6 CHAIRPERSON ANDERSON: Ms. Kramer, any
7 questions of the witness based on the questions that
8 were asked by the Board?

9 MS. KRAMER: No further questions. Thank
10 you.

11 CHAIRPERSON ANDERSON: Mr. Mixon?

12 MR. MIXON: Briefly, re-direct your
13 Honor.

14 (Simultaneous speaking.)

15 MS. KRAMER: Oh, can I -- excuse me. I
16 did have a question.

17 CHAIRPERSON ANDERSON: All right.

18 MS. KRAMER: You said you -- can you --
19 I'm sorry. If you --

20 CHAIRPERSON ANDERSON: Go ahead, ma'am.

21 MS. KRAMER: Yeah. If you -- you said you
22 -- you know, you could rather be working. What do
23 you do for a living that -- are you working outside
24 of your house?

25 MR. FEAUNATI: No, I'm at home --

1 (Simultaneous speaking.)

2 MS. KRAMER: Do you work --

3 MR. FEAUNATI: I am at home right now.

4 MS. KRAMER: No, I don't mean that. I
5 mean, do you work --

6 (Simultaneous speaking.)

7 CHAIRPERSON ANDERSON: Work from home,
8 sir, I think she's asking --

9 MS. KRAMER: From your house or do you have
10 a -- are you gone for most of the day? That's really
11 what I'm asking.

12 MR. FEAUNATI: Yeah, I am. I usually
13 leave out, on an average, usually around about 6:00
14 a.m., and I don't come home until somewhere between
15 6:00 and 7:00.

16 MS. KRAMER: Thank you.

17 CHAIRPERSON ANDERSON: Is that it, Ms.
18 Kramer?

19 MS. KRAMER: It is. Thank you. I'm so,
20 so sorry. Thank you.

21 CHAIRPERSON ANDERSON: Go ahead, Mr.
22 Mixon.

23 MR. MIXON: Yes. Mr. Feaunati, my
24 questions concern the question asked by Board Member
25 Grant, and we just want to clarify to make sure that

1 the record reflects, you know, a correct
2 understanding of the information sought there. And
3 would you -- how would you feel if additional
4 restrictions were to be placed on Applicant's
5 license so that, for instance, they operated for
6 fewer hours?

7 MR. FEAUNATI: I'd be fine with it. I
8 would not have a problem with it.

9 BY MR. MIXON:

10 Q I mean, such that -- how would you feel
11 if the establishment were to operate for less hours
12 and that's having a negative impact on its bottom
13 line?

14 (Simultaneous speaking.)

15 A I'm sorry -- I mean, if they -- you know,
16 like, if they had to operate it less hours, it would
17 be -- yeah, sort of like right now, it would stink,
18 because there is nowhere else to go when you get
19 home. You know? It would actually stink. You
20 know, where would you go? You'd go to the Navy Yard
21 or go wherever, you know? But, yeah, it would
22 absolutely stink if the hours were cut short.

23 Q And, yeah, similarly, if -- and, so, it's
24 not your feelings that additional restrictions are
25 needed in any way?

1 A No.

2 MR. MIXON: Thank you. No further
3 questions.

4 CHAIRPERSON ANDERSON: Thank you, sir,
5 for your testimony. Have a great day.

6 MR. FEAUNATI: Thank you, sir.

7 CHAIRPERSON ANDERSON: Thank you. Do you
8 have any other witnesses, Mr. Mixon?

9 MR. MIXON: No. Applicant rests.

10 CHAIRPERSON ANDERSON: All right. Thank
11 you. Ms. Kramer, how many witnesses do you have,
12 ma'am?

13 MS. KRAMER: I'd like to be able to call
14 Anthony Chase. That's all.

15 CHAIRPERSON ANDERSON: Okay. All right,
16 so it's 3:27. Let's take a break until 3:40. So
17 let's come back on the record at 3:40. Four-zero.
18 Okay? Thank you.

19 (Whereupon, the above-entitled matter
20 went off the record at 3:28 p.m. and resumed at 3:41
21 p.m.)

22 CHAIRPERSON ANDERSON: We're back on the
23 record.

24 All right. Ms. Kramer, who's your first
25 witness?

1 You're on mute, Ms. Kramer, if you're
2 speaking.

3 MS. KRAMER: I feel confused. Just help
4 me out with the order. You want -- you want me to
5 call a witness now or you want me to give my
6 testimony?

7 CHAIRPERSON ANDERSON: It's your case,
8 ma'am. You tell me the way. If you're calling
9 yourself as a witness then I need to swear you in,
10 and then Mr. Nixon will have an opportunity to
11 cross-examine you, or if you want to call Mr. Chase
12 first and then you --

13 MS. KRAMER: No, I'm not calling -- I'm
14 not calling myself as a witness. I'm calling myself
15 as the protestant to -- I mean, will speak as a
16 protestant.

17 CHAIRPERSON ANDERSON: All right. If you
18 just -- all right. Hold on. Hold on, Ms. Kramer.

19 MS. KRAMER: Okay.

20 CHAIRPERSON ANDERSON: If you're going to
21 give testimony, then you're calling yourself as a
22 witness, and then Mr. Nixon is going to have an
23 opportunity to cross-examine you on the testimony
24 that you just gave --

25 MS. KRAMER: Oh, that's fair.

1 CHAIRPERSON ANDERSON: -- and the Board
2 -- right.

3 So that's why I said if you're calling
4 yourself as a witness, then I will swear you in and
5 then you will go.

6 Once you're done, Mr. Mixon will have an
7 opportunity to cross-examine you and then the Board
8 will ask you questions, or if you want to call Mr.
9 Chase now as your first witness and then you go
10 second, whichever way you want to present your case,
11 that's your call.

12 MS. KRAMER: I just -- no, that's fine.

13 I just as soon present my case now and then -- and
14 then we can go forward, and I will call Mr. Chase
15 after that. That's just fine.

16 CHAIRPERSON ANDERSON: Can you raise your
17 right hand, ma'am?

18 MS. KRAMER: Sure.

19 CHAIRPERSON ANDERSON: Do you swear or
20 affirm to tell the truth and nothing but the truth?

21 MS. KRAMER: Yes, I do.

22 CHAIRPERSON ANDERSON: All right. So go
23 ahead and then, as I said, once you're done Mr. Mixon
24 will have an opportunity to cross-examine you.

25 MS. KRAMER: That's fine. Can I just ask

1 a question of the chair? I understood the last time
2 we have done this, and I say I'm not -- this is not
3 my world, but I thought that I -- as the protestant,
4 I needed to give a full testimony of why we're
5 protesting.

6 But if not, and you want to call me a
7 witness, it's fine. Any way you want to do it.
8 I just don't -- I'm just a little confused, but I'll
9 go ahead and --

10 CHAIRPERSON ANDERSON: Well, and remember
11 I'd asked you to do an opening statement, and so
12 in your opening statement you did a short opening
13 statement, which you could state why you were
14 protesting and what you're going to prove.

15 So you did give an opening statement so
16 now you can give your testimony --

17 MS. KRAMER: Okay. Okay.

18 CHAIRPERSON ANDERSON: -- and as part of
19 your testimony, you can give why they're protesting
20 --

21 MS. KRAMER: I'll go -- I'll go right
22 ahead. I'll go right ahead.

23 Okay. Okay, just to say again, I am
24 Fredrica Kramer. I'm commissioner of 6D07, which
25 is the single-member district in which The Point

1 operates, and I'm giving this testimony authorized
2 by the ANC to -- ANC 60 to testify.

3 I will call Anthony Chase, who serves as
4 the -- on the ANC 60's ABC committee and has both
5 experience working with the many months that we
6 tried to work on a settlement agreement, and also
7 lives in the building next door.

8 So I want to make two points clear at the
9 outset. The first one is as the Board -- the Board
10 has noted and put on the record, our protest is not
11 about whether the restaurant should continue to
12 operate, should continue to get a license.

13 We are genuinely grateful. We recognize
14 that The Point created an anchor for the launch of
15 Buzzard Point redevelopment.

16 The community understands its value to the
17 residents as well as to visitors to Audi Field, to
18 Nats Park, and to what's now a revitalized Anacostia
19 River.

20 We also recognize, and this is very
21 important, that the Applicant has a record of
22 operating in conformance with good traffic
23 management and health and safety standards, and we
24 would add also that they didn't tout but I will that
25 the restaurant has made a unique concession by

1 offering free parking for the first hour for its
2 patrons and \$12 for the second hour and then another
3 discount after that.

4 My second point is we're here at this
5 protest because at the eleventh hour we're trying
6 to finalize a voluntary settlement agreement after
7 many months of discussions and mediations which
8 culminated in what we thought was a mutually
9 agreeable document.

10 Only last September we found that the
11 proposed hours of operation, which we thought were
12 settled, was a central obstacle.

13 So what I'm trying to detail is the
14 Applicant's current renewal request actually
15 expands certain hours beyond what the final order
16 of ABCA Board required in 2019 for what was then
17 the new license for the restaurant, and the current
18 request would permit entertainment in exterior
19 spaces until 2:00 in the morning on weekdays and
20 3:00 on the weekends.

21 That is not in concert with the two
22 restaurants adjacent to The Point that is itself
23 problematic and that's what I want to talk to you
24 about.

25 To be clear, the -- and we would reference

1 the D.C. code, the restaurant is appropriate in its
2 current location, no question about that. The
3 hours are not.

4 Why are hours so important? Buzzard Point
5 is primarily a residential neighborhood.

6 The Point is one of the three restaurants
7 that occupy the ground floor, to clarify what was
8 stated earlier, of 2100 2nd Street SW, and it
9 directly abuts the shoreline of the Anacostia River.

10 The other two restaurants are the Brisa
11 El Jefe Taqueria and the Hen Quarter, about which
12 I will speak more.

13 The rest -- the rest of the ground floor
14 commercial space in the building on the other three
15 sides is occupied by D.C. Central Kitchen for its
16 training and catering services, only operates in
17 basically the daytime hours.

18 There are no other commercial
19 establishments that generate evening or nighttime
20 activity at this site.

21 Even with the opening of the three Everly,
22 Byron, and Colette residences in The Stacks across
23 the street and on the opposite -- they are on the
24 opposite side of the building, they will include
25 commercial spaces but none of those buildings in

1 the immediate vicinity promise late night activity.

2 More boisterous activity may arise at the
3 north end of the Buzzard Point Peninsula around Audi
4 Field, but it's not here.

5 Upstairs from The Point is the RiverPoint
6 Apartments, as you've heard, a 481-unit building
7 where seniors, retirees, working professionals, and
8 families live directly above the restaurant.

9 Those residents depend on quiet evenings
10 and restful nights. It's important to understand
11 -- I tried to illustrate this a little bit earlier
12 -- that the building is constructed in a kind of
13 letter V shape on the side of the building that
14 houses the restaurants.

15 So there are multiple tiers of apartments
16 that encircle courtyards -- several courtyards
17 around that open E area, which means noise can travel
18 upward and be amplified in those -- in those what
19 I'm calling atria.

20 I'd be happy to show for the purpose of
21 imagination a photo from Google Earth. But that
22 point is critical to residents that live on this
23 side of the building.

24 Noise, traffic, and sidewalk gatherings
25 that persist with late closing hours or beyond

1 become very problematic. There's nothing worse
2 than chit-chat, I can testify personally --
3 chit-chat that pierces the quiet of the dead of a
4 night because everything else has been put to rest.

5 They're not trivial inconveniences. They
6 have real health and quality of life consequences.

7 To its credit, The Point has made some good
8 faith efforts to mitigate the noise, and you've
9 heard some. They've installed a retractable roof
10 over most but not all of the summer garden and the
11 outside bar, and they manage noise -- sound where
12 possible.

13 But even with these steps, noise can't be
14 fully contained when outdoor and entertainment
15 areas are open into the night, and patrons gather
16 outside as they leave late at night and are audible
17 to residents upstairs.

18 In this environment, it's only sensible
19 that all three restaurants -- this is the nub of
20 what we're saying -- in the building operate in
21 similar fashion.

22 So as you did for the Brisa and as our
23 settlement agreement with Hen Quarter shows, the
24 two restaurants that are joining The Point, ANC 60
25 is requesting that the renewal of The Point's

1 license be approved with specific conditions,
2 including limitations on hours of operation, sales,
3 and service, and hours of entertainment for both
4 the enclosed and the unenclosed summer gardens.

5 To remind you, the Board has imposed such
6 conditions where noise or related impacts disturb
7 nearby residents. And Duffy or Duffy's Irish
8 Tavern -- Irish Restaurant, Case Number
9 13-PRO-00004, has been cited by the ABCA Board
10 multiple times in putting conditions on licenses,
11 limited operating hours.

12 Wyoming Cube & Bale, Sandbox Restaurant,
13 Case Number 18-PRO-00081, restricted the sidewalk
14 cafe hours to 11:00 p.m. on weekdays and midnight
15 on weekends because of its residential proximity.

16 And last year, in the Brisa case, Case
17 Number 24-PRO-00112, the Board again imposed
18 conditions, quote, "in the best interest of the
19 neighborhood."

20 In that case, in the Brisa case, the Board
21 required the unenclosed summer garden to close at
22 10:00 p.m., while the enclosed area could operate
23 until 2:00 but prohibited any amplified sound
24 outside.

25 The Point's current application, in

1 contrast, requested the hours of sales and
2 entertainment be outside of the summer garden 12:00
3 Sunday through Thursday and 2:00 Friday and
4 Saturday, and inside 2:00 till 2:00 Sunday through
5 Thursday and till 3:00 Friday and Saturday.

6 That would actually increase the hours
7 allowed in the original 2019 order for The Point,
8 which requires operation and entertainment in the
9 summer garden to end at 12:00 a.m., but only 1:00
10 a.m. on Friday.

11 And let me say, to correct the record of
12 what was stated or testified to earlier, the order
13 -- the 2019 order -- did have conditions, and I've
14 just said the most important ones to what we're
15 dealing with now.

16 The Point also holds endorsements for a
17 cover charge, dancing and entertainment, and the
18 latter could include the summer garden
19 entertainment, which heightens the potential for
20 noise and disruption late at night, both inside and
21 as patrons leave and wait for transportation and
22 chatter.

23 The Hen Quarter has had a successful
24 settlement agreement with ANC 60 since 2024, which
25 has given us a lot of experience with noise issues

1 that affect the residents in the immediate area,
2 and it's allowed us to remedy the disturbances.

3 I'm commissioner for this area -- as I
4 said, 6D07 -- and I've had to respond on multiple
5 occasions to resident complaints of noise and
6 traffic issues from the restaurant, but they've been
7 quickly -- very quickly corrected by their
8 management because of their commitment to the
9 settlement agreement.

10 Please know also that the Applicant can't
11 provide attestations to the absence of complaints
12 if -- I'm sorry, if the Applicant can't provide
13 attestations to the absence of complaints from the
14 residents, it's also likely because their website
15 says they're currently operating with 10:00 p.m.
16 closings, and as the witness testified earlier, they
17 sometimes stay open a little later.

18 But nowhere close to what would be allowed
19 on this application unless you -- unless you impose
20 conditions on it.

21 The Brisa hasn't opened yet but will be
22 opening shortly. You may recall that ANC 60
23 protested that license on the issue of peace, order,
24 and quiet, and the final order, which I've just
25 noticed, restricts the restaurant's operation in

1 the unenclosed space to 10:00 p.m. and enclosed
2 space to 2:00 a.m., recognizing that noise and
3 traffic were issues that needed to be controlled
4 once it opened.

5 And to repeat, Hen Quarter interior
6 operations also close at 12:00 on weekdays and 2:00
7 on Friday and Saturdays.

8 The hours imposed on both Brisa and Hen
9 Quarter reflect the adjustments that the ABCA Board
10 has recognized are necessary to manage noise from
11 interior operations and entertainment, and was
12 seeking to maintain that balance and consistency
13 in this residential setting.

14 So the ANC requests that the Board adopt
15 the following reasonable and precedent-supported
16 conditions.

17 Hours of operation inside Sunday through
18 Thursday to 12:00 a.m., and Friday through Saturday
19 to 2:00 a.m. Hours of entertainment inside Sunday
20 through Thursday 6:00 to 10:00 p.m., Friday and
21 Saturday 6:00 to 11:00 p.m. The hours of the summer
22 garden where the -- the enclosed bar area is Sunday
23 to Thursday to 10:00 and Friday and Saturday to
24 12:00, and the hours of the summer garden unenclosed
25 Sunday through Sunday all week to 10:00 -- 10:00

1 p.m., excuse me.

2 These conditions are consistent with the
3 nearby restaurants and they're protective of the
4 residents. They're not punitive.

5 They represent common sense limits
6 designed to ensure that a business can thrive
7 without diminishing the neighborhood's viability
8 and perhaps most important, they reflect the hours
9 that The Point is currently mostly operating on,
10 which is closing at 10:00 as described in Exhibit
11 2 which we did post, which shows that they're --
12 officially they close at 10:00.

13 ANC has negotiated in good faith with The
14 Point and has made clear that hours of operation
15 are the central issue because they affect quality
16 of life.

17 Allowing operations till 3:00 in the
18 morning would set a precedent for residentially
19 anchored neighborhood -- for this residentially
20 anchored neighborhood and undermine the protections
21 intended in the alcohol regulations.

22 Let me also call your attention to the
23 final order for the Brisa which limited cover
24 charges events to five times a year, required notice
25 on their website to advise patrons to use the 2nd

1 Street to access the restaurant and disallows
2 speakers outside. It also limited occupancy, to
3 some extent.

4 So, obviously, ABCA has recognized the
5 potential disturbance to nearby residents in their
6 decision. We expect that ABCA in developing the
7 final order for this restaurant, The Point, will
8 also reflect the limitations on operations
9 including numbers of patrons, amplified sound, and
10 cover charges that the Board recognized impact
11 resident well-being.

12 In closing, this is not about whether The
13 Point should continue. We have already accepted
14 that and that's the record. That's not what we're
15 talking about. We are talking about how it operates
16 and should continue to operate within this, largely,
17 isolated residential neighborhood.

18 Reasonable limits on hours are the fairest
19 and most effective means of ensuring that commerce
20 and community coexist.

21 The Point -- my last point, The Point
22 should not be viewed as a special case but, rather,
23 a good neighbor in a restaurant that will soon have
24 more eateries and more applications to ABCA, and
25 this license will become precedent for the new

1 establishments to continue common sense operations
2 in this residential enclave and we would therefore
3 have no need to come before the Board again to
4 reconsider the standards that will make the new
5 folks good neighbors as well.

6 We urge the Board to adopt the proposed
7 operating times as a condition of the renewal. I
8 thank you for considering our concerns and hope
9 they'll be reflected in the final order.

10 This is the end of my argument and I thank
11 you for your attention. I look forward to
12 questions. Thank you.

13 CHAIRPERSON ANDERSON: Mr. Mixon?

14 MR. MIXON: Thank you, Mr. Chair.

15 Ms. Kramer, in your understanding of the
16 investigative history of the establishment, were
17 there any -- any investigative efforts or ABCA
18 violations concerning violations of the ABC law on
19 noise?

20 MS. KRAMER: I don't think we have
21 anything that's -- that contradicts your testimony
22 about existing -- existing violations.

23 What I do think, and maybe I would -- the
24 chair would permit me when Mr. Chase testifies or
25 now -- we do have -- we do have audio tape of --

1 or video to show where the speakers are and to
2 clarify that because it came up earlier, and I think
3 that would help the Board understand what the
4 concerns are.

5 MR. MIXON: The discussion earlier about
6 the conversation from late night establishments,
7 is this a hypothetical?

8 MS. KRAMER: It's not hypothetical, and
9 I don't live in RiverPoint. It's not hypothetical
10 where I live, which is closer to 4th Street.

11 I can tell you that at night when nothing's
12 going on it is dead silence, and when you have a
13 gaggle of people chatting and waiting for Lyft
14 service or whatever it is, that noise is piercing
15 and that's really what we're concerned about.

16 It's about people -- sort of the bleed out
17 from an establishment when you're dealing with very
18 late hours. That's the issue. That's that issue
19 that you're talking about.

20 MR. MIXON: Do you recall from Mr.
21 Casten's testimony earlier in terms of the
22 establishment's use of its fully approved hours him
23 saying that these were -- that they only actually
24 took advantage of these hours on certain occasions
25 and not a regular basis?

1 MS. KRAMER: I'm not sure that I
2 understand your question. An order -- an order says
3 what the hours are. It doesn't say maybe they'll
4 be different on some occasions.

5 The order has to be clear about what's
6 allowed. It doesn't matter that they -- the order
7 has to be clear about what's allowed. It's not --
8 it's not a -- it's not fungible.

9 MR. MIXON: Let me amend my question.
10 Whatever impact could be attributed to the noise
11 of patrons leaving an establishment, if there was
12 such an impact, this would only be infrequent,
13 correct?

14 MS. KRAMER: Again, it's not a question
15 of infrequent or frequent. The Board has to -- the
16 Board has to set the parameters and set the
17 parameters that will work no matter how frequently
18 or infrequently it happens.

19 You don't set parameters that say, well,
20 maybe, you know, generally this is what you can do
21 but occasionally you can do something else.

22 That doesn't make sense. It's not the way
23 law is written. It's not the way -- not the way
24 an establishment or the community can address it.

25 They have to be clear about what's allowed.

1 And we're not -- again, the other thing
2 I would say to you is we're not suggesting that there
3 are enormous restrictions. Two o'clock in the
4 morning is late at night, but we're saying not 3:00
5 o'clock in the morning.

6 And I also -- maybe I'll say it again just
7 for record, because somebody stated -- it may have
8 been you, I don't know -- said that there were no
9 conditions in the 2019 order.

10 There are five conditions in the 2019
11 order. One relates to maximum capacity and
12 occupancy and one relates to amplified sound being
13 heard when the -- how you can hear sound as the law
14 permits -- but the two are -- the two conditions
15 of those five which are absolutely relevant to this
16 discussion.

17 Number three, the entertainment hours of
18 all exterior seating shall end at 12:00 a.m.
19 weekdays Sunday through Thursday, and 1:00 a.m. on
20 Friday and Saturday, and the fourth -- number four
21 is the hours of operation for all exterior seating
22 areas shall end at 12:00 a.m. Sunday through
23 Thursday, and 2:00 a.m. on Friday and Saturday.

24 So let me say again what I said in the
25 testimony. This is extending those hours, not

1 pulling them back. That's the order that exists
2 the 20 -- that was promulgated in 2019 and that's
3 all we're asking for.

4 It's not a big deal. It's not a big
5 contraction but it's a reasonable contraction, and
6 we're also trying to say that this -- they should
7 operate the same way as Hen Quarter -- their
8 neighboring restaurants are operating.

9 And in addition, we're making a point that
10 there are several commercial establishments that
11 will come online and come for liquor licenses in
12 the near future.

13 We just opened three residential buildings
14 right across the street. They have a lot of
15 commercial space on the ground level.

16 They're going to come to you, and we all
17 -- these liquor licenses should be fair across all
18 the vendors, all the providers. They should be
19 fair.

20 MR. MIXON: Commissioner Kramer, you've
21 referenced that there's multiple residential
22 properties development in the -- in the community.

23 Are there also a number of businesses?

24 MS. KRAMER: No, there are not a number
25 of businesses. Let me be clear again. In this

1 building, the place that faces the water there are
2 three restaurants. That's it. The rest of the
3 grounds -- all of the three --

4 MR. MIXON: Allow me to amend --

5 MS. KRAMER: -- limiters of the ground
6 floor of this building are all D.C. Central Kitchen.
7 They don't operate at night. That's that
8 building.

9 Across the street -- across 1st Street,
10 there's a condominium which has no ground floor,
11 no commercial space at all. And then across the
12 street, across V Street going north there are three
13 new buildings, the Everly, the Byron, and the
14 Colette. That's part of the so-called Stacks
15 project, and they have several ground floor spaces.

16 They are with the exception of one, I
17 think, which is kind of a local pickup market for
18 the -- mostly for the residents or entirely for the
19 residents, none of those are occupied yet.

20 So you're going to -- I'm guessing, I don't
21 know -- I know that they're going to be -- they would
22 hope to have -- I don't know. I don't know what
23 they're doing, but I would -- from other
24 conversations, I think they're trying to get sort
25 of neighborhood-serving stuff in there, you know,

1 whatever that is.

2 But one or more of those spaces may want
3 to serve alcohol and they'll come to you. And
4 they'll come to not you but they'll come to ABCA.

5 MR. MIXON: So you'd agree that there are
6 both residential and commercial uses in this area?

7 MS. KRAMER: I think I've said that
8 clearly. Let me say it again.

9 These are mixed-use developments but they
10 are ground floor, minimal spaces on the ground
11 floor. These are not major commercial operations.

12 That's not what the southern end of Buzzard Point
13 is like.

14 The southern end of Buzzard Point is a very
15 quiet residential area. In fact, The Stacks was
16 originally going to be -- you know, have other
17 things. It is now all residential.

18 So this is a residential area with what
19 is commonly developed. In the current design of
20 new developments there are ground floor spaces that
21 are used for different functions, and in this case
22 they're basically sort of locally -- looking for
23 locally serving activities.

24 MR. MIXON: Could you please tell us the
25 ANC's motivations or intentions in pursuing this

1 protest?

2 MS. KRAMER: The ANC's motivation is to
3 not have something that is not consistent across
4 all of these spaces so that we can control the influx
5 of noise and traffic and the use of these spaces
6 for the residents.

7 The motivation is it's a residential area.
8 It's a residential enclave, really enclave. It's
9 bordered on two sides by Fort McNair and the river.
10 It's a narrow peninsula and it's all residential.

11 MR. MIXON: And in order to achieve such
12 consistency, was the ANC's intention that The Point
13 enter into a settlement agreement with it?

14 MS. KRAMER: That was the original
15 intention and we thought we had -- we were going
16 to be successful, and we worked for many months with
17 -- I don't know how many times we went to mediation
18 with discussions and we worked very hard trying to
19 get a settlement agreement which would have settled
20 this.

21 And let me say again, as I said in the
22 testimony, we're not trying to constrict or we're
23 trying to support this restaurant which we have --
24 my testimony says -- I've said it before in other
25 contexts -- we have supported this restaurant.

1 It created the anchor for the
2 redevelopment of Buzzard Point and, you know,
3 apparently, we have all eaten there. I don't know.

4 I haven't taken a poll. This is not about not
5 supporting the operations of the restaurant.

6 MR. MIXON: Is it true that The Point is
7 approximately two blocks from Audi Field?

8 MS. KRAMER: It's -- let me think. It's
9 about three blocks from Audi Field and they're very
10 long blocks.

11 MR. MIXON: Apologies on the, you know,
12 inaccuracy. But also is Nationals Park a few more
13 blocks from there?

14 MS. KRAMER: Nats Park is across -- is in
15 Navy Yard. It's not in -- it's not -- yes. I mean,
16 what do you want to know? Navy Yard is across the
17 river.

18 It's a very different -- a different --
19 very different neighborhood, very different
20 population and it's not very quiet. This is very
21 quiet. It's a very different personality with the
22 RiverPoint -- I'm sorry, with Buzzard Point and Navy
23 Yard. Very --

24 MR. MIXON: I only ask this to say would
25 it be fair to say that there are substantial

1 commercial uses within neighboring blocks?

2 MS. KRAMER: No, it would not be fair.
3 It's not fair. As I said to you, there are -- there
4 are these three restaurants and there are several
5 spaces -- I haven't counted them -- small spaces,
6 several small spaces in The Stacks complex that are
7 the ground floor of those three new residences.

8 And, in fact, one of the -- one of the hopes
9 of the ANC residents is that some kind of a small
10 grocery will go into one of those spaces and, in
11 fact, they're small enough that they won't -- that
12 it's a struggle to get somebody into that space.

13 There's only one -- I believe there's only
14 one commercial space currently occupied. It's
15 basically a single room, if I can describe it that
16 way, where you can -- where the residents -- it's
17 not -- I don't think it's open to the public.

18 I don't think you can get in without a card,
19 a residential card, and it's -- you know, you can
20 pick up drinks and chips and that kind of thing.

21 It's a very -- these are very small spaces.
22 There are no big spaces. The Point is the largest
23 of all of these -- of all of these spaces and nothing
24 comes even close to that.

25 This is not a burgeoning commercial area,

1 I wouldn't say, but I don't have the floor plans
2 in front of me so I can't quote you square footage.
3 They're very small spaces.

4 MR. MIXON: No further questions.

5 CHAIRPERSON ANDERSON: All right. I have
6 some questions I want to ask you, Ms. Kramer.

7 I've been on -- I guess these are -- I've
8 been on this Board long enough and I've been chair
9 of this Board since 2017, and so I hear you talking
10 about a 2019 agreement.

11 And so I -- as Board chair, the concept
12 of The Point was presented to the Board prior to
13 there being residents there and I heard the
14 arguments that were being made by the ANC
15 commissioner at the time about future residents.

16 But I think one of the things I'm confused
17 about -- and I don't have the 2019 order -- I'm
18 looking at Exhibit 44, and Exhibit 44, which is the
19 current hours of approved operations.

20 So maybe something is amiss because you're
21 -- from looking at Exhibit 44, it says that the
22 operation is Sunday through Thursday from 7:00 to
23 2:00 and Friday and Saturday it's from 7:00 to 3:00.

24 Sales is Monday -- Sunday through Thursday
25 from 8:00 to 2:00 and then Friday and Saturday from

1 8:00 to 3:00, and entertainment is Sunday through
2 Thursday from 6:00 p.m. to 2:00 p.m. -- to 2:00 a.m.
3 and then Friday and Saturday from 6:00 to 3:00.

4 And then I think for the summer garden it's
5 Sunday -- operation is Sunday through Saturday --
6 well, Sunday through Thursday from 7:00 to 12:00
7 and then Friday from 7:00 to 2:00, and sales is
8 Sunday through Thursday from 8:00 to 12:00 and then
9 Friday from 8:00 to 2:00.

10 Those are the hours that are from Exhibit
11 44 to say those are the current hours of -- those
12 are the current approved hours of the establishment.

13 So but that's not your -- there's a
14 different set of hours that you are speaking about,
15 you said, from 2019, and I'm trying to see what the
16 disconnect is.

17 MS. KRAMER: Okay. I appreciate it, and
18 it's very confusing. Let me -- let me say two
19 things.

20 I would -- if I call Anthony Chase as a
21 witness, he's been looking at the -- he will have
22 more of the -- I hope, of the internal detail of
23 this.

24 I think what you're reading is not the
25 current hours but the -- I don't know what exhibit

1 -- sorry, I don't have the exhibit list with me.

2 CHAIRPERSON ANDERSON: Exhibit 44 is the
3 part --

4 MS. KRAMER: This is the -- what I have,
5 what you just read, and I could be wrong -- what
6 I have that you just -- which is consistent with
7 what you just read, is the application for the
8 renewal dated 3/14/2025 and --

9 CHAIRPERSON ANDERSON: And the -- but what
10 I'm reading it's -- it's the license that was issued
11 it says March 5th, 2025, and those are the hours
12 that are listed on the license that they have.

13 MS. KRAMER: Isn't -- is that a
14 provisional license prior to the -- to this whole
15 process of trying to develop the settlement
16 agreement and so forth?

17 Because I'm not -- it's confusing. What
18 you're reading is identical to what I have that's
19 dated 3/14/2025, but that's the application for the
20 hours. That's the first point.

21 Second point is, even, as I said, I'll have
22 to try to see if Anthony Chase can -- I'm hoping
23 he's still there -- can clarify this, but remove
24 the confusion.

25 But the -- even the hours that I'm looking

1 at don't -- we're, again, saying we want the
2 conditions to say, no, please don't operate until
3 3:00 in the morning. I mean, it's the same point.

4 So we're still coming back to this board
5 to ask for some -- what we consider minor
6 restrictions and some consistency with what's going
7 to happen down the line as other -- as the two
8 restaurants that their neighbors operate.

9 One of them operates much more
10 restrictively than this. And other businesses may
11 come online or come onboard in the near future.

12 So whatever it is -- I mean, I can't --
13 I can't respond to you except to say I can follow
14 the hours because it's exactly what I have in front
15 of me, but that's their application.

16 CHAIRPERSON ANDERSON: And which is --
17 which is -- I guess what you're saying is the placard
18 notice is the current -- is the hours that they're
19 currently approved to operate.

20 MS. KRAMER: Yes.

21 CHAIRPERSON ANDERSON: But I -- and I'm
22 asking these questions because, as I said before,
23 when I -- when this license was first presented to
24 the Board in 2019 when it was just a concept, I heard
25 the arguments about noise and why we should restrict

1 the hours, why we should restrict the capacity.

2 But now this restaurant has operated --
3 it was issued in 2019. The testimony was that it
4 was -- it's been operating since 2021 and so why
5 should we restrict the hours?

6 I mean, what is the -- no, the question
7 I'm asking is, like, tell me, because this is what
8 you're asking us to do because of noise. So where
9 are the noise complaints that were filed?

10 And so give me -- tell me -- tell me where
11 are -- because you're complaining about noise.
12 You're saying that we should restrict the hours
13 because of noise.

14 But their record, though, since operation
15 is that there is no -- it doesn't appear at least
16 from what I -- from ABCA's records that there are
17 any substantiated noise complaints regarding the
18 operation of this establishment.

19 So what is it that -- tell me, give me
20 something to that -- give me a reason to change what
21 the current hours are.

22 MS. KRAMER: Okay. Let me remind you, as
23 their website -- as our Exhibit 2 states and has
24 been essentially attested to today, they have been
25 operating with essentially a 10:00, 11:00 o'clock

1 closing.

2 So when you look at a record of two years
3 or three years or whatever you want to say, since
4 they opened their doors, I can't tell you which that
5 is nor can -- nor did we have a clear sense of that.

6 You're talking about a -- an establishment
7 that's never approached those hours. So, of
8 course, you don't have any complaints for people
9 that were making noise at 2:00 and 3:00 in the
10 morning during the week because they weren't doing
11 that.

12 Their website is very clear. That's what
13 Exhibit 2 said. Mr. Casten said that sometimes he
14 operates, you know, later on some special thing.

15 And I said, fine, you know, the hours that we're
16 proposing that you adopt would allow that.

17 But we don't want -- we don't want, A, to
18 have this restaurant open till 3:00 in the morning.

19 We don't want it to have -- to have put
20 constraints on other -- on other establishments that
21 are working and we don't want to put a precedent
22 -- create a precedent for when other establishments
23 come onboard that it's okay, they can operate till
24 3:00 in the morning.

25 The bottom line is this is a quiet

1 residential area. It is not a big commercial area.

2 It is not, and there's nothing in the plan that
3 we can see that would allow for that.

4 There is nothing on the ground floor.

5 Moving around to Half Street with the buildings that
6 are -- that are up, the Watermark has a school in
7 the basement, in the -- in the ground floor.

8 The Verge doesn't have anything there, and
9 as you get further that's what I said, at the north
10 end of Buzzard Point of the peninsula, there's going
11 to be hopping activity. And as those lots that
12 really look toward -- they're not there but look
13 toward Navy Yard or Nats Park, they -- that's more
14 -- that's going to be more -- much more active.

15 This part is not active. Where you're
16 talking is the bottom of -- the tip of the Buzzard
17 Point peninsula. It's a quiet residential enclave.

18 That's what it is, and if they wanted to
19 do something differently they would have
20 established much bigger sites, spaces -- much bigger
21 spaces in the -- in The Stacks development.

22 They just opened that in the last several
23 months. They're very small areas. They're not
24 looking to do, you know, major commercial activity.

25 And the other thing about it is, which we

1 -- which we're not dealing with here, but the place
2 -- one of the reasons that we got concessions,
3 essentially, if you want to call it that, on the
4 -- on the Brisa putting on their website and telling
5 their patrons to use 2nd Street and is because 1st
6 Street, the other side of the building where the
7 Hen Quarter is -- gets conglomermed [sic] with
8 traffic.

9 People -- they have had lots of complaints
10 about the fact that the residents in the next
11 building, which is called The Peninsula, can't get
12 into their garage because the -- because the road
13 is blocked.

14 So I'm just trying to give you a sense that
15 this is a very quiet commercial area. We love The
16 Point, if I may say, but we're not trying to
17 constrain their business.

18 We're trying to do something that reflects
19 essentially how they operate and how they've been
20 operating and reflects the neighborhood and sets
21 a good precedent for whenever you get the next set
22 of licenses. I don't know when you will do that.

23 This is a different area. This -- that
24 three block or so area is a very quiet residential
25 area with two in -- one way in and one way out,

1 essentially, 2nd Street and Half Street. That's
2 it.

3 CHAIRPERSON ANDERSON: And I'm not -- I'm
4 not contesting what you've stated. I'm just -- as
5 I stated, I've been on this Board long enough that
6 when The Point was first presented, it was a concept
7 because there were no residents.

8 The residents didn't exist and I -- and
9 I recall the argument by the ANC commissioner at
10 that time was very similar to the future residents.

11 And so that's one of the reasons why I
12 believe the Board had -- came up with the hours.

13 We had agreed to reduce the capacity because I think
14 the -- initially it was a larger capacity that was
15 being asked for.

16 So I'm just -- I guess what I'm trying to
17 find out is that where is it that -- and these are
18 the hours that were approved and they elect to --
19 they elect to shorten their hours.

20 MS. KRAMER: Let me say -- let me -- let
21 me respond to you sort of differently. So the
22 commissioner -- our commissioner testified at the
23 moment, you're quite right.

24 I've got the thing in front of me and I've
25 got your -- your order includes the, you know,

1 references, the arguments we made. They were
2 right, and based on those arguments the Board chose
3 to constrain the hours somewhat.

4 That's why the -- that's why the order
5 exists as it -- as I have and the testimonies stated,
6 and I've just read it again to you. So they
7 constrained it. And The Point, which is now
8 operating now apparently successfully, is used --
9 you know, by all kinds of people all the time is
10 okay with that.

11 They're not -- nothing that you have heard
12 from them or from my experience as an ANC
13 commissioner, as a resident, has seen that there
14 are any problems with that, and if they choose to
15 operate occasionally with longer hours, we see
16 that's okay, too.

17 All we're doing -- all we're suggesting
18 to you is something that says 3:00 o'clock in the
19 morning it's going to be too late and don't do that.

20 And everything else is -- you know, is
21 operate -- will be operated successfully. That's
22 all we're asking. We didn't -- we didn't put any
23 -- we have lots of things that we could have put
24 in to sort of trim -- you know, trim or make explicit
25 the settlement agreement.

1 Settlement agreements, as I understand,
2 that are favored by the ABCA because you don't have
3 to go back. I certainly appreciate that from the
4 other end -- you don't have to keep going back.

5 A settlement agreement sits there and it's
6 okay. We would have been fine with the settlement
7 agreement.

8 We also would have been fine with the hours
9 that we negotiated the settlement agreement, which
10 is why I tried to characterize how extremely
11 surprised we were when we -- when we met with them
12 over months and mediated and we were all set, and
13 all of a sudden the hours came up.

14 They were never -- they were never
15 questioned. Through all of the -- all of the
16 machinations and negotiations that happened before
17 that, we never knew that that was a problem.

18 So we're not asking for that much. We're
19 asking for something that doesn't seem to crimp
20 their style, that respects this particular enclave,
21 which is different from the north end of Buzzard
22 Point -- entirely different.

23 It's not the Navy Yard. It's a quiet
24 residential enclave with some very modest, if I
25 could say that, commercial enterprises and these

1 three restaurants.

2 CHAIRPERSON ANDERSON: All right. Any
3 questions for any other Board member?

4 Go ahead, Mr. Grant.

5 MEMBER GRANT: Apologies. First, Ms.
6 Kramer, thank you for your service as an ANC.

7 I'm a former ANC myself so I understand
8 the work that goes into preparing for situations
9 like this. So thank you for your service.

10 And I want to say also I know you mentioned
11 that this is not your wheelhouse, but you're doing
12 a pretty good job. So thank you for your service.

13 MS. KRAMER: Thank you for saying that.

14 MEMBER GRANT: Yeah.

15 MS. KRAMER: I never feel that way. Thank
16 you.

17 MEMBER GRANT: I've got a couple of
18 questions in two different areas. I want to start
19 with sort of the back and forth that you had with
20 the chair about the area and The Point.

21 You mentioned that The Point is the largest
22 in terms of structure of the restaurants, correct?

23 Of all the ones that we're --

24 MS. KRAMER: Of space. Of space. That
25 was my --

1 MEMBER GRANT: Space. As of space.

2 You're correct. As of space.

3 MS. KRAMER: Yeah, I think it -- I believe
4 -- well, I don't know. Let me -- let me clarify.

5 I don't actually know -- I don't know square footage
6 because when the -- when the -- I haven't, first
7 of all, looked in the -- you know, physically gone
8 into the space that the Brisa occupies and they have
9 two levels of outside space which they didn't have
10 on the original plans.

11 And so, I mean -- but if you look at their
12 occupancy numbers, The Point is the largest. I
13 think that's right.

14 MEMBER GRANT: Got you. The largest.
15 And it's also understood that they are also the first
16 of the establishments that were in that particular
17 corridor as far as restaurants are concerned.

18 MS. KRAMER: Yes, that's right.

19 MEMBER GRANT: Okay. So the largest and
20 the first. Given that the hours are different from
21 the surrounding establishments, I guess it's in your
22 judgment that if there were another establishment
23 to come along that this would now set the precedence
24 for hours of any new establishments, given the fact
25 that they are the first and the largest?

1 MS. KRAMER: I'm not sure I understand
2 what the connection is with the first and the
3 largest. But I would say that if you allow one
4 restaurant -- I mean, one provider to have a 3:00
5 o'clock closing, others would argue -- could argue
6 that.

7 MEMBER GRANT: Okay. All right.

8 In a different area, the witness that came
9 earlier, and his name is escaping me -- his first
10 name is Henry, so forgive me if I don't have his
11 last name.

12 But he was the resident that testified in
13 support of the Applicant. He mentioned that he
14 lived on top of the property. Normally, we take
15 into great consideration those who live closest to
16 the establishment in question.

17 Is there any reason why you would believe
18 that, you know, maybe his testimony or his
19 perspective might have blind spots that he's not
20 aware of, that maybe you and those who also oppose
21 the hours have a better perspective on?

22 MS. KRAMER: Well, it's very possible.
23 I think that's what I was trying to describe.

24 The building -- I'm sorry you don't have
25 a picture of it -- the building that -- the way the

1 building is constructed that faces the river is an
2 E. In other words, they're open atria.

3 If you can picture -- you know, if you can
4 picture a floor plan where the E is open, he's not
5 on that -- those corridors or atrias.

6 So what we are saying is sound because
7 they're -- if you can picture it, you know, there
8 are a bunch of apartments that are around the first
9 two arms of the E, and there are a bunch of apartments
10 around the second two arms of the E, right?

11 And so those become -- those are -- those
12 are sound tunnels in effect, right?

13 He's not there. He's on 2nd Street. So
14 he did say that he has a corner apartment but he's
15 not on the V. The place that's particularly -- I'm
16 sorry, not on the V. Excuse me, not on the E.

17 So the structure of the building that's
18 particularly worrisome is where the -- which is
19 where these three restaurants are. That's that --
20 it's the full perimeter of that side of the building.

21 It's an E so it creates these --
22 potentially these sound tunnels that radiate up.

23 When I asked about the -- how they measure it and
24 questions that I asked earlier about how they
25 measure the sound and did they have sound -- did

1 they have measurements up there -- that's what all
2 of us would like to know, right, because that's where
3 you'll -- that's where you'll hear the amplified
4 sound.

5 But he's not there. He's on 2nd Street.

6 MEMBER GRANT: One final question. As a
7 commissioner, whether it be your capacity as a
8 single member district representative or with the
9 ANC as a commission as a whole, did you all have
10 any communication or outreach to the residents that
11 live on top of the establishment in question and
12 what was communication like?

13 MS. KRAMER: I didn't. I thought about
14 doing a survey or something and I didn't have the
15 moment to do that. So we didn't do that.

16 I knew about other complaints that have
17 been fairly common -- fairly frequent, I should say
18 -- with the peninsula across the street, which is
19 why I know when I said I had a lot of experience
20 with -- because I was the ANC commissioner, the local
21 commissioner with the Hen Quarter and there's a lot
22 of -- there were a lot of multiple times when the
23 sound would carry when we had to call the -- call
24 the management and say close the windows, or
25 whatever the issue was.

1 And so I'm aware that that could happen.
2 You know, I haven't had -- I haven't tried to do
3 a survey of the residents in RiverPoint.

4 MEMBER GRANT: Just one quick follow-up,
5 and I promise I'm done after this.

6 Could you confirm or determine if it was
7 likely that any of those residents attended the ANC
8 meeting, whether it was a virtual meeting or in
9 person?

10 MS. KRAMER: I have no idea. I've never
11 actually looked at the -- first of all, I don't know
12 whether we can actually. We have not met in -- we
13 met in person a couple of times this year. We're
14 still on virtual, basically.

15 MEMBER GRANT: Okay.

16 MS. KRAMER: And I don't know whether we
17 can see -- when somebody tunes in whether we can
18 see what their identity is because I don't manage
19 the -- you know, the meetings. I was chair last
20 year. I'm not chair anymore. I'm treasurer, but
21 I don't -- I can't answer your question.

22 MEMBER GRANT: Okay, no worries. Thank
23 you for your time again and your service.

24 Mr. Chair, no further questions from me.

25 MS. KRAMER: Thank you.

1 CHAIRPERSON ANDERSON: Okay. Mr.
2 Meadows and then Ms. Quinn.

3 MEMBER MEADOWS: Hello, Dr. Kramer.

4 Good afternoon, Commissioner. Always
5 good to see you.

6 Of course, you know, you and I have worked
7 on several projects in the past. I used to be a
8 resident of 6D, and so I thank you for that.

9 On this issue here, it seems to me that
10 it's -- at one point you were mentioning that that
11 peninsula, The Point itself is a -- you called it
12 a quiet residential neighborhood and in another
13 point you called it a quiet commercial neighborhood.

14 I think it is a mixed-use neighborhood.

15 As you know, when the order was produced by the
16 Board in 2019 those conditions were met.

17 As the Chairman Anderson said at that time,
18 it was all hypothetical. But now The Point has been
19 in operation for a couple of years now and here they
20 are coming for a renewal.

21 You have been now an elected ANC
22 commissioner for a good few years now and so I wanted
23 to ask you, I don't see in your PIF any -- as you
24 were mentioning about the -- Mr. Stickney's
25 monitoring of the decibel levels, if he had any

1 records of that.

2 But I'm going to -- I'm asking if you have
3 any records or any emails that you can provide from
4 the residents complaining about the noise.

5 MS. KRAMER: I have -- Mr. Chase has a
6 video -- I think it's a video of the recording the
7 noise outside going toward the river. So he does
8 have that.

9 MEMBER MEADOWS: Okay.

10 MS. KRAMER: We didn't put it in -- wasn't
11 aware of it and we didn't put it in as an exhibit.

12 But yes, he has something that would tell you
13 exactly if the chair will permit me to --

14 MEMBER MEADOWS: Well, when he testifies
15 he can --

16 MS. KRAMER: Okay.

17 MEMBER MEADOWS: -- certainly testify
18 against that.

19 MS. KRAMER: Okay.

20 MEMBER MEADOWS: But as an ANC
21 commissioner, you must receive phone calls and
22 emails on a whole myriad of issues about things and
23 that residents have complaints about.

24 MS. KRAMER: So, again, I haven't -- I
25 haven't received multiple complaints at The Point

1 and others have testified sort of related to that.

2 But what I would say to you is what I've
3 said just a little while earlier, they have not been
4 operating late at night until 3:00 o'clock in the
5 morning. So even though we have what's now
6 apparently four years of --

7 MEMBER MEADOWS: But they've been
8 operating till 2:00 in the morning. They've been
9 operating till 2:00 in the morning.

10 MS. KRAMER: No, they -- that's what I'm
11 saying. I don't -- no, I don't believe that from
12 either the -- what their website says nor having
13 been there. I don't go every day so I don't have
14 -- the kitchen has --

15 MEMBER MEADOWS: But the website is a --
16 the website can be changed in a day. A website --

17 MS. KRAMER: No, no. Let me --

18 MEMBER MEADOWS: -- just like the fish of
19 the day can be changed every daily. You know, and
20 the hours -- summer hours are different than a winter
21 hour, obviously.

22 I was just trying to see if you had
23 substantial evidence to show that many neighbors
24 were upset concerning the noise complaints.

25 MS. KRAMER: No. Let me -- let me --

1 MEMBER MEADOWS: Okay. And so now I
2 wanted to go on and discuss the hours. So
3 obviously, you have major concerns about the 3:00
4 a.m. hours that they are seeking. The Hen operates
5 till 2:00. Is that correct?

6 MS. KRAMER: No. The Hen closes -- Hen
7 Quarter closes at -- hang on a second.

8 MEMBER MEADOWS: Okay.

9 MS. KRAMER: The Hen Quarter outside space
10 closes Monday to Sunday at 10:00, recorded music
11 closes until 10:00 o'clock and Friday and -- Friday
12 and Saturday they operate until 2:00 in the interior
13 space.

14 Monday to -- on the interior space they
15 close Monday to -- the weekdays at 12:00 a.m. and
16 2:00 a.m. on Fridays and Saturdays.

17 MEMBER MEADOWS: Okay. So they --

18 MS. KRAMER: They have entertainment more
19 than that --

20 MEMBER MEADOWS: -- they're there till
21 2:00 on the inside.

22 MS. KRAMER: Wait, wait, and their
23 entertain -- just one more thing. And their
24 entertainment is Monday to Sunday, closes at 11:00,
25 so they're not doing any live entertainment after

1 11:00 o'clock.

2 MEMBER MEADOWS: And the entertainment on
3 the weekends?

4 MS. KRAMER: Well, Monday to Sunday, so
5 that's the whole week.

6 MEMBER MEADOWS: Okay. All right.

7 MS. KRAMER: Yeah, till 11:00 -- 11:00.

8 MEMBER MEADOWS: And you -- and that was
9 negotiated with a settlement agreement with 6D and
10 Burisma, do you have a settlement agreement with
11 the third restaurant?

12 MS. KRAMER: Brisa? With Brisa?

13 MEMBER MEADOWS: Yeah. Yes.

14 MS. KRAMER: No, we don't have a
15 settlement agreement. We had to -- we came to --
16 we protested it and went through a process like this
17 and the --

18 MEMBER MEADOWS: Okay.

19 MS. KRAMER: Yeah, and they -- their
20 restrictions from you, from the Board, are the
21 enclosed spaces. Same -- it's the same thing, 2:00
22 a.m., and the unenclosed is 10:00 p.m., and they
23 have no -- there are not -- there are no speakers
24 outside.

25 MEMBER MEADOWS: No speaker -- that I do

1 remember. Okay.

2 MS. KRAMER: Yeah.

3 MEMBER MEADOWS: Well, I appreciate your
4 time and your efforts. I -- thank you and thank
5 you, Mr. Chairman.

6 CHAIRPERSON ANDERSON: Okay. Any other
7 -- Ms. Quinn?

8 MEMBER QUINN: Yes. Commissioner, I
9 would preface this by saying I have a lot of sympathy
10 for resident experiences and situations like this.

11 I live right next to a restaurant that is bustling.
12 So I get it.

13 That said, I've got some serious questions
14 about some of what I've heard today because I think
15 what I got from the testimony was the sense that
16 it's impossible for the Board to consider cases on
17 a case by case basis, and that if we make a decision
18 here that has to apply to everybody else who comes
19 along and I don't see it like that.

20 I look at it, like, it's possible to look
21 at a business such as this that seems to have a
22 history of being a good neighbor, being a responsive
23 neighbor.

24 We don't see the complaints that you fear,
25 and even on these occasions when they're going --

1 when they're open later than is advertised on their
2 website we still don't have those complaints.

3 So, it's -- I don't know. It's just --
4 it's a real challenge for me here because part of
5 me says isn't this the kind of business you would
6 want to give a chance to? Isn't this the kind of
7 business that may have established that they are
8 responsible enough to respond well should there be
9 issues, going forward?

10 That's kind of where I'm stuck. Do you
11 have any arguments that you've not already made that
12 might address that concern for me?

13 MS. KRAMER: Well, I mean, I feel so
14 convinced about one thing that I'll say it again,
15 with apologies. You don't have -- we don't -- we
16 don't -- you don't -- nobody has any evidence of
17 what would happen at 3 o'clock or even 2 o'clock
18 in the morning, because they haven't been operating
19 that way.

20 And so, all we have is a restaurant which
21 is very responsible. We're not talking about any
22 of the, you know -- all the other -- a lot of
23 peripheral areas that we put in settlement
24 agreements. We understand that. We're happy with
25 that. All we are talking about is the only evidence

1 that any of us have is a restaurant that has been
2 closing early, and --

3 (Simultaneous speaking.)

4 MEMBER QUINN: I'm sorry. You know, one,
5 I've already heard this argument, but also, that
6 isn't the only evidence. We also have evidence that
7 this is a business that has been incredibly
8 responsive to neighborhood concerns and that has,
9 by and large, followed the rules.

10 MS. KRAMER: Well, I'm not sure how to
11 respond to you. We don't have evidence about what
12 happens at 2:00 or 3:00 in the morning. We just
13 don't. And we can all agree to that because they
14 had not -- I didn't say closing early, you know,
15 very early. I'm saying they're not operating.
16 They're not operating late.

17 In terms of your other question, I think
18 what you asked about is, would it say -- would it
19 create precedence. It seems to me that if we've
20 selected one restaurant that is not operating with
21 the constraints that their neighbor restaurants,
22 in exactly the same place, do operate on, then I
23 would say we're all speculating, but I would say,
24 of course, it is precedent, and that's what you want
25 to -- want to avoid.

1 And to -- I would say what I said to Board
2 Member Meadows, that the -- this is a different area
3 from the north of Buzzard Point. It's a very
4 different area. It's -- and I don't know how to
5 say that to be persuasive, but I just -- it is.
6 I mean, it's not -- this is a very narrow peninsula.

7 It's even -- it's only -- that this area
8 right exactly where we are has no further
9 development possible, except the ground floor of
10 those small spaces in the stacks in the three new
11 buildings, because, right next to that, is the
12 Buzzard Point steam -- the old steam plant, which
13 is landmarked and is going to be -- it's going to
14 be with Pepco forever. So nothing is happening down
15 here except these three restaurants and whatever
16 those little, small spaces produce.

17 So I would hope that you would have --
18 they're going to have more potential for a noise
19 up there because -- because of the way, which is
20 very beautiful in my humble, personal opinion, the
21 way it's been designed, but it'll really create a
22 noise, sound channels, upward because of the way
23 it's designed.

24 So if they -- I don't know. Are they going
25 to put in, you know, a small bar, or a small, what

1 do you call it, you know, a coffee house with --
2 which will need a liquor license to jack up the
3 coffee? I don't know. But that's -- my judgment
4 would be, yes, you're creating a special case.

5 And what I've tried to say is that The
6 Point, which we are extremely supportive of, I tried
7 to say that in my testimony. I tried to say it.

8 I've eaten there multiple times. That's not what
9 this is about. We are very respectful of The Point.

10 We're just trying to create the kind of parameter
11 that we think would work, would work for them, and
12 would work for what follows them. That's it.

13 MEMBER QUINN: Okay. Well, since we're
14 reiterating things, I'll just reiterate that --

15 (Simultaneous speaking.)

16 MEMBER QUINN: I'll reiterate that my
17 belief that it's possible to consider with -- you
18 know, if another business comes along with an
19 application, it's very possible for us to consider
20 the fact that that is a business where we don't have
21 this relationship of trust. We don't have this
22 evidence of how they behave in certain circumstances
23 with neighbors, and as a good neighbor, and that
24 we might need to view the restrictions on that
25 business through that lens.

1 So thank you for your -- for entertaining
2 my questions.

3 That's it for me, Chair.

4 CHAIRPERSON ANDERSON: Thank you. Any
5 other questions from any other Board members?

6 (No audible response.)

7 CHAIRPERSON ANDERSON: All right. Mr.
8 Mixon, any redirect based on the questions that were
9 asked by the Board?

10 MR. MIXON: No, Mr. Chair.

11 CHAIRPERSON ANDERSON: Ms. Kramer, do you
12 need to further expound on anything that you need
13 to say before -- this is not testifying. Normally,
14 if you had an attorney representing yourself, I
15 would just give that attorney an opportunity to give
16 you an opportunity to clarify any statements that
17 you need to make.

18 So do you need to -- do you believe that
19 you clarified everything you wanted to say based
20 on the questions that were asked to the -- by the
21 Board?

22 MS. KRAMER: I hope, without irritating
23 the Board, to say something that I've already said.

24 I don't want to irritate them further if they are
25 irritated, so I won't say that. But I would like

1 to call Mr. Chase if I could.

2 CHAIRPERSON ANDERSON: All right.

3 That's fine.

4 (Simultaneous speaking.)

5 MS. KRAMER: Okay.

6 CHAIRPERSON ANDERSON: That's fine.

7 MS. KRAMER: Okay.

8 CHAIRPERSON ANDERSON: Mr. Chase, can you
9 come on camera, please?

10 MS. KRAMER: He's not physically with --
11 where I am, so I don't know what his status is.
12 He's supposed to be -- oh.

13 CHAIRPERSON ANDERSON: Well, let me --
14 he's on my screen. I'm just asking him to come in
15 camera.

16 MS. KRAMER: Yeah.

17 CHAIRPERSON ANDERSON: All right. All
18 right, Mr. Chase. Can you raise your right hand,
19 please?

20 WHEREUPON,

21 ANTHONY CHASE,

22 was called as a witness on behalf of the Protestants,
23 and after having first been duly sworn, assumed the
24 witness stand, was examined and testified as
25 follows:

1 CHAIRPERSON ANDERSON: All right. Your
2 witness.

3 DIRECT EXAMINATION

4 BY MS. KRAMER:

5 Q Okay. Mr. Chase, could you state your
6 name for the record, spell your name, and tell us
7 your relationship to this inquiry?

8 A Anthony Chase, and that's A-N-T-H-O-N-Y
9 C H A S E, am ANC 6D07 ABC Committee Member.

10 Q Thank you. And how long have you been an
11 ABC Committee Member? How long have you been
12 working on this project, on this case?

13 A I've been an ABC Committee Member for about
14 a year and a half and been working on this case for
15 about, almost a year, year and a half.

16 MS. KRAMER: Well, I appreciate your
17 diligence.

18 I would like to, if the Chair would permit
19 me, to ask him to show a piece on the Point's virtual
20 tour, which captures the amount of unenclosed
21 service areas with speakers. This came up before,
22 and he apparently -- you can see, if he will post
23 that or share the screen, whatever it is, you will
24 see the speakers that project outward, not toward
25 the building.

1 CHAIRPERSON ANDERSON: Is this -- but is
2 this part of your exhibits?

3 MS. KRAMER: No. We did not put it in the
4 exhibit. I didn't -- it didn't occur to me that
5 it would become an issue, but it was raised before.
6 We do have the pictorial illustration of what we're
7 trying to communicate.

8 CHAIRPERSON ANDERSON: Mr. Mixon?

9 MR. MIXON: Applicant objects. The
10 regulations are clear on the discovery deadline,
11 especially in light of a case that's been continued
12 as many times as this one.

13 CHAIRPERSON ANDERSON: So why did you not
14 -- if this is a piece of evidence that you thought
15 was important, why did -- why was this information
16 not disclosed?

17 MS. KRAMER: Well, actually, I wasn't --
18 I wasn't aware that we had the evidence. And I --
19 and it came up today. And so, we do have evidence
20 which we could share with the Board.

21 (Simultaneous speaking.)

22 MS. KRAMER: If they can't share it, they
23 can go to The Point's virtual tour and see it.
24 Presumably, they can find the same evidence. And
25 I would direct them. I would hope that they would

1 consult that virtual tour that's on the website.

2 That's on the internet.

3 CHAIRPERSON ANDERSON: But why this
4 information -- why is this relevant? I mean, there
5 is -- I know you're making the argument about noise,
6 but there is no -- at least, the record doesn't
7 support noise complaints. And so, you're saying
8 the speaker -- why is this relevant to this case?

9 MS. KRAMER: Well, I think we come -- we
10 keep coming.

11 I lost my screen for a moment. I'm trying
12 to find it.

13 I think we come back to the same point,
14 which is what evidence do we have that we don't have
15 a lot of complaints. And my point has been we don't
16 have a lot of complaints because they're not
17 operating late into the night that would create
18 these kinds of complaints. That's where we're sort
19 of repeating the same thing, and I can't say it any
20 more clearly, but that's the -- that's where we are
21 up to. That's what we're -- that's what we're
22 looking at, so --

23 CHAIRPERSON ANDERSON: But I -- I'm not
24 you're speculating. Because I stated before,
25 I mean, when this license was first issued, it was

1 a concept. And so, at that time, the Board was open
2 to speculate about noise and what might happen when
3 the residents are actually living up there. But
4 now, they've had a license for six years.

5 So I'm not going there. So I -- so I'm
6 not going to allow that. So I'm not going to allow
7 you to introduce that evidence since it's not --
8 it's not in the -- it's not in the record, so let's
9 move on.

10 MS. KRAMER: Okay. With respect, again,
11 we're not talking about -- we're finding it. We're
12 looking for evidence that we don't have because it
13 hasn't been operating that well.

14 I wanted to ask you, and you probably --
15 the answer will probably -- you will say the same,
16 but Mr. Chase also has a video that shows the
17 speakers not only mounted outside, but they're
18 audible beyond the premises, which was what -- which
19 was what was -- the question was raised was does
20 it matter because you can't hear anything beyond,
21 and therefore -- and we have no response.

22 So, on the first question on the -- we have
23 no -- excuse me -- we have no complaints. On the
24 complaints, I've answered it, and we're -- everybody
25 is free to accept their -- to be persuaded or not.

1 You haven't had complaints because they're not
2 operating typically at those late hours.

3 And the other question was, do the speakers
4 matter, and he's got evidence that shows that the
5 speakers are, in fact, are not just pointed outside,
6 but are audible outside.

7 But if we can --

8 (Simultaneous speaking.)

9 MS. KRAMER: It's our mistake. It's our
10 mistake, and I apologize for not being aware of the
11 evidence at the time and not putting into the
12 exhibits. So I'll --

13 (Simultaneous speaking.)

14 CHAIRPERSON ANDERSON: Right. And
15 that's what I'm saying. The issue, in fact, it's
16 not in -- you didn't -- if it was disclosed, of
17 course, Counsel would have probably object to it,
18 and then I would say, okay, it was disclosed, so
19 all right.

20 MS. KRAMER: Right.

21 CHAIRPERSON ANDERSON: But it's not
22 disclosed, so that's one of the reasons why I'm not
23 allowing this new evidence to come in the record
24 because it has not been disclosed pursuant to the
25 guidelines. All right.

1 MS. KRAMER: I appreciate it, and I stand
2 slightly -- I am blushing because we didn't do it
3 the right way, so I apologize to myself and you.

4 CHAIRPERSON ANDERSON: All right Do you
5 have any other questions you have for mister -- I'm
6 sorry -- Mr. Chase?

7 MS. KRAMER: Chase. I'm just trying to
8 see. I think that I don't. I don't have any
9 further questions, except to thank him for hanging
10 in this long.

11 CHAIRPERSON ANDERSON: Mr. Mixon, do you
12 have any questions for Mr. Chase?

13 MR. MIXON: No, Mr. Chair.

14 CHAIRPERSON ANDERSON: Any Board members?
15 You know, Mr. Chase has been here all day. And
16 so, do any Board members have new questions for Mr.
17 Chase?

18 (No audible response.)

19 CHAIRPERSON ANDERSON: I will --

20 MR. CHASE: Thank you, all.

21 (Simultaneous speaking.)

22 CHAIRPERSON ANDERSON: I just want to ask
23 you a quick question, Mr. Chase. You're not -- this
24 is a question I'm going to ask you because I went
25 back to the two -- the 2019 order, and there was

1 an ANC Commissioner Anthony Dale. That's not you,
2 is that -- that's not you, is that correct?

3 MR. CASTEN: No. That's correct.

4 CHAIRPERSON ANDERSON: It's the same
5 first name, so that's why I just wanted to make sure.
6 So you're not -- okay. All right. Okay. Mr.
7 Mixon --

8 MEMBER MEADOWS: You're not Coralie,
9 either, correct?

10 (Laughter.)

11 CHAIRPERSON ANDERSON: I'm sorry about --
12 we know that Commissioner Coralie Farlee has moved
13 on to a greater, greater life. And so, as I've
14 stated, I was the chair of the Board, and she made
15 the arguments.

16 And again, the arguments that she made at
17 the time were that -- I mean, The Point was just
18 a concept. There were no residents. There were
19 no buildings. There were no -- there's -- okay.

20 So there was not a restaurant. There were no
21 residents there. It was just a concept. And so,
22 of course, at that time, we allowed speculation
23 about what the noise for the future residents.

24 And so, and anyway, so that's a different
25 -- but Mr. Chase, thank you very much for being here

1 today. Okay?

2 MR. CHASE: Thank you.

3 CHAIRPERSON ANDERSON: All right. So,
4 Ms. Kramer, do you rest?

5 MS. KRAMER: I do. I've lost my screen
6 for the hearing, and I'm sorry. I don't know why
7 that's happened, but anyway, you can see me.

8 CHAIRPERSON ANDERSON: I can.

9 MS. KRAMER: You can see me that --

10 CHAIRPERSON ANDERSON: Yes, I can see you,
11 so I can -- I guess we're ready.

12 We're going to do closing. Do you guys
13 want to take maybe a five, ten minute break, and
14 then we'll do closing, or are you ready to move
15 forward?

16 MR. MIXON: If the Protestants agree, I'd
17 like to move immediately to closing statements.

18 CHAIRPERSON ANDERSON: All right. Okay.

19 Mr. Mixon, go ahead, please.

20 CLOSING STATEMENT FOR THE APPLICANT

21 MR. MIXON: Thank you, Mr. Chair. Mr.
22 Chair, members of the Board, the decision here is
23 straightforward. The testimony proffered here
24 today unambiguously supports the unconditional
25 renewal of The Point's license.

1 Mr. Casten is a seasoned operator who has
2 substantial experience running ABC-licensed
3 establishments throughout the District of Columbia.

4 His nearly five years of operating The Point with
5 a near-spotless investigative history have produced
6 no adverse impacts on the peace, order, and quiet
7 of the Buzzard Point neighborhood. And the
8 business is clearly a productive, appreciated
9 member of the community, as Mr. Feaunati's testimony
10 has informed us.

11 The record shows that The Point's current
12 method of operations, including its specific hours
13 of operation and sound output that have been
14 approved by the Board, have not been detrimental
15 to the community, even to the residents most
16 proximate to it.

17 Additional restrictions are not needed
18 when a licensee demonstrates that it can
19 successfully abide by the approved terms of its
20 license. And The Point has demonstrated that with
21 its operations, both over the last renewal period
22 and, really, for the entirety of the lifetime.

23 As Chair Anderson pointed out, the hours
24 that are currently reflected on their license are
25 more expansive than those imposed by the conditions

1 of the Order Number 2019-448. So, clearly, the
2 Board has determined previously that they can --
3 that they met their responsibilities under those
4 prior terms and could operate free and clear.

5 The Protestants have simply not made the
6 case for the restrictions they seek. The case they
7 presented today lacked anything in the way of
8 testimony or evidence of any specific identifiable
9 adverse impacts on peace, order, and quiet, and was
10 largely based on broad speculative claims about
11 potential impacts, including those of future
12 operators of this location, which is not something
13 that's within the Board's scope to review in
14 deciding whether to renew an existing license.

15 In place of the direct evidence of adverse
16 impacts on the statutory appropriateness standards,
17 Commissioner Kramer has repeatedly stated in her
18 representations to Investigator Prout, which can
19 be found in the protest report and in her testimony,
20 that the ANC's only real goal in pursuing this
21 protest was to secure a settlement agreement to
22 impose uniform terms on all licensed establishments
23 in the area.

24 The ABC statute and the Board precedent
25 are completely clear. A protestant seeking a

1 settlement agreement in the absence of specific
2 appropriateness issues is not sufficient grounds
3 to even initiate a protest, let alone function as
4 a basis for the Board to impose conditions.

5 And I thank Member Quinn for articulating
6 the principle that it's the Board's job to make
7 decisions on a case-by-case basis. Not every
8 operator is the same, and thus, they are all serving
9 judgment on their individual merits.

10 The Point has performed its
11 responsibilities admirably, more so than many of
12 the establishments, at which -- some of which are
13 -- the Board does find are deserving of conditions
14 based on their performance.

15 But when so few, if any, reasons can be
16 shown that this establishment is not appropriate
17 under the currently approved terms, the choice is
18 clear. And so, we ask that the Board renew the
19 restaurant license without any additional
20 conditions. Thank you.

21 CHAIRPERSON ANDERSON: Ms. Kramer?

22 CLOSING STATEMENT FOR THE PROTESTANTS

23 MS. KRAMER: Yes. I still -- I've lost
24 the -- my picture, so I apologize if this doesn't
25 fit in. But you said you can see me, so that's all,

1 I guess, that's important.

2 Thank you, Chair Anderson, and the members
3 of the Board, for the opportunity to present ANC's
4 position, and at this late hour, to have presented
5 it as thoroughly as we can.

6 The Commission has approached -- the ANC
7 Commission has approached this process with respect
8 for The Point's contributions to the community and
9 with a commitment to finding a fair and balanced
10 solution, as I've described.

11 Our request is not intended to restrict
12 the business success, but to ensure that it coexists
13 with the residential character of the Buzzard Point
14 and does not set precedence of -- that would be
15 negative for that, for this, a quiet, residential
16 part of Buzzard Point.

17 The conditions we've posed were proposed
18 relates -- particularly related to the hours of
19 operations, service, and entertainment are
20 reasonable. They're consistent with Board
21 precedent. And they're necessary to preserve the
22 peace, order, and quiet that the District laws seek
23 to protect -- to protect.

24 We have little evidence. This is not
25 speculative. In our view, we have little evidence

1 that there are problems because our -- the evidence
2 is that the restaurant has not yet operated at these
3 late hours. And the -- obviously, the other
4 establishments saw fit to restrict their operations
5 without concern about restricting their business,
6 at all, to a shorter period.

7 So we're not -- this is not a very expansive
8 request. It's -- these are conditions that we think
9 are useful, actually necessary, and will not
10 restrict any of the business of The Point. So we
11 ask the Board to adopt the conditions as part of
12 the license that we've presented, and I hope you
13 will consider that.

14 And I also hope you will, on your own,
15 unfortunately, because that we didn't post it, look
16 for the tour, and see what the -- look at The Point's
17 virtual tour and see what, in fact, does potentially
18 penetrate outside of the premises. And that's what
19 we're trying to avoid.

20 You have heard us attest to the use and
21 praise for the restaurant and how it operates.
22 You've heard other people today say that, as well.

23 And we are not directing anything that would
24 restrict its business. We're happy it's there.

25 I want to be clear about that.

1 And I do hope you will consider what
2 amounts to a rather modest constraint or reduced
3 operating time that we've suggested. Thank you for
4 your consideration. Thank you for listening, and
5 thank you for the afternoon. Thanks.

6 CHAIRPERSON ANDERSON: All right. Thank
7 you, Ms. Kramer.

8 The record is now closed. Do the parties
9 wish to file proposed findings of fact and
10 conclusions of law, or waive the right to do so?

11 (No audible response.)

12 CHAIRPERSON ANDERSON: I can't hear you,
13 mister.

14 MR. MIXON: Apologies. Applicant
15 waives.

16 CHAIRPERSON ANDERSON: Ms. Kramer?

17 MS. KRAMER: I'm sorry. I didn't -- it's
18 hard for me to do this because I don't have the screen
19 up anymore. Tell me what is it you are requesting?

20 CHAIRPERSON ANDERSON: Yeah. I said, do
21 the parties wish to file a proposed findings of facts
22 or conclusion of law, meaning that you're going to
23 wait for the transcript, to review the transcript,
24 to say this is -- these are the facts that came out,
25 and this is what the -- this is the law on that

1 matter.

2 MS. KRAMER: So what you're saying is
3 we'll wait for your provision of the transcript,
4 and as I understand it, you will not accept any
5 further --

6 CHAIRPERSON ANDERSON: No. There's no
7 new

8 MS. KRAMER: -- any further into the
9 record. Okay.

10 CHAIRPERSON ANDERSON: No new evidence.
11 It's if you're going to --

12 MS. KRAMER: Thank you.

13 CHAIRPERSON ANDERSON: -- the fact, it
14 would be based on what was done today.

15 MS. KRAMER: Okay. Thank you.

16 MR. MIXON: I'm not sure she understands
17 the choice here.

18 CHAIRPERSON ANDERSON: Oh. All right.
19 There is something that's called proposed findings
20 of fact and conclusion of law before I close the
21 case.

22 So, therefore, what would happen is that
23 you would ask to say that I want to write, basically,
24 a legal brief after reviewing the transcript, to
25 say this is what the facts that we proved today,

1 the facts that we proved today, and this is what
2 the law on the issue is.

3 But I think, in this particular case, you
4 can waive it because you're not contesting the
5 renewal of the license. I mean, this is just your
6 contesting; you're asking the Board to put
7 conditions on the license.

8 So, I don't think in the -- I don't think,
9 at least for the Protestants' part in this
10 particular case, it is necessary to provide any
11 additional information to the Board from what was
12 -- from what was provided today in the evidence.

13 MS. KRAMER: What I understand what you've
14 said in the findings of fact and so forth are the
15 what is routinely provided in the -- in your -- in
16 the order, the final order, so I'm assuming it's
17 those sections that you would share with us
18 beforehand.

19 I'm really -- I'm sorry. I'm really not
20 --

21 (Simultaneous speaking.)

22 MS. KRAMER: If you want me to say, yes,
23 send us, send us the materials before we get to that
24 point, then I'll say I'll leave that opportunity
25 open for the Commission.

1 CHAIRPERSON ANDERSON: No. I'm not --
2 that's not what I'm saying.

3 MS. KRAMER: Okay.

4 CHAIRPERSON ANDERSON: What I'm saying is
5 that you're going to write a legal brief to say to
6 us, I have reviewed the transcript. This is the
7 facts that came out in the transcript, and this is
8 what the law on the facts that were presented, based
9 on the testimony that we heard today, and this is
10 what the -- this is how the Board should rule.

11 So, the Board would not make a decision
12 until, probably -- the transcript would not be
13 available before end of three weeks. And then you
14 would review the transcript. And then you would
15 do, basically, a legal brief to write to the Board
16 to say this is how we should rule on the issue.
17 You, however, cannot introduce any new documents
18 or any new facts that did not come out today.

19 And what I was -- what I'm saying to you,
20 in this particular case, I don't believe that it's
21 necessary because you're not contesting the
22 issuance of this license. You have agreed for us
23 to renew the license. And so, all that the
24 testimony that was elicited today is whether or not
25 the Board should impose conditions, if any, on the

1 license.

2 MS. KRAMER: Okay. I understand that.
3 It seems to me, the only question I have is, if we
4 say, yes, I'd like to -- I'd like to go through that
5 process, we can make a decision; we can inform the
6 Board that we've chosen not to after this hearing
7 is concluded today; is that correct?

8 CHAIRPERSON ANDERSON: Yes, you can.

9 MS. KRAMER: Because, otherwise, I'd --

10 CHAIRPERSON ANDERSON: Yeah, you can. So
11 you could say, okay, you'll think about it, and then
12 you will let the Board know whether or not you will
13 take that matter up.

14 MS. KRAMER: Yes. I think that makes
15 sense to me. I'd rather consult my colleagues.

16 CHAIRPERSON ANDERSON: All right. All
17 right. So, basically, where we are right now is
18 that the transcript will be made available to you
19 within three weeks. And upon -- after it's made
20 available to you within three weeks, your response
21 is due to the Board 30 days after you receive the
22 transcript. And then the Board will issue a
23 decision within 90 days after that.

24 So, therefore, we're not going to issue
25 a decision will not be issued until three weeks

1 when the transcript is made available to you for
2 three weeks. And then, if you elect to do the
3 proposed findings of fact and conclusion of law,
4 that's due 30 days after upon receipt of the
5 transcript. And then you're -- and then the Board
6 will issue its decision 90 days after that.

7 MS. KRAMER: Yes. I, that's -- I
8 understand that. That's fine. I'm sorry. I feel
9 very handicapped by not being able to see what I'm

10 (Laughter.)

11 (Simultaneous speaking.)

12 MR. MIXON: And, Mr. Chair, just to be
13 clear, I know I expressed that we'd waive, but if
14 the ANC does exercise the right to file proposed
15 findings, that we also can reserve our right to do
16 so, as well, right?

17 CHAIRPERSON ANDERSON: Yes, but I would
18 like you, though -- Ms. Kramer, if you have decided,
19 after you have consulted your colleagues, if you
20 decide not to do that, please advise the Board as
21 soon as possible that you're not going to do that,
22 okay?

23 MS. KRAMER: Yeah, absolutely.
24 Absolutely.

25 CHAIRPERSON ANDERSON: All right. Okay.

1 As Chairperson of the Alcoholic Beverage and
2 Cannabis Board for the District of Columbia, and
3 in accordance with D.C. Official Code, Section 2-575
4 of the Open Meetings Act, I move that ABC Board hold
5 a closed meeting for the purpose of seeking legal
6 advice from our counsel on case number -- one minute
7 please -- on case number 25-PRO-00026, The Point,
8 pursuant to D.C. Official Code, Section
9 2-575(b)(4)(A) of the Open Meetings Act and
10 deliberate upon case number 25-PRO-00026, The
11 Point, for the reasons cited in D.C. Official Code,
12 Section 2-575(b)(13) of the Open Meetings Act.

13 Is there a second?

14 MR. GRANT: Mr. Grant. I second the
15 motion.

16 CHAIRPERSON ANDERSON: Mr. Grant has
17 seconded the motion. We'll now take a roll call
18 vote.

19 Mr. Grant?

20 MR. GRANT: Mr. Grant. I agree.

21 CHAIRPERSON ANDERSON: Ms. Quinn?

22 MEMBER QUINN: Ms. Quinn. I agree.

23 CHAIRPERSON ANDERSON: Mr. Meadows?

24 MEMBER MEADOWS: Mr. Meadows. I agree.

25 CHAIRPERSON ANDERSON: Mr. Jones?

1 MEMBER JONES: Mr. Jones. I agree.

2 CHAIRPERSON ANDERSON: Mr. Anderson. I
3 agree. The matter passed 5-0.

4 So, what this means, Ms. Kramer, is that
5 the transcripts will become available within the
6 next three weeks. They will be sent to you.

7 If you decide not to do the proposed
8 findings of facts and conclusion of law, please
9 advise the Agency as soon as possible that you're
10 not going to go down this route. And but if you
11 decide to do that, then the proposed findings of
12 facts and conclusion of law is due back to the Board
13 30 days after you have received the transcript.
14 And we will issue a decision 90 days after.

15 But keep in mind that you cannot put it
16 in any additional information in the proposed
17 findings of fact and conclusion of law. It has to
18 be what was testified today, and it has to track
19 the information that's in the transcript that you
20 will receive, okay?

21 MS. KRAMER: Very good. Thank you. Yes,
22 I do understand.

23 CHAIRPERSON ANDERSON: Okay. So, as I
24 stated before, the motion has passed.

25 I hereby give notice that the ABC Board

1 will recess this proceeding to hold a closed
2 meeting, pursuant to Section 2-575 of the Open
3 Meetings Act.

4 Thank you for all your presentation today.
5 Have a great day.

6 MR. MIXON: Thank you. Goodbye.

7 MS. KRAMER: Thank you.

8 (Pause.)

9 CHAIRPERSON ANDERSON: All right. Let me
10 close the record for the day.

11 As Chairperson of the Alcoholic Beverage
12 and Cannabis Board for the District of Columbia,
13 and in accordance with Title 3, Chapter 405, Office
14 of Open Government, I move that ABC Board hold a
15 closed meeting on February 4th, for the purpose of
16 discussing and hearing reports concerning the
17 ongoing or planned investigations of alleged
18 criminal or civil misconduct or violations of law
19 or regulations and seeking legal advice from our
20 legal counsel on the Board's investigative agenda,
21 legal agenda, and licensing agenda for February 4th,
22 as published in the D.C. Register on January 30th.

23 Is there a second?

24 MEMBER QUINN: Ms. Quinn. I second.

25 CHAIRPERSON ANDERSON: Ms. Quinn has

1 seconded the motion. I will now take a roll call
2 vote on the motion before us now that has been
3 seconded.

4 Mr. Grant?

5 MR. GRANT: Mr. Grant. I agree.

6 CHAIRPERSON ANDERSON: Ms. Quinn?

7 MEMBER QUINN: Ms. Quinn. I agree.

8 CHAIRPERSON ANDERSON: Mr. Meadows?

9 MEMBER MEADOWS: Mr. Meadows. I agree.

10 CHAIRPERSON ANDERSON: Mr. Jones?

11 MEMBER JONES: Mr. Jones. I agree.

12 CHAIRPERSON ANDERSON: Mr. Anderson. I
13 agree.

14 As the motion has passed, I hereby give
15 notice that ABC Board will hold this closed meeting.

16 Pursuant to the Open Meetings Act, notice will also
17 be posted on the ABC Board hearing room bulletin
18 board, placed on the calendar on the ABCA website,
19 and published in D.C. Register in as timely a manner
20 as practical.

21 We have -- we're now adjourned for the day.

22 I'd like to thank all Board -- the Board members
23 who participated in our hearings today, and all the
24 members of the public who participated in our
25 hearings.

1 Since we are now adjourned for the day,
2 I now ask all Board members to return to executive
3 session for further action. Good afternoon.

4 (Whereupon, the above-entitled matter
5 went off the record at 5:14 p.m.)

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1 C E R T I F I C A T E

2 This is to certify that the foregoing transcript
3 was duly recorded and accurately transcribed under
4 my direction; further, that said transcript is a
5 true and accurate record of the proceedings; and
6 that I am neither counsel for, related to, nor
7 employed by any of the parties to this action in
8 which this matter was taken; and further that I am
9 not a relative nor an employee of any of the parties
10 nor counsel employed by the parties, and I am not
11 financially or otherwise interested in the outcome
12 of the action.

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19 Lauren Mattison

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